

Malaysia

	2013	2014		
Internet Freedom Status	Partly Free	Partly Free	Population:	29.8 million
Obstacles to Access (0-25)	9	8	Internet Penetration 2013:	67 percent
Limits on Content (0-35)	15	14	Social Media/ICT Apps Blocked:	No
Violations of User Rights (0-40)	20	20	Political/Social Content Blocked:	Yes
TOTAL* (0-100)	44	42	Bloggers/ICT Users Arrested:	Yes
			Press Freedom 2014 Status:	Not Free

* 0=most free, 100=least free

Key Developments: May 2013 – May 2014

- News outlets criticizing the government stayed online, despite cyberattacks and disruptions to content in 2013 and 2014, including a BBC blog that appeared blocked on one ISP (see **Limits on Content**).
- Police accused two bloggers of spreading religious disharmony on Facebook and detained them for eight days (see **Violations of User Rights**).
- Opposition politician Teresa Kok was charged with sedition for a satirical online video in May 2014 (see **Violations of User Rights**).
- In 2014, the government said it had denied online news outlets *FZ Daily* and *Malysiakini* print licenses for “sensational” reporting (see **Limits on Content**).

Introduction

In the May 2013 general elections, the Barisan Nasional coalition clung to power with just under 50 percent of the popular vote, having lost its two-thirds parliamentary majority in 2008 for the first time since 1969.¹ In the run-up to the 2013 election, officials reiterated commitments not to censor the internet, and prosecuted fewer bloggers. After the opposition mounted its biggest challenge yet on the back of digital mobilization, they demonstrated less tolerance. In May 2014, opposition politician Teresa Kok was charged with sedition for distributing a satirical online video, which also drew physical threats.

Prime Minister Najib Razak publicly promotes internet freedom, and penetration rates are among the highest in the region.² Online mobilization was widely perceived as contributing to the opposition's 2008 electoral gains,³ but at least eight bloggers were detained in the months that followed, many for sedition or criticism of Malaysia's royalty, including the sultans who constitutionally rule 9 of the country's 16 states and federal territories.

"Cyber troopers," commentators paid by political parties on all sides to attack their opponents, were active prior to the polls, but less so during the coverage period. However, online news outlets covering the opposition faced ongoing cyberattacks and some apparent filtering, though it was not clear if this was executed by the hackers or signaled a more formal intervention by officials or service providers. In January 2014, a BBC blog post about Prime Minister Najib became temporarily inaccessible on at least one ISP, though the government denied blocking it.

In mid-2013, the University of Toronto's Citizen Lab reported that at least one electronic document containing election-related information in Malay appeared to be spreading spyware to recipients. The government launched an investigation into online news portal *Malaysian Insider* for quoting international reports about that spyware, which could allow authorities to spy on citizens without their knowledge.⁴

Citizens continued to communicate voraciously via social networks in 2014. News websites, once outliers, are now an indispensable part of Malaysia's information landscape, despite government attempts to deny them access to the print market by refusing to grant licenses. Political gatherings and rallies held since the May 2013 elections saw significantly more coverage online than in the mainstream media, furthering a trend begun in 2011 and 2012. But they have yet to transform the government's contradictory approach to the internet into a fully free environment.

1 In 1973, the Barisan Nasional, which translates as National Front, absorbed the Alliance Party coalition which had governed Malaysia since 1957. "A Tawdry Victory," *Economist* (blog), May 6, 2013, <http://www.economist.com/blogs/banyan/2013/05/malaysias-election-0>.

2 The government first pledged to keep Malaysia's internet free of interference in 1998. See OpenNet Initiative, "Country Profile—Malaysia," August 7, 2012, <http://opennet.net/research/profiles/malaysia>.

3 "Malaysia's Uneasy Dance with the Web," *Asia Sentinel*, August 17, 2010, http://asiacentinel.com/index.php?option=com_content&task=view&id=2645&Itemid=178; Luke Miner, "The Unintended Consequences of Internet Diffusion: Evidence from Malaysia," event abstract, October 2013, http://liberationtechnology.stanford.edu/events/the_unintended_consequences_of_internet_diffusion_evidence_from_malaysia/.

4 The presence of the spyware in Malaysia does not reveal who is employing it, but it is marketed to governments. See, *Violations of User Rights*.

Obstacles to Access

Internet penetration was measured at 67 percent in 2013.⁵ Though one of the higher rates in Asia, this falls short of an ambitious 2012 official pledge to increase it to 80 percent.⁶

A digital divide persists. In 2013, more than 80 percent of internet users lived in urban areas, and penetration remains low in less populated states in East Malaysia, where most residents belong to indigenous groups. The introduction of wireless WiMax technology in 2008 helped bring broadband to regions that are difficult to reach via cable; four WiMax providers were in operation as of mid-2014. Cybercafes also play an important role outside cities.

A 2010 National Broadband Initiative expedited broadband and mobile expansion, partly in cooperation with Telekom Malaysia, the country's largest—and formerly state-owned—telecommunications company, which retains a monopoly over the fixed-line network.⁷ Around 250 community centers offering broadband internet were established nationwide and nearly 500,000 netbooks were distributed to students and low income citizens in rural and suburban areas in 2011.⁸ In 2012, the "1Malaysia" affordable broadband package offered decent broadband speeds for under MYR 38 (US\$12) per month in five states with lower penetration rates.⁹ By 2013, internet centers were expanding to cities,¹⁰ and the government and local councils had introduced schemes to provide free or inexpensive Wi-Fi nationwide.¹¹ The average monthly cost of fixed internet access is MYR 99 (\$30) per month.¹²

Mobile internet access is available, affordable and popular among young people. Mobile penetration surpassed the country's total population in 2011 and was approaching 150 percent in 2013, indicating that some individuals have multiple phone lines.¹³

Regulation of the internet falls under the purview of the Malaysian Communications and Multimedia Commission (MCMC), which is overseen by the Minister of Information, Communications, and Culture. The 1998 Communication and Multimedia Act (CMA) gives the information minister a range of powers, including licensing the ownership and operation of network facilities. Similar rules serve

5 2013 statistics from Malaysian Communications and Multimedia Commission, http://www.skmm.gov.my/skmmgovmy/media/General/pdf/SKMM_Q3_ENG.pdf;

International Telecommunication Union, "Percentage of Individuals Using the Internet, 2000-2012," <http://www.itu.int/en/ITU-D/Statistics/Pages/stat/default.aspx>.

6 The Economic Transformation Programme Report 2012, 188, <http://bit.ly/1715Y0j>.

7 Sira Habu and Shaun Ho, "RM 1 Billion Initiative to Promote High-Speed Broadband Usage," *Star Online*, March 25, 2010, <http://thestar.com.my/news/story.asp?file=/2010/3/25/nation/5931577&sec=nation>.

8 Ministry of Information Communication and Culture Malaysia, "Rural Broadband Initiatives in Malaysia," September 21, 2011, <http://www.scribd.com/doc/68533475/Rural-Broadband-Initiatives-in-Malaysia>.

9 "1Malaysia Broadband Affordable Packages for 5 States," *Malaysian Wireless*, September 8, 2012, <http://www.malaysianwireless.com/2012/09/1malaysia-broadband-affordable-packages-for-5-states/>.

10 "1Malaysia Internet Centre Comes to KL," *New Straits Times*, March 26, 2013, <http://www.nst.com.my/streets/central/1malaysia-internet-centre-comes-to-kl-1.241693>.

11 Choong Mek Zhin, "DBKL to Make it a Requirement for Restaurants to Provide Wi-Fi Services," *Star Online*, January 9, 2012, <http://thestar.com.my/metro/story.asp?file=/2012/1/9/central/10210201&sec=central>.

12 Author's market survey, 2014.

13 2013 statistics from Malaysian Communications and Multimedia Commission, http://www.skmm.gov.my/skmmgovmy/media/General/pdf/SKMM_Q3_ENG.pdf; International Telecommunication Union, "Mobile cellular Telephone Subscriptions, 2000-2012."

as a means of controlling the traditional media,¹⁴ though this has not been documented among internet companies, perhaps because the 25 private ISPs often have government connections. The two largest ISPs are TMnet, a subsidiary of the now-privatized Telekom Malaysia, and Jaring, which is owned by the Ministry of Finance. The same is true for mobile providers. The largest, Maxis Communications, was founded by Ananda Krishnan, who also owns Malaysia's biggest satellite broadcaster and enjoys close ties to former Prime Minister Mahathir Mohamad.¹⁵ Two new mobile phone providers, YTL Communications and Umobile, have joined the market since 2008. Though ostensibly unrelated to the government, observers believe they benefit from political connections.

In recent years, some local authorities have introduced restrictions on cybercafes to curb illegal online activities, particularly gambling, which is grounds for closure if detected on cafe premises. Select states have capped the number of cybercafe licenses available, making it difficult for legitimate new venues to open.¹⁶

The CMA provides for the ministry to appoint the MCMC chairman and three government commissioners, plus two to five commissioners from nongovernmental entities.¹⁷ The current three are all from the private sector. Since 2008, the process for appointing members of the MCMC advisory board has become more transparent and participatory, involving consultations with diverse stakeholders and the inclusion of civil society members on the board. Yet the MCMC remains a driving force in efforts to curtail online speech, including investigations into online portals and bloggers.

Limits on Content

Content manipulation receded after the May 2013 elections, and news websites continued to fend off apparent efforts to block or throttle their content. After the polls, rallies and protests against the result continued to benefit from online organization and news coverage. Many official attempts to restrict content, however, still lack transparency, causing internet users to wonder whether an inaccessible January BBC report about Prime Minister Najib had been censored.

A provision of the CMA explicitly states that none of its wording "shall be construed as permitting the censorship of the Internet." The Multimedia Super Corridor, an information technology development project, includes a 10-point Bill of Guarantees that promises no censorship to member

14 Karin Deutsch Karlekar, ed., "Pakistan," in *Freedom of the Press 2013* (New York: Freedom House, 2013), <http://www.freedomhouse.org/report/freedom-press/2013/malaysia>.

15 Colin Kruger, "Billionaire Eyes Australian Media," *Sidney Morning Herald*, May 28, 2011, <http://www.smh.com.au/business/billionaire-eyes-australian-media-20110527-1f81u.html>.

16 Peter Boon, "Cyber Cafe Licences Not Issued Anymore—Ministry," *Borneo Post Online*, October 15, 2012, <http://www.theborneopost.com/2012/10/05/cyber-cafe-licences-not-issued-anymore-ministry/>.

17 Malaysian Communications and Multimedia Commission Act 1998, available at: <http://www.agc.gov.my/Akta/Vol.%2012/Act%20589.pdf>.

ICT businesses,¹⁸ though former Prime Minister Mahathir Mohamad told a reporter in June 2013 that he regretted that promise.¹⁹

While the Malaysian government blocks some websites for violating Malaysian laws, it has not systematically targeted political content in the past. In 2009, Information, Communications, and Culture Minister Dr. Rais Yatim sought to “evaluate the readiness and feasibility of the implementation of the Internet filter at [the] Internet gateway level,” but backtracked following opposition.²⁰ In July 2013, officials said a total 6,640 sites had been blocked since 2008.²¹ Many government-linked companies and public universities restrict access to *Malaysiakini* and other sites perceived as politically sensitive.

Authorities also make administrative requests to content and service providers to restrict information. The MCMC can instruct websites to remove content, including some perceived as critical of the government. Requests are generally nontransparent and lack judicial oversight and avenues for appeal. Issues such as Islam’s official status, race, royalty, and the special rights enjoyed by *bumiputera*, who are ethnic Malays and other indigenous people, as opposed to the ethnic Chinese and Indian minorities, are also considered sensitive. Discussing them can lead to prosecution, so internet users do exercise self-censorship.

Religion is particularly sensitive. In 2009, the MCMC directed *Malaysiakini* to take down two videos containing sensitive religious and political content. When *Malaysiakini’s* Editor-in-Chief Steven Gan refused, the MCMC urged the attorney general to prosecute him. As of 2014 the attorney general had yet to pursue the case, although Gan still risks a potential fine of up to MYR 50,000 (\$14,300) and up to one year in prison in the first reported case of its kind.²² In November 2013, the Federal Department of Islamic Development urged the government to strengthen internet censorship on the grounds that “hundreds of websites on the internet are being used to confuse and weaken those of the Islamic faith.”²³ Google blocked access to the infamous anti-Islamic video, “Innocence of Muslims,” at the MCMC’s request in September 2012.²⁴

Online news outlets represent an increasingly serious challenge to traditional media, with several among the nation’s most popular websites.²⁵ In October 2013, a judge ordered the home ministry to

18 Multimedia Super Corridor, “MSC Malaysia 10-Point Bill of Guarantees,” accessed August 2013, <http://www.mscomalaysia.my/news/introducing-msc-malaysia-certified-solutions>; MCMC, “Communications and Multimedia Act 1998,” accessed August 2013, <http://www.skmm.gov.my/Legal/Acts/Malaysian-Communications-And-Multimedia-Commission.aspx>.

19 Md Izwan, “Dr Mahathir regrets Internet Freedom,” *Malaysian Insider*, June 18, 2013, <http://www.themalaysianinsider.com/malaysia/article/mahathir-regrets-internet-freedom/>.

20 Rebekah Heacock, “Malaysia Considers, Backs Down from National Internet Filter,” OpenNet Initiative (blog), August 13, 2009, <http://opennet.net/blog/2009/08/malaysia-considers-backs-down-national-internet-filter>.

21 “More Than 6,000 Websites Blocked for Violations Since 2008,” *Bernama*, via *Malay Mail Online*, July 5, 2013, <http://www.themalaymailonline.com/malaysia/article/more-than-6000-websites-blocked-for-violations-since-2008>.

22 One showed Muslim demonstrators desecrating the head of a cow—an animal Hindus consider sacred—to protest the relocation of a Hindu temple; the second showed a political speech. See Reporters Without Borders, “Malaysiakini Website Refuses to Bow to Censorship,” news release, September 24, 2009, <http://en.rsf.org/malaysia-malaysiakini-website-refuses-to-24-09-2009,34575>.

23 “Jakim Calls for Internet Censorship to Ward Off Attacks on Islam,” *Malaysian Insider* via MSN, November 15, 2013, <http://news.malaysia.msn.com/tmi/jakim-calls-for-internet-censorship-to-ward-off-attacks-on-islam>.

24 Tashny Sukumaran, “Google Malaysia blocks ‘Innocence of Muslims’ video clip,” September 17, 2012, <http://www.thestar.com.my/story.aspx?file=%2f2012%2f9%2f17%2fnation%2f20120917111604>.

25 “Top Sites in Malaysia,” Alexa Web Information Company, accessed January 29, 2013, <http://www.alexa.com/topsites/countries/MY>.

grant *Malaysiakini* the right to reapply for a print license.²⁶ The ministry repeatedly refused to grant the license, and challenged a 2012 appeals court ruling which characterized *Malaysiakini's* right to publish a newspaper as fundamental.²⁷

The home ministry granted another online outlet, *FZ Daily*, permission to print a publication in August 2013, but deferred the approval required for a license in early 2014. The daily won the right to challenge the deferral in court in February 2014. The same day, the ministry revoked the publishing permit altogether. In March, the home minister justified the decision on grounds that both *FZ Daily* and *Malaysiakini* are “inclined to publish sensational and controversial news.”²⁸

Combative political reporting online may have caused the government or its supporters to try and censor a handful of news websites in the lead-up to 2013 elections. The sites were simultaneously targeted by hackers, and the exact nature of the interference remains unclear. Website staff discovered packets of information sent by their servers were not reaching readers, rendering their content temporarily inaccessible on some ISPs.²⁹ The platforms were all available again within 48 hours. At least two outlets filed a complaint with the MCMC, which never responded.

In January 2014, a BBC blog post describing social media ridicule of remarks by Prime Minister Najib about the falling price of water spinach became temporarily inaccessible on the Telekom Malaysia broadband network under equally unclear circumstances. When asked if a block was in place, Telekom Malaysia referred the BBC to the MCMC, which denied responsibility.³⁰

Despite these issues, expanded internet access has led to the emergence of a vibrant blogosphere. English and Malay are the dominant languages, and many civil society groups, including those representing ethnic minorities, have a dynamic online presence. Social networking is almost ubiquitous. A 2012 article said Malaysians visited social media platforms a staggering 14 billion times a month.³¹ Prime Minister Najib leads the way with his own blog and over a million followers on both Facebook and Twitter.³² Other government representatives are embracing ICTs. The police force has Facebook and Twitter accounts where officers provide updates on policing activities and occasionally respond to accusations of abuse by members of the public.³³

Some of this engagement is manipulative in nature. Both government and opposition figures are known to pay online commentators known as “cyber troopers” to generate favorable content

26 Reporters Without Borders, “Court Rejects Government Appeal Against Print Version For News Website,” October 31, 2013, <http://en.rsf.org/malaysia-court-rejects-government-appeal-31-10-2013.45411.html>.

27 Hafiz Yatim, “Malaysiakini Wins Court Battle Over Print Licence,” *Malaysiakini*, October 1, 2012, <http://bit.ly/V5bcKG>; Human Rights Watch, World Report 2013, Country Reports, “Malaysia,” January 31, 2013, <http://bit.ly/ZbdTes>, 2.

28 <http://www.fz.com/content/permits-rejected-avoid-flooding-sensational-controversial-news>

29 Oiwan Lam and Leila Nachawati, “Malaysia: News Sites Face Attacks on Eve of Elections,” *Global Voices Advocacy*, May 4, 2013, <http://advocacy.globalvoicesonline.org/2013/05/04/malaysia-news-sites-face-attacks-on-eve-of-elections/>.

30 MCMC denies blocking BBC ‘kangkung’ page, Malay Mail Online, Jan 16, 2014, <http://www.themalaymailonline.com/malaysia/article/mcmc-denies-blocking-bbc-kangkung-page>; ‘#BBCTrending: How spinach was blocked in Malaysia’, BBB, Jan 17, 2014, <http://www.bbc.co.uk/news/magazine-25769325#threeG>.

31 “Malaysia Internet Usage Statistic,” SEO Consultant (blog), November 24, 2012, <http://www.seoconsultant.com.my/2012/11/malaysia-internet-usage-statistic/>.

32 Najib Razak’s Facebook page, accessed July 19, 2012, www.facebook.com/najibrazak; Najib Razak’s blog, “1Malaysia,” accessed July 19, 2012, <http://www.1malaysia.com.my/>.

33 Polis Diraja’s Facebook page, <http://www.facebook.com/PolisDirajaMalaysia>.

and denigrate their opponents.³⁴ Since traditional media restrictions caused opposition groups to embrace online platforms relatively early, the government has struggled to catch up. The Barisan Nasional's dedicated bloggers, Unit Media Baru, deny accepting payment for their efforts.³⁵

In 2012, the government admitted paying international public relations firm FBC Media MYR 83.8 million (\$26.5 million) between 2008 and 2010 to boost Prime Minister Najib's image abroad.³⁶ Opposition news website *Sarawak Report* also said Abdul Taib Mahmud, the chief minister in the state of Sarawak, had separately contracted FBC Media for online publicity campaigns.³⁷ FBC Media, which denied wrongdoing, collapsed in 2011.³⁸

Despite these interventions, online tools have been effective for political mobilization and exposing the government's grip on traditional media. Organizers of recent rallies for political reform, the Coalition for Free and Fair Elections, leveraged online platforms to bring tens of thousands of supporters to the streets during the "Bersih 2.0" and "Bersih 3.0" political rallies in 2011 and 2012, respectively. In 2011, while mainstream media downplayed reports of police brutality against the largely peaceful protesters, internet users circulated nearly 900,000 tweets and 1,600 videos documenting violence, and 200,000 Facebook users petitioned for Najib's resignation.³⁹ In 2012, more bloggers and online news portals weighed in to keep people informed about the rally and the security forces' methods to control it, which included beatings, tear gas and water cannons;⁴⁰ print coverage was described as a "near blackout."⁴¹

During the coverage period of this report, digital campaigns to get out the vote contributed to a record 80 percent turnout of registered voters, in what observers described as the most closely fought election since independence.⁴²

34 Joanna Yap, "PRS' Cyber-Troopers Ready for Coming Polls," *Borneo Post Online*, March 22, 2012, <http://www.theborneopost.com/2012/03/22/prs-cyber-troopers-ready-for-coming-polls/>; Lim Guan Eng, "Najib's New Army of Cyber Troopers with a History of Dirty Tricks is Proof that the 13 General Election Will be the Dirtiest Election Yet," *DapMalaysia*, November 21, 2011, <http://dapmalaysia.org/english/2011/nov11/lge/lge1414.htm>.

35 Yu Ji, "Taking the Battle Online," February 8, 2012, <http://thestar.com.my/news/story.asp?file=/2012/2/8/sarawak/10692418>.

36 Mariam Mokhtar, "Sorry No Cure, BBC," *Free Malaysia Today*, February 17, 2012, <http://www.freemalaysiatoday.com/category/opinion/2012/02/17/sorry-no-cure-bbc/>; "BBC's Worldwide Apology Exposes Malaysian Govt's Image," *Harakah Daily*, February 13, 2012, <http://en.harakahdaily.net/index.php/berita-utama/4376-bbcs-worldwide-apology-exposes-malaysian-govts-image.html>.

37 "New Revelations Link FBC Media to BN's Dirty Tricks Blogging Campaigns—Latest Expose!" *Sarawak Report*, August 7, 2011, <http://www.sarawakreport.org/2011/08/dirty-tricks-new-revelations-link-fbc-media-to-bns-blogging-campaigns/>.

38 Ian Burrell, "TV Company at Centre of Global News Fixing Row Goes into Administration," October 28, 2011, <http://www.independent.co.uk/news/media/tv-radio/tv-company-at-centre-of-global-news-fixing-row-goes-into-dministration-2376943.html>.

39 Jerrenn Lam, "Malaysia: Bersih 2.0 Rally Rattles the Government," *Global Voices*, July 11, 2011, <http://globalvoicesonline.org/2011/07/11/malaysia-bersih-2-0-rally-rattles-the-government/>; Joshua Ongys, "Statistics on Bersih 2.0 Rally – Malaysia 9 July 2011," *Joshuaongys*, July 9, 2011, <http://joshuaongys.com/2011/07/bersih-2-0-rally-malaysia-9-july-2011-online-social-media-statistics-youtube-facebook-twitter/>.

40 Jerrenn Lam, "Malaysia: Thousands Joined Bersih 3.0 Protest," *Global Voices*, April 30, 2012, <http://globalvoicesonline.org/2012/04/30/malaysia-thousands-joined-bersih-3-0-protest/>.

41 Reporters Without Borders, "Major Protest Prompts Attacks on Journalists, Censorship and Missing Media Replaced by Civil Society," May 5, 2012, http://en.rsf.org/malaisie-major-protest-prompts-attacks-on-05-05-2012_42567.html.

42 Jonathan Head, "Malaysia election sees record turnout," BBC News, May 5, 2013, <http://www.bbc.com/news/world-asia-22394752>.

Violations of User Rights

Legal harassment remained a primary means for the authorities to intimidate internet users in 2014 with bloggers—and increasingly, social media users—investigated and sometimes charged for online activity. Opposition politician Teresa Kok was charged with sedition for a satirical online video in May. She and online news outlet Malaysiakini also faced threats. Though jail terms are unusual, the threat still prevents many from taking full advantage of Malaysia's dynamic online environment. The May 2013 election also had an impact on user rights, as opposition news websites faced cyberattacks, and a list of candidates circulating online was discovered to contain spyware.

Malaysia's constitution provides citizens with "the right to freedom of speech and expression," but allows for limitations on this right. While some recent court decisions have disappointed freedom of expression advocates,⁴³ others show more independence. In December 2013, the government lost its challenge against a court decision granting a print publication license to independent news website *Malaysiakini*.⁴⁴

The government exercises tight control over online as well as print and broadcast media through laws like the Official Secrets Act and the Sedition Act. Violations are punishable by fines and several years in prison. The government has also pursued prosecutions based on the CMA's broadly worded Section 211, which bans content deemed "indecent, obscene, false, threatening, or offensive," and Section 233, when such content is shared via the internet.⁴⁵ Defamation is a criminal offence under Sections 499 to 520 of Malaysia's penal code.⁴⁶ Media outlets benefit from stronger privileges under the Defamation Act 1957 if they can prove allegedly libelous content is accurate and was published without malice;⁴⁷ lacking this protection, bloggers risk punitive damages.

In 2012, parliament passed an amendment to the 1950 Evidence Act that holds intermediaries liable for seditious content posted anonymously on their networks or websites.⁴⁸ This would include hosts of online forums, news outlets, and blogging services, as well as businesses providing Wi-Fi services.⁴⁹ The amendment also holds someone liable if their name is attributed to the content or if the computer it was sent from belongs to them, whether or not they were the author.⁵⁰ The legal change was pushed through hurriedly, but garnered significant public backlash after its passage, which failed to prevent it going into effect.⁵¹ No implementation has been reported.

43 Reporters Without Borders, "Court's Ruling on Cartoonist's Suit Sets Disturbing Precedent for Media Freedom," July 31, 2012, <http://en.rsf.org/malaysia-court-s-ruling-on-cartoonist-s-31-07-2012.43134.html>.

44 "No appeal, M'kini print permit verdict is final," *Malaysiakini*, Dec 3, 2013, <http://beta.malaysiakini.com/news/248>.

45 OpenNet Initiative, "Country Profile—Malaysia."

46 Bhag Singh, "Criminal Offence," *Star Online*, July 29, 2008, <http://bit.ly/1hfKwhc>.

47 Abdul Latiff Ahmad et al., "Regulating Blogs in Malaysia," *The Innovation Journal: The Public Sector Innovation Journal*, Vol. 16(3), 2011, http://www.innovation.cc/scholarly-style/latiff_ahamad_regulating_malasian_blogs16v2i11a.pdf.

48 Eva Galperin, "This Week in Internet Censorship: Points system for Weibo, Activist Released in Bahrain, Censorship in Malaysia, Ethiopia, and More," *Electronic Frontier Foundation*, May 31, 2012, <https://www.eff.org/deeplinks/2012/05/week-internet-censorship-points-system-weibo-activist-released-bahrain-censorship>.

49 Teoh El Sen, "Pakatan Seeks to Halt New Evidence Act," *Free Malaysia Today*, June 28, 2012, <http://www.freemalaysiatoday.com/category/nation/2012/06/28/pakatan-seeks-to-halt-new-evidence-act/>.

50 Parliament of Malaysia, "Act to amend the Evidence Act 1950, 2012," <http://www.parlimen.gov.my/files/billindex/pdf/2012/DR162012E.pdf>.

51 A. Asohan, "Govt Stealthily Gazettes Evidence Act Amendment, Law is Now in Operation," *Digital News Asia*, August 8, 2012, <http://www.digitalnewsasia.com/digital-economy/govt-stealthily-gazettes-evidence-act-amendment-law-is-now-in-operation>.

At the same time, the Security Offences (Special Measures) Act (SOSMA) replaced the Internal Security Act, which allowed for infinitely renewable detentions without trial and had been used to hold bloggers.⁵² The new law provides several improved protections to detainees, requiring police to immediately inform a suspect's family and reducing the maximum amount of time they can be held without charge or trial.⁵³ It also includes a provision explicitly stating that "no person shall be arrested and detained...solely for his political belief or political activity."⁵⁴ Despite these improvements, the law also includes restrictive provisions absent in its predecessor. For example, it grants wide-ranging powers for the public prosecutor—and in emergency situations, the police—to intercept communications without the need for a court order in cases involving security offenses.⁵⁵

The government also made changes to the penal code that could allow for punishment of political speech by classifying ill-defined "activity detrimental to parliamentary democracy" as a criminal offence. Civil society groups fear this could render criticism of government officials or policies punishable with jail time, although the law minister said the provision would only apply to violent activities.⁵⁶ Meanwhile, the legislative revisions failed to check other problems, including the use of sedition and official secrets charges to harass bloggers and internet users.

No bloggers were serving long-term jail sentences in 2014, though Malaysian authorities have a history of criminally prosecuting online content producers. Police charged at least eight internet users for criticism of the monarchy in 2009,⁵⁷ and questioned others.⁵⁸ Many prosecutions were dropped, but at least one defendant elected to pay a fine of MYR 10,000 (\$2,700) rather than face the threat of trial.⁵⁹ Legal proceedings can be lengthy and uncertain, regardless of the outcome. Police continue to investigate Raja Petra Kamarudin, founder of the blog *Malaysia Today*, who fled into exile in 2009 to avoid sedition charges and continues to criticize the administration from overseas.⁶⁰ In 2012, police charged Syed Abdullah Syed Hussein al-Attas, who blogs pseudonymously as "Uncle Seekers," with insulting the Sultan in 64 of his posts.⁶¹ Charges against him are still pending.

52 "Malaysia Detains 'Dissent' Writer," BBC News, September 23, 2008, <http://news.bbc.co.uk/2/hi/asia-pacific/7630789.stm>.

53 Parliament of Malaysia, "Security Offences (Special Measures) Act 2012," <http://www.parlimen.gov.my/files/billindex/pdf/2012/DR152012E.pdf>.

54 Security Offences (Special Measures) Act 2012.

55 Security Offences (Special Measures) Act 2012.

56 Shahanaaz Habib, "A Matter of Trial and Error," *Star Online*, April 22, 2012, <http://thestar.com.my/news/story.asp?file=/2012/4/22/nation/11153338&sec=nation>.

57 International Freedom of Expression eXchange, "Government Hounds Bloggers That Criticise Royalty," news alert, March 25, 2009, http://www.ifex.org/malaysia/2009/03/25/government_hounds_bloggers_that/.

58 Centre for Independent Journalism, "Debate on Royal Powers Draws Attacks and Threats; Bloggers Ahiruddin Attan and Jed Yoong Questioned by Police," via International Freedom of Expression eXchange, March 4, 2009, http://www.ifex.org/malaysia/2009/03/04/capsule_report_debate_on_royal/.

59 Centre for Independent Journalism, "Six People Charged with 'Insulting' Royalty Online," International Freedom of Expression eXchange, March 16, 2009, http://www.ifex.org/malaysia/2009/03/16/six_people_charged_with_insulting/.

60 Teh Eng Hock, "Raja Petra Can't Be Tried in Britain," *Star Online*, May 26, 2010, <http://thestar.com.my/news/story.asp?file=/2010/5/26/nation/6340987&sec=nation>. K. Kabilan, "RPK: 1Malaysia Will Be Najib's Downfall," *Free Malaysia Today*, May 25, 2010, <http://politicalwatchmalaysia.blogspot.com/2010/05/rpk-1malaysia-will-be-najibs-downfall.html>; "Perkasa Makes Police Report Against Raja Petra," *Malaysia Today*, January 7, 2010, <http://malaysia-today.net/mtcolumns/newscommentaries/29452-perkasa-makes-police-report-against-raja-petra>.

61 Committee to Protect Journalists, "In Detaining Blogger, Malaysia Invokes Secrets Act," news alert, July 11, 2012, <http://www.cpj.org/2012/07/in-detaining-blogger-malaysia-invokes-secrets-act.php>.

Individuals can file police reports against other internet users. In July 2013, one group said they had asked police to investigate two Facebook users for comments about the king and the prophet Muhammad.⁶² Others reported a separate Facebook account in October for posting an image of the prime minister with a woman's body.⁶³ In February, a woman was briefly detained for allegedly insulting the sultan of Selangor on her Facebook page.⁶⁴ No charges were subsequently reported. In November 2013, Inspector-General of Police Khalid Abu Bakar warned online news portal *Free Malaysia Today* and its popular columnist Mariam Mokhtar for producing articles he described as "highly seditious," but no charges were filed during the coverage period.⁶⁵

On May 6, 2014, opposition politician Teresa Kok was charged with sedition for allegedly insulting Islam and the nation's leaders, four months after sharing an 11-minute video which used invented Chinese New Year predictions to satirize government policies. The video sparked outrage among a group of Muslim NGOs, who staged protests saying Kok was using politics to fan racial hatred. One group slaughtered chickens, smeared the blood on a poster of opposition leaders, and offered a financial reward for slapping Kok in retaliation for the video.⁶⁶ Kok's trial was pending at the end of the coverage period. Arrests under apparently politicized sedition charges targeting critics and government opponents continued in late 2014.⁶⁷ Separately, at least two sedition charges were filed in relation to online content in June 2014.⁶⁸

Politically motivated defamation suits seeking damages disproportionate to the offense have become another threat to online expression since a landmark 2007 blogger prosecution by a government-linked newspaper.⁶⁹ In August 2012, a Kuala Lumpur court sentenced blogger and opposition People's Justice Party member Amizudin Ahmat to three months in jail on charges of contempt for blogging about Dr. Rais Yatim, Malaysia's information and culture minister, after being banned from doing so in a 2011 defamation ruling against him.⁷⁰ The jail term was deferred pending appeal. In June 2014, after the coverage period of this report, Prime Minister Najib filed a defamation suit against *Malaysiakini* for two allegedly defamatory articles published in May that compiled readers' comments.⁷¹

62 "Sensible Group" Watching Cyberspace for Sensitive Comment," BERNAMA via *Malaysian Chronicle*, July 22, 2013, http://www.malaysia-chronicle.com/index.php?option=com_k2&view=item&id=132542:sensible-group-watching-cyberspace-for-sensitive-comment&Itemid=2#axzz2Znzff4

63 "Five NGOs Urge Authorities to Take Stern Action Against Those who Insulted PM," BERNAMA via *New Straits Times*, October 4, 2013, <http://www.nst.com.my/latest/five-ngos-urge-authorities-to-take-stern-action-against-those-who-insulted-pm-1.368951>.

64 "Woman detained for allegedly insulting Selangor Sultan on Facebook," *The Star*, February 12, 2014, <http://www.thestar.com.my/News/Nation/2014/02/12/Woman-insult-sgor-sultan/>.

65 "IGP warns FMT columnist," *Free Malaysia Today*, November 30, 2013, <http://www.freemalaysiatoday.com/category/nation/2013/11/30/igp-warns-fmt-columnist/>.

66 "Teresa Kok charged with sedition over CNY video," *Free Malaysia Today*, May 6, 2014, <http://www.freemalaysiatoday.com/category/nation/2014/05/06/teresa-kok-charged-with-sedition-over-cny-video/>.

67 Stephanie Scawen, "Malaysian law lecturer arrested for sedition," September 3, 2014, <http://www.aljazeera.com/news/asia-pacific/2014/09/malaysian-law-lecturer-arrested-sedition-20149351946377570.html>.

68 "Two claim trial over seditious FB postings," *The Star*, June 20, 2014, <http://www.thestar.com.my/News/Nation/2014/06/20/Two-claim-trial-over-seditious-FB-postings/>; "Isma chief denies sedition charge," *The Star*, June 20, 2014, <http://www.thestar.com.my/News/Nation/2014/06/20/Isma-chief-denies-sedition-charge-Abdullah-Zaik-vows-to-fight-on-for-Muslim-and-Malay-rights/>.

69 Soon Li Tsin, "Bloggers Sued for Defamation," *Malaysiakini*, January 18, 2007, <http://www.malaysiakini.com/news/62257>.

70 International Freedom of Expression eXchange, "Opposition Blogger Ordered to Pay Exorbitant Damages to Minister," news alert, July 22, 2011, http://www.ifex.org/malaysia/2011/07/22/amizudin_defamation_suit/; Reporters Without Borders, "Prison Sentence Deferred," August 20, 2012, http://en.rsf.org/malaysia-opposition-blogger-ordered-to-pay-20-07-2011_40659.html.

71 "Najib, Umno sue Mkini over readers' comments," *Malaysiakini*, <http://www.malaysiakini.com/news/264611>.

Other criminal cases have involved religion.⁷² In July 2013, police detained bloggers Alvin Tan Jye Yee and Vivian Lee May Ling for eight days on charges of sedition and causing religious disharmony after they posted a greeting to Muslims celebrating Ramadan under an image of themselves eating pork on Facebook; they later apologized and removed the post. The couple was separately charged under the Film Censorship Act 2002 with posting explicit images on their joint blog.⁷³ Each of the three charges they face carries a possible jail term of three to five years; the trial is ongoing.⁷⁴ In November, a group filed a police report against another Facebook user for posting an image of pork alongside Islamic symbols under the account name Adlin Abd Jalil.⁷⁵ Police outside Kuala Lumpur detained a Facebook user they identified as “Man Namblast” in February 2014 for allegedly posting seditious remarks about Hindus.⁷⁶ He was charged with sedition on June 19.⁷⁷

Real-name registration is not required for participation in Malaysia’s blogosphere, nor is it required to use a cybercafe. Beginning in 2007, all mobile phone owners, including the roughly 18 million customers using prepaid service at the time, were required to register as part of an effort to decrease rumor mongering.⁷⁸ The rule appears to have been weakly enforced.

The extent of government surveillance of ICT content is not known, but privacy protections are generally poor.⁷⁹ In 2008, the MCMC formed a panel composed of representatives from the police, the attorney general’s office, and the Home Ministry to monitor websites and blogs. Although it still appears to be active, it has not publicly intervened in internet freedom issues. Court documents indicate that police regularly gain access to the content of text messages from telecommunications companies, sometimes without judicial oversight. A 2011 government initiative to provide free email accounts to all citizens over the age of 18 prompted fears it would expand the government’s ability to monitor people’s online activities,⁸⁰ but was not very popular.⁸¹ SOSMA, which allows for the interception of communications without a judicial order in poorly defined security investigations, also contains scope for abuse.⁸²

72 In August 2010, the right-wing group Perkasa lodged a complaint against blogger Helen Ang for authoring an article that questioned the position of Islam in Malaysia; as of 2013, the case was still pending, but observers felt it was unlikely the attorney general would pursue it. “Perkasa Lodges Report Against Blogger,” *Malaysian Insider*, August 9, 2010, <http://www.themalaysianinsider.com/malaysia/article/perkasa-lodges-report-against-blogger/>.

73 “Court Allows Bail for Alvivi but Sets Conditions,” *Malaysiakini*, July 25, 2013, <http://my.news.yahoo.com/court-allows-bail-alvivi-sets-conditions-065729932.html>.

74 “Malaysian Sex Bloggers’ Trial Postponed, Pending Bid to Throw Out Charge,” AsiaOne, January 6, 2014, <http://news.asiaone.com/news/malaysia/malaysian-sex-bloggers-trial-postponed-pending-bid-throw-out-charge>.

75 “Police Report Lodged over FB Posting Insulting Islam,” BERNAMA via *New Straits Times*, November 5, 2013, <http://www.nst.com.my/latest/police-report-lodged-over-fb-posting-insulting-islam-1.392842#ixzz2s1AJBjf>.

76 “FB user held over seditious remarks,” *The Star*, Feb 12, 2014, <http://www.thestar.com.my/News/Nation/2014/02/12/FB-user-held-over-seditious-remarks/>.

77 “Teacher pleads not guilty to sedition over Facebook posting,” *The Star Online*, June 19, 2014, <http://www.thestar.com.my/News/Nation/2014/06/19/Court-Teacher-sedition-Facebook/>.

78 “Dec 15 Registration Deadline Stays: MCMC,” *Bernama*, August 18, 2006, <http://www.bernama.com/kpdnhep/news.php?id=214811&lang=en>.

79 Privacy International, “Privacy in Asia: Final Report of Scoping Project,” November 2009, https://www.privacyinternational.org/issues/asia/privacy_in_asia_phase_1_report.pdf.

80 Rebekah Heacock, “Malaysia: Government’s Free E-mail Plan Met with Opposition,” OpenNet Initiative (blog), April 26, 2011, <http://opennet.net/blog/2011/04/malaysia-governments-free-e-mail-plan-met-with-opposition>.

81 Economic Transformation Programme Report 2012, 187.

82 Mickey Spiegel, “Smoke and Mirrors: Malaysia’s “New” Internal Security Act,” *Asia Pacific Bulletin*, no. 167, East West Center (June 2012), <http://www.eastwestcenter.org/publications/smoke-and-mirrors-malaysias-new-internal-security-act>.

The Malaysian Personal Data Protection Act 2010, which regulates the processing of personal data in commercial transactions, came into effect in November 2013. The law makes it illegal for commercial organizations to sell personal information or allow third parties to use it, with penalties up to MYR 100,000 (\$27,400) or one year imprisonment. Federal and state governments are exempted from the law, as is data processed outside Malaysia.⁸³ But the act requires that information about Malaysians be stored locally, and limits conditions under which the data can be transferred abroad. It was not implemented during the coverage period.⁸⁴

In March 2013, the University of Toronto-based research group Citizen Lab reported detecting software known as FinFisher, described by its distributor Gamma International as “governmental IT intrusion and remote monitoring solutions,” on 36 servers worldwide, including one in Malaysia.⁸⁵ The software potentially allows the server to steal passwords, tap Skype calls, or record audio and video without permission from other computers, according to Citizen Lab. The same month, the *Malaysian Insider* documented FinFisher’s presence in Malaysia, based on a *New York Times* report.⁸⁶ In response, the MCMC threatened the site with a fine of up to MYR 50,000 (\$15,200) or one year imprisonment for false reporting under the CMA. No charges were filed against the website or its staff. In May, however, Citizen Lab reported they had further identified “a Malaysian election-related document” they characterized as a “booby-trapped candidate list” containing surveillance spyware.⁸⁷ Because the spyware is only marketed to governments, “it is reasonable to assume that some government actor is responsible,” the group concluded. A separate Citizen Lab report published in February 2014 said a Malaysian government agency was a “current or former user” of Remote Control System spyware marketed by the Milan-based Hacking Team.⁸⁸

Physical violence sporadically affects traditional and online journalists in Malaysia.⁸⁹ No incidents were documented during the coverage period of this report, though threats were documented in relation to digital content, including the reward offered to anyone who would hit opposition politician Teresa Kok for the satirical video that prompted her sedition trial. In an unrelated February 2014 incident that nevertheless evoked the protests against Kok—which involved the symbolic use of chicken blood—unknown people splashed red paint outside *Malaysiakini* offices and left behind a cardboard box containing a dead duck. *Malaysiakini* lodged a police report over the incident, an apparent attempt to threaten the news portal over its coverage.⁹⁰

83 Barry Ooi, “How the Personal Data Protection Act Impacts the Market Research Industry,” December 29, 2012, <http://biz.thestar.com.my/news/story.asp?file=/2012/12/29/business/12511744&sec=business>.

84 Chander, Anupam and Le, Uyen P., “Breaking the Web: Data Localization vs. the Global Internet” (April 2014), *Emory Law Journal*, Forthcoming; UC Davis Legal Studies Research Paper No. 378. Available at SSRN: <http://ssrn.com/abstract=2407858>.

85 Morgan Marquis-Boire et al., “You Only Click Twice: FinFisher’s Global Proliferation,” Citizen Lab, March 13, 2013, <https://citizenlab.org/2013/03/you-only-click-twice-finfishers-global-proliferation-2/>.

86 The contested report: Boo Su-Lyn, “Malaysia Uses Spyware Against Own Citizens, NYT Reports,” *Malaysian Insider*, March 14, 2013, <http://www.themalaysianinsider.com/malaysia/article/Malaysia-uses-spyware-against-own-citizens-NYT-reports>. The original *New York Times* report: Nicole Perlroth, “Researchers Find 25 Countries Using Surveillance Software,” *New York Times* (blog), March 13, 2013, <http://bits.blogs.nytimes.com/2013/03/13/researchers-find-25-countries-using-surveillance-software/>.

87 “Short Background: Citizen Lab Research on FinFisher Presence in Malaysia,” Citizen Lab, May 2013, <https://citizenlab.org/wp-content/uploads/2013/05/shortbg-malaysia1.pdf>.

88 Bill Marczak et al., “Mapping Hacking Team’s ‘Untraceable’ Spyware,” Citizen Lab, February 2014, <https://citizenlab.org/2014/02/mapping-hacking-teams-untraceable-spyware/>.

89 Committee to Protect Journalists, “Journalists Assaulted, Detained During Rally in Malaysia,” April 30, 2012, <http://www.cpj.org/2012/04/journalists-assaulted-detained-during-rally-in-mal.php>.

90 “Duck, red paint at Malaysiakini’s office,” *Malaysiakini*, <http://www.malaysiakini.com/news/255321>.

A graver threat to independent online news outlets and some opposition-related websites is distributed denial-of-service (DDoS) attacks, which force sites to crash sites by overloading the host server with requests for content, often at moments of political importance. Some observers believe such attacks are either sponsored or condoned by Malaysian security agencies, since they often align with government priorities. *Malaysiakini*, was one of many sites reporting on the opposition which was subjected to an apparently coordinated assault before the May 2013 elections.⁹¹ While attacks continued during the coverage period, they did not succeed in disabling any sites.

91 Human Rights Watch, "Malaysia: Violence, Cyber Attacks Threaten Elections," May 1, 2013, <http://www.hrw.org/news/2013/05/01/malaysia-violence-cyber-attacks-threaten-elections>; Shawn Crispin, "Internet Opening is Shrinking," *Attacks on the Press*, Committee to Protect Journalists (Wiley: New York, February 2013), <http://cpj.org/2013/02/attacks-on-the-press-internet-opening-is-shrinking.php>.