FREEDOM ON THE NET 2020

Philippines

PARTLY FREE

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LAST YEAR’S SCORE & STATUS

66/100 Partly Free

Scores are based on a scale of 0 (least free) to 100 (most free)
Overview

Continuing its downward trajectory, internet freedom in the Philippines declined yet again during the coverage period due to COVID-19 emergency provisions limiting free-expression rights and the forced closure of one of the country’s largest news outlets, ABS-CBN. Signaling the shrinking space for critical speech online, authorities ramped up arrests of users amid the pandemic and continued their legal cases against online news site Rappler. Meanwhile, online intimidation and harassment of those criticizing the government continued, as did technical attacks against news outlets and civil society groups.

The Philippines’ decline in internet freedom has occurred amidst an erosion of political and civil rights under President Rodrigo Duterte, whose war on drugs has led to thousands of extrajudicial killings since 2016. Although the Philippines transitioned from authoritarian rule in 1986, the rule of law and application of justice are haphazard and heavily favor political and economic elites. Impunity remains the norm for crimes against activists and journalists.

Key Developments, June 1, 2019 - May 31, 2020

- In May 2020, the National Telecommunications Commission (NTC) ordered ABS-CBN, one of the country’s largest news networks, to close, after Congress failed to renew its broadcast license, despite several bills introduced to do so. President Duterte routinely criticized the network and previously threatened not to renew its license (see B6).
- The government’s emergency COVID-19 decree, the Bayanihan to Heal as One Act, restricted free-expression rights online and further criminalized certain forms of online speech, leading to users being arrested and charged for their social media posts about the pandemic (see C1, C2, and C3).
• Criminal cases against Rappler CEO Maria Ressa and former researcher Reynaldo Santos Jr. continued during the coverage period. Ressa and Santos were found guilty of cyberlibel in June 2020, after the end of the coverage period (see C3).

• The Anti-Terrorism Act of 2020 worked its way through the legislature during the coverage period, and was signed into law in July 2020. The law includes broad language that could be used to prosecute online speech, allows law enforcement agencies and the military to conduct surveillance for a longer period of time, and legalizes detentions lasting up to 24 days without a warrant (see C2 and C5).

A. Obstacles to Access

*Internet penetration and average connection speeds continue to improve in the Philippines. The Department of Information and Communications Technology (DICT) has begun piloting the National Broadband Plan (NBP) to lower costs and improve connectivity, and a third telecommunications entity is set to start commercial operations in March 2021, in the hopes of fostering more robust competition in the industry and improving service. The government signed an agreement with Facebook to build high-speed internet infrastructure in the northern part of the country, and the resulting facility is set to open in 2020. However, authorities also ordered the shutdown of mobile phone networks during major events in several cities in 2020.*

\[A1\] o-6 pts

| Do infrastructural limitations restrict access to the internet or the speed and quality of internet connections? | 4/6 |

At the beginning of 2020, the Philippines had a reported internet penetration rate of just over 67 percent of the country’s total population of 108.8 million, according to Hootsuite, a social media management platform. \(^1\) The Inclusive Internet Index 2020 report ranked the Philippines 63rd out of 100 countries in terms of availability, which was determined by quality and breadth of available infrastructure. \(^2\) Internet usage via mobile devices far outweighs fixed-line connectivity. There were 68.4 active
mobile broadband subscriptions per 100 inhabitants in 2018. 3 As of 2017, there 
were only 5.5 fixed broadband subscriptions per 100 inhabitants. 4

Both mobile and fixed broadband download speeds in the Philippines decreased 
slightly compared to last year, standing at 12.09 and 21 Mbps, respectively. Speeds 
remain relatively low compared to global averages of 30.89 Mbps for mobile speeds 
and 74.74 Mbps for fixed broadband speeds. 5

A number of projects are underway to improve access. In 2015, the Information and 
Communications Technology (ICT) Office of the Department of Science and 
Technology (DOST)—now the DICT—launched a project that aimed to provide free 
Wi-Fi in some public places in the country. To institutionalize the project, President 
Duterte signed legislation in 2017 creating the Free Internet Access Program. The law 
requires public places such as transport terminals, hospitals, schools, and 
government offices to provide free Wi-Fi at major congregation points. 6 As of April 
2020, the DICT reported that it installed 3,832 hotspots. 7 In another effort aimed 
at providing free, high-speed Wi-Fi, Google Philippines partnered with Smart 
Communications to implement the Google Station project in February 2019, 
establishing free Wi-Fi stations. 8 At the launch of the project, 50 Wi-Fi stations 
were established. In 2020, the DICT aims to roll out another 10,000 Wi-Fi access 
points. 9 It also intends to enter arrangements to build common towers that will 
provide faster and cheaper internet service in the country. 10

In 2017, the president approved the launch of the Government Satellite Network 
(GSN), to be implemented by the Presidential Communications Operations Office 
(PCOO), to transmit government-created videos, photos, and audio (see B5). 11 The 
GSN is expected to provide internet connectivity to barangays, or local villages, that 
currently have none. 12

In 2017, the DICT and the Bases Conversion and Development Authority (BCDA) 
signed a landing party agreement with Facebook for a project to build high-speed 
internet infrastructure that will improve the speed, affordability, and accessibility of 
broadband and internet access in the country. 13 In exchange for using Facebook’s 
facility, which is set to open in the fall of 2020, the Philippine government will get 2
Tbps of international bandwidth free of charge. The DICT intends to use this bandwidth to support its free Wi-Fi program, and provide inexpensive internet to small service providers.

With the COVID-19 pandemic, internet usage and data traffic has surged in parts of the country, with more people relying on the internet to keep informed, as well as to work from home. The DICT directed the NTC to ensure consistent and reliable telecommunications services in the country. Wi-Fi terminals were set up in areas designated as quarantine areas, as well as in COVID-19 monitoring and control centers. However, the pandemic has also exposed the country’s technology infrastructure weaknesses, including the need to build more cell sites and lay fiber-optic cables that will connect to homes.

A digital divide exists in the Philippines, mainly around cost and geography.

Connectivity is most concentrated in densely populated urban areas, while many poor, rural areas remain largely underserved. To bridge this gap, the Duterte administration launched the NBP in 2017, which aims to lower costs and improve broadband connectivity. In October 2018, the DICT began a pilot test of its fiber-optic backbone facility. In February 2019, the department received a 23.8 million Philippine peso ($460,000) grant from the US government to support the implementation of the national broadband network.

According to the Inclusive Internet Index 2020 report, the Philippines ranks 82nd out of 100 surveyed countries in terms of affordability, defined by cost of access relative to income and the level of competition in the internet marketplace. While affordability of smartphones and mobile data is still a major problem, the 2019 Affordability Report noted an improvement in the Philippines, moving up 5 notches to place 25th out of 61 countries. The report cites policy changes, such as the
required public consultations in regulatory decision-making, as well as the establishment of over 2,200 TECH4ED centers since 2015, as positive contributions to the country’s ICT market. 25

A3 0-6 pts

Does the government exercise technical or legal control over internet infrastructure for the purposes of restricting connectivity? 5/6

The government ordered the shutdown of mobile phone networks during major events in several cities during the coverage period. Critics are concerned about the normalization of internet and mobile network shutdowns, calling for a clearer policy that outlines the circumstances in which they may be implemented. 26

The police routinely restrict mobile services, justifying their actions as efforts to prevent possible terrorist attacks. For the Black Nazarene procession, a widely attended Roman Catholic event in the Quiapo district of Manila held every January 9th, the NTC issued a memorandum to Globe Telecom and Smart Communications to temporarily cut network services in specific areas where the procession will pass, on the request of the National Capital Region Police Office. 27 Also in January 2020, mobile signals were restricted for two days in different parts of Cebu during the Sinulog-Santo Niño Festival, also for security reasons. 28 Similar restrictions occurred around other major festivals and events during the coverage period, as well as during 2019 and 2018. 29

One provider, PLDT, plays an outsized role in the country’s telecommunications infrastructure. The company 30 owns the majority of fixed-line connections, as well as a 221,000-kilometer fiber-optic network that connects to several international networks; 31 it also fully or partly owns five out of nine international cable landing stations. 32 In line with its modernization plan, PLDT is investing $136.7 million in a new trans-Pacific cable system that will link its landing stations in Camarines Norte in the Philippines to Maruyama and Shima in Japan, and Los Angeles in the United States; the cable is expected to become operational by the third quarter of 2020. 33
In 2017, Globe Telecom launched a $250 million submarine cable that links Davao and the United States. 34

A4  0-6 pts

Are there legal, regulatory, or economic obstacles that restrict the diversity of service providers? 4/6

At present, the telecommunications industry is dominated by two companies, although a new provider, Mislatel, rebranded as the Dito Telecommunity Corporation in July 2019, 35 is expected to become operational in March 2021. 36 New service providers face legal obstacles in obtaining a congressional franchise, such as constitutional limitations on the people or companies that can operate a public utility. 37

The telecommunications market is dominated by PLDT and Globe, which each have acquired a number of minor players over the last two decades. 38 The market for mobile services is mostly split between the two companies. 39 PLDT reported an expansion of their mobile coverage to 94 percent of the country’s population as of December 2019, 40 while Globe reported 94.3 million subscribers during the same period. 41 Dennis Uy, founder of Udenna Corporation and Chelsea Logistics, which own 60 percent of Dito, hails from Davao and was reported to be the biggest contributor to Duterte’s 2016 presidential campaign. 42

There were 400 internet service providers (ISPs) registered with the NTC in 2013, according to the most recent government data. 43 All of them connect to PLDT or Globe. Internet service is currently classified as a value-added service and is therefore subject to fewer regulatory requirements than mobile and fixed-phone services. Companies entering the market go through a two-stage process. First, they must obtain a congressional license that involves parliamentary hearings and the approval of both the upper and lower houses of Congress. Second, they need to apply for certification from the NTC. Globe has separately complained of needing to obtain 25 permits to build a single cell site, a process that can last eight months. 44
The Philippine Competition Act was signed in 2015, 25 years after it was first filed. The act seeks to protect consumers and preserve commercial competition, and established the Philippine Competition Commission (PCC). The law, however, does not prohibit monopolies, and will not prevent an entity from maintaining dominance in the market as long as it does not commit certain legally prohibited abuses.

Since its establishment, the PCC has challenged the joint acquisition of the San Miguel Corporation’s telecommunications assets by PLDT and Globe in 2017, a deal that resulted in the two companies controlling about 80 percent of all available cellular frequencies. The Court of Appeals subsequently affirmed the deal’s validity. However, the PCC later said that the NTC could acquire wireless frequency from PLDT and Globe if the companies did not improve their services.

Under the Public Service Act, foreigners may hold no more than a 40 percent stake in certain industries, including telecommunications.

**A5** 0-4 pts

Do national regulatory bodies that oversee service providers and digital technology fail to operate in a free, fair, and independent manner?

While national regulatory bodies that oversee service providers and digital technology generally operate independently, all heads of government agencies, including regulatory bodies, are appointed by the president. This framework has led to instances of political interference.

The DICT is responsible for planning, developing, and promoting the national ICT development agenda. There are three offices attached to the DICT: the National Privacy Commission (NPC), a regulatory and quasi-judicial body tasked with monitoring and ensuring the country’s compliance with international standards for data protection; the Cybercrime Investigation and Coordination Center (CICC); and the NTC, which regulates the industry with quasi-judicial powers and supervises the provision of public telecommunications services.
In 2016, President Duterte appointed former Globe executive Rodolfo Salalima to serve as the DICT’s secretary. However, Salalima resigned in 2017, citing corruption and interference, without going into further detail. President Duterte, in turn, said that he had asked Salalima to resign because he was favoring Globe and had failed to facilitate the entry of other telecommunications players in the country.

In November 2018, Duterte appointed incumbent senator Gregorio Honasan, a former military officer and long-time friend of the president, to head the DICT. In July 2019, Honasan was sworn in.

There was some ambiguity over how DICT funds were used over the coverage period. In January 2020, undersecretary Eliseo Rio resigned, citing concerns over how the DICT spent 300 million pesos ($5.9 million) from a confidential fund; Rio also raised concerns that Honasan did not inform him of the underlying process. Rio and Honasan later issued a joint statement stating there was no irregularity in the fund’s disbursement. In the 2020 budget, the amount allotted to the confidential fund doubled from 400 million pesos ($7.8 million) to 800 million pesos ($15.7 million).

In May 2020, Duterte accepted Rio’s resignation, replacing him with Ramon Jacinto. Jacinto, his adviser on entrepreneurship and ICT, is a known supporter of the president. Rio and Jacinto have previously clashed over their positions on common cell towers.

**B. Limits on Content**

*While content is not systematically censored in the Philippines, there remain occasional instances of proactive content removal. Content manipulation continued during the coverage period. The government continued its attacks against the online news outlet Rappler, and targeted other independent sources of information. News network ABS-CBN was forced to close in May 2020 after Congress failed to renew its franchise.*

**B1** 0-6 pts
Does the state block or filter, or compel service providers to block or filter, internet content?

No systematic government censorship of online content has been documented in the Philippines, and internet users enjoyed unrestricted access to both domestic and international sources of information during the coverage period. Internet users freely access social networks and communication apps including YouTube, Facebook, Twitter, and international blog-hosting services.

B2 0-4 pts

Do state or nonstate actors employ legal, administrative, or other means to force publishers, content hosts, or digital platforms to delete content?

The government does not systematically order the removal of online content, although there have been some instances of information being removed in recent years. Government authorities have been reported to force people to publicly apologize over critical social media posts, including during the COVID-19 pandemic.

In February 2019, the Philippine Star proactively removed from its website a 2002 article about Wilfredo Keng, a businessman who was suspected of involvement in the murder of a Manila councilman, after Keng threatened legal action against the outlet. The takedown took place only a few days after Rappler CEO Maria Ressa posted bail in connection with Keng’s libel case against the site (see C3). Previously, in May 2018, Senate President Vicente Sotto wrote a letter to the Philippine Daily Inquirer’s website, asking the publication to take down three articles from its website, published between 2014 and 2016, that linked him to the 1982 rape of an actress. The Philippine Daily Inquirer complied with the request and removed the articles.

Google occasionally reports receiving content removal requests from the Philippine government or law enforcement agencies. Between July and December 2019, the government requested that the company remove 104 pieces of content across six
separate requests related to regulated goods and services. Facebook received no requests to remove content from the government during the same time period.

**B3 o-4 pts**

| Do restrictions on the internet and digital content lack transparency, proportionality to the stated aims, or an independent appeals process? | 4/4 |

Restrictions on the internet are generally fair and proportional to the stated aims. Content blocking is allowed under a law that requires ISPs to prevent access to child sexual abuse imagery. The police may request that ISPs block sites hosting such images, and ISPs typically comply with such orders.

In May 2020, the Digital Economy Taxation Act was filed in Congress (see B6). If passed into law, the government can block online or digital platforms that do not comply with tax laws or pay the appropriate taxes.

The proposed Magna Carta for Philippine Internet Freedom, introduced in 2012, contains a provision that provides for court proceedings in cases where websites or networks are to be taken down, and prohibits censorship of content without a court order. Parts of this legislation were later absorbed into another bill creating a government ICT agency (see A5). The sections not included in that bill remain in the Magna Carta bill, but the Congress that was seated in May 2019 had not reintroduced that bill as of June 2020.

A number of bills relating to false information were filed during the first regular session of the 18th Congress. The bills establish criminal penalties for those who violate its provisions, and would also allow authorities more latitude to issue takedown orders, “correct” false or misleading content, or block websites altogether, with no judicial oversight and limited avenues to appeal government decisions (see C2).

**B4 o-4 pts**

| Do online journalists, commentators, and ordinary users practice self-censorship? | 2/4 |
Self-censorship remains a problem for those communicating online. Many journalists, for example, practice self-censorship due to the high level of violence against journalists and the increasing number of civil and criminal cases related to online activity. According to a June 2019 survey from pollster Social Weather Stations, 51 percent of Filipinos responded that it was “dangerous to print or broadcast anything critical of the administration even if it is true.” In August 2019, a former editor in chief of news site Inquirer.net said that some stories remained unpublished under the Duterte administration due to fear of “pushback.”

The Center for Media Freedom and Responsibility, a civil society organization, suggested in January 2019 that journalists may be self-censoring around issues related to corruption or illegal drugs. The center also asserted that the president’s criticism of the press and online harassment have led journalists to use caution when investigating and reporting. Following its mission to the country in April 2019, the Committee to Protect Journalists (CPJ) expressed similar concerns that cases against Rappler and worsening online harassment heightened fear and exacerbated online self-censorship.

The Philippine Star’s February 2019 removal from its website of an article originally published in 2002 illustrates how legal action and harassment cause greater self-censorship among entities that publish online (see B2). The original Philippine Star article about Wilfredo Keng was quoted in a 2012 Rappler article that was the crux of Keng’s 2017 libel case against Ressa and a Rappler staff member (see C3). Fearing similar legal action, the Philippine Star chose to proactively censor itself.

**B5** 0-4 pts

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<tr>
<th>Are online sources of information controlled or manipulated by the government or other powerful actors to advance a particular political interest?</th>
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| 1/4 |

Online sources of information have been increasingly manipulated by the government and other actors, with commenters and trolls on social media distorting
the information landscape online in an attempt to shape political outcomes.

Content manipulation was prevalent around the 2016 presidential election. Credible media reports found that commenters could earn at least 500 pesos ($10) per day operating fake social media accounts supporting President Duterte, or attacking his detractors. 82 Other reports found that purveyors of these accounts earned 2,000 to 3,000 pesos ($40 to $60) per day. 83 Automated accounts or bots were also reportedly used to spread political content. 84

Many of the accounts that actively supported Duterte during the campaign have continued to operate since he took power, backing the president’s agenda. 85 Some high-profile bloggers who supported Duterte’s campaign were given positions in the government or hired as government consultants. 86

New research released during the coverage period by the Australian National University’s New Mandala showed how online content manipulation was an important component of candidates’ campaign strategies for the May 2019 midterm election. 87 Disinformation campaigns used “more insidious and camouflaged” tactics, focusing on micro- and nanotargeting, private social media groups with limited content moderation, and having nonpolitical accounts spread election-related content in an effort to make it seem more genuine. Campaigns drew on not only short-term commentators charging relatively low fees, but also large-scale public relations companies that charged as much as 5.2 million pesos ($100,000) for their services.

Online media is also influenced by political actors. Hyperpartisan news outlets, including those on YouTube, have contributed to the growing preponderance of misleading and fraudulent content online. 88 In April 2019, the Manila Times published a matrix of news outlets, journalists, and advocacy groups allegedly plotting to overthrow the president. Maria Ressa, Rappler, Vera Files, the Philippine Center for Investigative Journalism (PCIJ), and the National Union of People’s Lawyers (NUPL) were all mentioned as alleged conspirators in the “coup” and were accused of routinely publishing fraudulent information intended to incite readers. The information about the supposed plot, which has not been corroborated, was
reportedly provided by Duterte himself, and the story was written by the chairman emeritus of the *Manila Times*, who had worked for the president. In May 2019, the presidential spokesperson released a new set of diagrams further elaborating on the list of alleged conspirators in the plot.

Despite challenges in combatting the impact of disinformation, fact-checking initiatives by Rappler and Vera Files continue. In April 2020, the University of the Philippines’ College of Mass Communications (UPCMC) launched FactRackers, a fact-checking initiative that focused on information related to the COVID-19 pandemic.

Social media platforms have also attempted to respond to the increasing levels of online disinformation in the country. Facebook, for example, removed 95 pages and 39 accounts, reaching 4.8 million users, for violating its policies in October 2018. The pages and accounts shared a range of entertainment and political content, including some pro-Duterte content. In March 2019, 200 Facebook accounts linked to Duterte’s former social media strategist were also taken down for “coordinated and inauthentic behavior.”

Authorities have indicated that the planned GSN will be used to fight disinformation, raising concerns that it could be used as a government mouthpiece (see A1).

The government tried to control the narrative around COVID-19. One agency, for example, issued a memorandum to all its employees to refrain posting on social media comments criticizing the government.

In June 2020, after the coverage period, thousands of Filipinos, including student activists and journalists, reported that dummy Facebook accounts were impersonating them. Some students also reported that they were subjected to harassment and death threats from these accounts (see C7). Jose Jaime “Nonoy” Espina, the president of the National Union of Journalists of the Philippines (NUJP), reported that “many of the threats are specific to opposition to the antiterror bill or to the current administration’s governance.” The Justice Department, in coordination with the National Bureau of Investigation (NBI), the police, the NPC, and Facebook pledged to investigate the matter. The NBI later claimed that a technical
glitch likely created the accounts, but technology experts say that the scale of cloning suggests that their creation was an organized and coordinated act.  

**B6 0-3 pts**

| Are there economic or regulatory constraints that negatively affect users' ability to publish content online? | 1/3 |

*Score Change: The score declined from 2 to 1 due to the failure of the Philippine Congress to renew the license of one of the country’s largest electronic media networks, which has criticized President Duterte and his administration.*

Some economic and regulatory constraints have impacted the ability to publish content online, including instances of licenses being revoked for media outlets critical of the government.

In January 2018, Rappler—which had been critical of Duterte and his violent war on drugs, and had suggested that he had “weaponized” social media to discredit his political opponents—was ordered closed by the Securities and Exchange Commission (SEC) for violating a legal provision mandating full Philippine ownership and control of mass media. The SEC based its ruling on depository receipts issued by Rappler Holdings to the Omidyar Network Fund LLC, a fund created by eBay founder Pierre Omidyar, a US citizen.  

It was the first time that the SEC has invoked the rule to order the closure of a Philippine media company. The move came after Duterte had called for an investigation into the outlet’s ownership in 2017, and had repeatedly called its coverage purportedly fake news. Following the closure order, the accreditation of Rappler’s reporter at the presidential palace was revoked in February 2019, and the reporter was banned from all official presidential events.  

The outlet remains in operation while awaiting a ruling from the Court of Appeals on a petition contesting the closure.  

Rappler, its executives, and its staff continue to face other administrative proceedings and court cases that could significantly hinder its ability to publish content online.

In May 2020, the NTC ordered ABS-CBN, one of the country’s largest electronic media networks, to close after Congress, which is dominated by supporters of
President Duterte, failed to renew its broadcast license, despite several bills introduced to do so. The NTC’s order apparently contradicted earlier expectations that ABS-CBN could continue to operate on a provisional basis while Congress considered the request to renew the network’s license. For example, the speaker of the lower house reported that NTC was “instructed” by Congress that the network “should continue to broadcast,” with Congress having “no intention to order their closure, to shut them down, or take advantage of the situation.” In March 2020, the NTC originally announced that it would issue a provisional authority for the network to operate until June 2022 while Congress continued its deliberations. In a subsequent letter to congressional leaders, the NTC referred to the Office of the Solicitor General’s (OSG) warning that issuing a provisional authority would make it liable for criminal prosecution, and that only Congress can exercise licensing power.

Duterte had previously criticized the network several times, including, for example, after it did not air his paid political advertisements during the 2016 presidential campaign. He has previously threatened to let the franchise agreement expire. Critics have assailed ABS-CBN’s closure as politically motivated and called it an attack on press freedom and democracy.

In June 2020, while deliberations for the network’s franchise renewal continued in Congress, the NTC ordered the closure of its digital television and satellite services. The NTC cited an OSG opinion stating those services were dependent on the network’s expired license. The NTC’s initial May cease-and-desist order did not include the network-operated Channel 43, and most ABS-CBN shows continued had remained available through this channel. In July 2020, after the coverage period, the House of Representatives voted to permanently shut the network’s television and radio services down.

In May 2020, the Digital Economy Taxation Act was filed in Congress (see B3). The legislation seeks to impose a 12 percent value-added tax (VAT) on digital advertisements, internet-based subscriptions, and transactions made on e-commerce platforms. Facebook and Google advertisements would be subject to the proposed tax, while platforms including Spotify and Netflix would also be affected.
The Open Access in Data Transmission Act was approved by the House of Representatives during the previous government. Following the May 2019 election, it was refiled by the newly elected Congress in July 2019, and was under consideration in the lower house’s ICT committee as of July 2020. The bill calls on providers of data transmission services to treat all traffic equally and without discrimination, restriction, or interference; protects the rights of users of data transmission services; and gives additional powers to the NTC.

With the issuance of the March 2020 lockdown in Luzon, instituted in response to the COVID-19 pandemic, media personnel were required to secure special media passes in order to travel through the affected area. Reporters from alternative media group Bulatlat applied for the pass that month, but they were later told that applications from mainstream media outlets were being prioritized, and that they should work remotely instead due to their online status.

**B7** 0-4 pts

Does the online information landscape lack diversity?

Online platforms are regularly used to discuss politics, especially around elections. Generally, the Philippine blogosphere is rich and thriving.

However, a number of troubling developments threaten the diversity of the online information landscape, including the increase in disinformation, the impact of hyperpartisan content, continued harassment against independent outlets and journalists, online self-censorship, and distributed denial-of-service (DDoS) attacks against alternative media outlets (see B4, B5, and C8). With the closure of ABS-CBN’s television and radio stations, some of the network’s content migrated to its digital television services, websites, and social media accounts, which were also impacted by the shutdown (see B6).

**B8** 0-6 pts

Do conditions impede users’ ability to mobilize, form communities, and
campaign, particularly on political and social issues?

Digital activism in the Philippines has had a significant impact in the past, making national and international headlines and at times prompting positive action from the government. Mobilization tools and websites are freely available for users.

The use of hashtags on social media is popular, both as a way to draw attention to individual events and as a means of participating in broader social movements. After the NBI arrested Maria Ressa in February 2019 following a libel complaint, the hashtags #HoldTheLine and #DefendPressFreedom were employed in support of Ressa, Rappler, and freedom of expression. With the closure of ABS-CBN television and radio stations, people flocked to social media to express their dismay over the network’s closure, using the hashtags #DefendPressFreedom and #NoToABSCBNShutdown. 125

Citizens also frequently employ online petitions to call for action on matters relevant to the public. Several groups and individuals started online petitions to reopen ABS-CBN, for example. 126 During the previous coverage period, a petition was launched in March 2019 demanding an apology from broadcaster Erwin Tulfo after he verbally berated and threatened Department of Social Welfare and Development (DSWD) Secretary Rolando Bautista for declining to be interviewed live by Tulfo. The campaign gathered more than 4,000 signatures, and Tulfo subsequently apologized. 127

C. Violations of User Rights

In response to the COVID pandemic, a national emergency law was passed that, among other things, further criminalized the spreading of false information. Moreover, the Anti-Terrorism Act, which amends the Human Security Act of 2007, was signed into law in July 2020, expanding the government’s surveillance powers and undermining free expression and due process rights. More journalists and ordinary users faced criminal charges for their social media posts and online activity. Alternative media outlets and websites of human rights organizations were subjected
to technical attacks, while progovernment commentators continued intimidating those critical of the authorities.

**C1 0-6 pts**

| Do the constitution or other laws fail to protect rights such as freedom of expression, access to information, and press freedom, including on the internet, and are they enforced by a judiciary that lacks independence? | 2/6 |

*Score Change: The score declined from 3 to 2 due to the country’s emergency COVID-19 decree, the Bayanihan to Heal as One Act, that restricted free-expression rights online and further criminalized certain forms of online speech.*

The Bill of Rights of the 1987 constitution protects freedom of speech and expression, as well as press freedom, although these rights are not always upheld in practice. Under the Duterte administration, judicial independence has deteriorated. 128

A number of bills that would better protect users’ rights were pending at the end of the coverage period. Three bills were filed in Congress that aim to amend the Cybercrime Prevention Act of 2012. Two of these seek the repeal of the act’s cyberlibel provision. 129 The Magna Carta for Philippine Internet Freedom was refiled as a stand-alone measure, after the original was incorporated into an ICT law; its review remained pending in Congress up until July 2019 (see B3). The newly elected Congress has yet to refile the bill.

Judicial independence has deteriorated during President Duterte’s administration. 130 The constitution allows the president to fill vacancies in the Supreme Court and lower courts from a list provided by the Judicial and Bar Council, without a confirmation process (Art. VIII, Sec. 9). 131 As of December 2019, the 15-member Supreme Court is dominated by Duterte’s 11 appointees. 132 Supreme Court chief justice Maria Lourdes Sereno, a sometimes vocal opponent of the Duterte government’s policies, was ousted in May 2018 when the court narrowly granted a petition from the solicitor general to cancel Sereno’s 2010 appointment over allegations that she did not disclose all of her assets. 133 The UN’s special rapporteur
on the dependence of judges and lawyers expressed concern over the dismissal, calling it a threat to judicial independence.\textsuperscript{134}

To respond to the COVID-19 pandemic, the Philippines passed Republic Act (RA) 11469, also known as the Bayanihan to Heal as One Act, in March 2020; the legislation gave the president broad emergency powers and further criminalized online expression (see C2).\textsuperscript{135} RA 11469 expired on June 25th and Congress adjourned without passing a bill extending its provisions. Though the legislation lapsed, the presidential spokesperson said that government can still enforce strict protocols, such as curfews and prohibition of mass gatherings, and that the president continues to exercise “every means at his disposal to protect public safety and the lives of our citizenry.”\textsuperscript{136}

Various media and civil society groups have expressed grave concern regarding the emergency decree’s restrictions on freedom of expression, particularly its failure to define false information and the ability of term to be defined at the whims of law enforcement.\textsuperscript{137} In late March 2020, the NUJP warned that the law “seeks to punish people for an offense that, legally, does not even exist” in a statement (See C2).\textsuperscript{138} A petition before the Supreme Court questioning the law’s constitutionality was filed in May 2020, but was dismissed by the high court.\textsuperscript{139}

\textbf{C2} 0-4 pts

| Are there laws that assign criminal penalties or civil liability for online activities? | 2/4 |

Some laws undermine the protections granted by the constitution. Users can face criminal charges for online activity under the libel law, which the Supreme Court upheld in 2014. Section 4c (4) of the 2012 Cybercrime Prevention Act classifies libel as a cybercrime. Section 6 prescribes prison terms of up to eight years for online libel,\textsuperscript{140} which is almost double the maximum penalty for the offense when it is perpetrated offline.\textsuperscript{141}

The Penal Code also criminalizes online speech. Inciting to sedition is a crime under Article 142, penalizing those who “incite others... by means of speeches,
proclamations, emblems, cartoons, banners or other representations.” 142 Article 154 penalizes a range of online speech categories, notably “any person who by means of printing, lithography, or any other means of publication shall publish or cause to be published as news any false news which may endanger the public order, or cause damage to the interest or credit of the State.” 143 Individuals face prison terms varying from one month and one day to six months, or fines ranging from 200 pesos ($4) to 1,000 pesos ($40). It is also being applied to online activities. 144

Sec. 6 (f) of RA 11469 penalizes individuals and groups for “creating, perpetuating, or spreading false information regarding the COVID-19 crisis on social media and other platforms,” especially those that are “clearly geared to promote chaos, panic, anarchy, fear, or confusion.” 145 Those who are convicted face prison terms of up to two months, fines ranging from 10,000 pesos ($197) to 1 million pesos ($19,650), or both.

In June 2019, the government introduced the Anti-False Content Act, which would criminalize those who “know” or have “a reasonable belief” that they are sharing false or misleading information, use a “fictitious” account to do so, or are “offering or providing one’s service” to spread such information. 146 Authors of false or misleading content would face up to six years in prison and fines, while financing the spread of such content would result in up to 20 years’ imprisonment and significant fines. This latest effort to criminalize false information online follows a similar bill introduced in June 2017 that expired with the May election. 147

The Anti-Terrorism Act of 2020 worked its way through the legislature during the coverage period, and was signed into law in July 2020, after the coverage period (see C5). Section 9 of the law criminalizes incitement to terrorism, which is broadly defined as “any person who, without taking any direct part in the commission of terrorism, shall incite others to the execution of” terrorism “by means of speeches, proclamations, writings, emblems, banners and other representations.” Those who are convicted face 12-year prison terms. 148 Those suspected of terrorism can face 14-day-long detentions without warrant or charge, which can be extended for another 10 days. Civil society has raised the alarm that the law is dangerously broad, adding another legal tool for the administration to use against its critics 149 and stifling and deterring legitimate advocacy, protest, and redress of grievances against
the government. 150 Multiple petitions have been filed before the Supreme Court questioning the law’s constitutionality, and requesting the court to strike it down. 151

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Journalists and ordinary users continued to face criminal and civil penalties for their online activities, most often under libel laws, a trend that has deepened since Duterte took power in 2016. More users were arrested for their social media posts about COVID-19, including for speech that simply criticized government officials. Over the coverage period, people were arrested and spurious charges have been brought in what presents as forms of intimidation and harassment (see C7).

A number of libel cases have targeted news site Rappler. 152 In February 2019, the Regional Trial Court issued an arrest order for Rappler CEO Maria Ressa and former researcher Reynaldo Santos Jr. on charges of cyberlibel under the 2012 Cybercrime Prevention Act. 153 The charges stem from a complaint filed by businessman Wilfredo Keng against the outlet in late 2017, over a 2012 story by Santos suggesting Keng’s involvement in murder, human trafficking, and drug smuggling. 154 According to a lawyer from the Philippine Internet Freedom Alliance (PIFA), since the Cybercrime Prevention Act was passed after the story’s publication, the law should not apply to Rappler and its story about Keng. The NBI, however, claimed that the article falls under the theory of “continuous publication,” where it can be assumed that Keng saw the story only after the law was passed. 155 In June 2020, after the coverage period, a Manila court found Ressa and Santos guilty, sentencing them to an indeterminate penalty of imprisonment ranging from six months and one day to six years, as well as fines. 156 The two appealed the verdict later that month. 157 In February 2020, Keng filed a second cyberlibel suit against Ressa over a social media post she made in earlier that month, which included screenshots of the 2002 Philippine Star article that originally linked him to a murder case (see B2). 158
Several users were arrested for offenses related to their online activities amid the COVID-19 pandemic. Between March and April 2020, the police arrested at least 32 people for allegedly spreading false information related to the virus. In early April, over a dozen individuals received NBI subpoenas for their social media activities. In March 2020, Latigo News TV owner Mario Batuigas and online reporter Amor Virata were charged by the police for allegedly spreading false information after they shared a local mayor’s social media posts about the virus.

In April 2020, film writer Maria Victoria Beltran was arrested without a warrant, and charged with inciting to sedition for posting a satirical remark on her social media account. In a social media post, Beltran said that the city of Cebu was the pandemic “epicenter in the whole Solar System.” Mayor Edgardo Labella accused the artist of spreading false news and instilling fear among other people. Beltran, who was released on bail, sued Labella and police officers for violating her rights during the arrest and detention. Beltran was charged under the Cybercrime Law, RA 11469, and Mandatory Reporting of Notifiable Diseases; if convicted, she faces 18 years’ imprisonment and a 1 million peso ($19,650) fine.

In February 2020, an optometrist from Cebu was charged with violating Article 154 of the Revised Penal Code for allegedly spreading false news on social media about a COVID-19-related death. In March 2020, a teacher and her son were arrested for inciting sedition and disobedience to authority, respectively, after the teacher criticized the local government for its food aid distribution policies and allowing residents of General Santos City to go hungry during a COVID-19 lockdown.

Politicians have filed online libel cases against journalists, bloggers, and ordinary users. In February 2019, then Quezon City Vice Mayor Joy Belmonte filed libel and cyberlibel complaints against Saksi Ngayon reporter Joel Amongo for an article accusing Belmonte of corruption. In July 2018, blogger Eduardo “Cocoy” Dayao was charged with cyberlibel under the Cybercrime Prevention Act after a complaint was filed by Senate President Vicente Sotto. The complaint came after Dayao posted an article that criticized seven senators for not signing a resolution calling for the government to end the killing of minors. The case against Dayao was ongoing at the end of the coverage period.
Then senator Antonio Trillanes, a vocal critic of Duterte, filed a libel complaint against Duterte supporter and blogger RJ Nieto for posting “false and derogatory” statements on his Facebook account in 2017, which accused Trillanes of being a drug dealer. In July 2018, Nieto was indicted in the case. Hearings were scheduled for December 2019 and January 2020, but no update to the case was available within the coverage period.

C4 0-4 pts

| Does the government place restrictions on anonymous communication or encryption? |
|---------------------------------|---|
|                                 | 4/4 |

There are no restrictions on anonymous communication or encryption in the Philippines. The government does not require user registration for internet and mobile access, and prepaid services are widely available, even in small neighborhood stores. There are legislative initiatives in both houses of Congress aimed at preventing mobile phone–aided terrorism and criminal activities that seek SIM card registration systems. The Senate bill called for a limit on the number of prepaid SIM cards an individual can register in the system, and would require registered owners of SIM cards to be at least 15 years of age.

C5 0-6 pts

| Does state surveillance of internet activities infringe on users’ right to privacy? |
|---------------------------------|---|
|                                 | 3/6 |

Despite constitutional protections to ensure the privacy of communications, surveillance is a growing concern in the Philippines.

Recent leaked documents suggested the government’s intentions to procure hardware and software for communications surveillance. In February 2018, reporting revealed that the British government sold high-tech spying equipment worth £150,000 ($190,000) to the Philippines, including IMSI-catchers, also known as stingrays, which are used to listen to telephone conversations, and surveillance tools
to monitor internet activity. In 2014, the Philippine government reportedly acquired radio frequency test equipment (RFTE) from an electronic surveillance company based in Germany. The Department of National Defense (DND) claimed that there was nothing unusual about the acquisition of RFTE, which officials described as necessary to protect national security.

Concerns about surveillance grew when Duterte admitted to wiretapping politicians allegedly involved in the drug trade during a visit to Marawi in 2017. Duterte implied that the government possessed wiretapping or interception capabilities again in February 2018, when he said he knew in advance that the International Criminal Court (ICC) would undertake an initial review of allegations that he committed crimes against humanity while conducting the brutal war on drugs. Human rights groups and those opposed to the war on drugs, such as Catholic priests, have suspected that their communications are vulnerable to government surveillance.

The Human Security Act of 2007 allows for law enforcement to “listen to, intercept and record, with the use of any mode, form, kind or type of electronic or other surveillance equipment or intercepting and tracking devices,” those who are charged with or suspected of terrorism. Under the act, law enforcement officials must obtain a court order to carry out such surveillance activities. However, the law includes a broad definition of terrorism and critics argue that it is susceptible to abuse.

The Anti-Terrorism Act of 2020, which amends the Human Security Act of 2007, was signed by the president in early July, after the end of the coverage period, and become law 15 days after it was signed (see C2). The law expands the definition of terrorism, and allows law enforcement and the military to conduct surveillance for a longer period of time, among other provisions. A person suspected of a terrorist act can be subjected to surveillance of any form of communication for up to 60 days, and that surveillance can be extended for another 30 days. Those suspected of supporting a terrorist organization can also be subjected to surveillance. There is much fear among civil society groups and critics that the law could be used to surveil critics of the government, including left-wing groups that are often tagged as terrorists (see C7).
Authorities have increased their capacity to monitor social media platforms. In January 2019, the DICT contracted with local company Integrated Computer Systems, Inc. and Israeli-American company Verint Systems, Ltd. for the department’s new Cybersecurity Management System (CMS), which will include a social-media monitoring component. Monitoring will be conducted in “near real time” to identify misinformation and other threats, including during election periods. Similarly, the Armed Forces of the Philippines created a social media monitoring cell in October 2018, receiving training from the US Army on how to monitor platforms to “counter misinformation by violent extremism organizations.”

In February 2020, the deputy chief for operations of the Philippine National Police (PNP) encouraged police officers to be more active on social media to aid in crime prevention efforts. The statement followed an earlier order by the PNP’s chief to monitor crimes and abuses on social media. The police are also monitoring social posts that spread false information.

In November 2018, the Department of the Interior and Local Government (DILG) contracted with the China International Telecommunication Construction Corporation (CITCC) to implement the Safe Philippines Project and install 12,000 surveillance cameras in the Manila metropolitan area and Davao. Huawei would have provided technology to support the project, as well. In January 2019, Senator Ralph Recto filed a resolution calling for a probe of the project over concerns about Chinese companies’ alleged espionage and hacking. In February 2019, lawmakers declined to provide the necessary funding to the project—$400 million—due to these concerns. However, Duterte later vetoed the lawmakers’ decision to block the funding in May 2019 and placed the project under “conditional implementation.”

The Safe Philippines Project was then launched by the DILG in November 2019 in Marikina. In January 2020, opposition senator Leila de Lima filed a resolution calling for an inquiry over China’s involvement in the project.

C6 0-6 pts

Are service providers and other technology companies required to aid the
government in monitoring the communications of their users?

In general, technology companies are not required to aid the government in monitoring the communications of their users, although there are some data retention requirements.

In 2015, the government issued rules under the Cybercrime Prevention Act, clarifying some sections of the law that pertain to surveillance. Under its provisions, ISPs must collect and preserve data for up to six months on request. Law enforcement authorities tasked with investigating cybercrime—the NBI and the PNP’s cybercrime unit—require a court order to access computer data. 195

The Data Privacy Act of 2012 established parameters for the collection of personal financial information, as well as an independent privacy regulator. 196 Other laws with implications for user privacy include the Anti-Child Pornography Act of 2009, which explicitly states that it does not “require an ISP to engage in the monitoring of any user,” 197 though it does require them to “obtain” and “preserve” evidence of violations, and threatens to revoke the licenses of noncompliant ISPs. The law also authorizes local government units to oversee and regulate commercial establishments that provide internet services.

C7 0-5 pts

Are individuals subject to extralegal intimidation or physical violence by state authorities or any other actor in retribution for their online activities?

Journalists and rights activists, especially women, have been targets of increasing online intimidation and harassment in recent years. 198 Red-tagging, a form of harassment whereby targets are accused of having links with local communist groups, has increased during the coverage period.

Independent and critical online outlets and journalists are subjected to sustained harassment by both progovernment social media accounts and authorities. Days after Ressa was arrested in February 2019, two supporters of the president filmed
themselves on Facebook Live sneaking into Rappler’s office and unfurling a sign that condemned the outlet for allegedly destroying the Philippines’ reputation. The video was widely shared by Duterte supporters as well as groups supporting government-friendly senatorial candidates. Some viewers of the video also posted disturbing comments, including calls for the Rappler office to be bombed and for Ressa to be sexually assaulted. 199 Attacks against the fact-checking outlet Vera Files escalated after it partnered with Facebook in its fact-checking project in April 2018. 200

In June 2019, Margarita “Gingging” Valle, a journalist for the online news outlet Davao Today, was arrested on charges that included murder. Valle was not allowed to contact a lawyer or her family for 8 hours and was detained for a total of 12 hours. Police then released her, saying her arrest was a case of “mistaken identity.” 201

Red-tagging or red-baiting has become a more common form of harassment and intimidation under the Duterte administration. Frenchiemae Cumpio, executive director of the online media outfit Eastern Vista, was arrested in a joint raid by the military and police in February 2020. Cumpio, along with four others, were accused of illegal possession of firearms. 202 She remained under detention at the end of the coverage period, after a judge denied a motion to quash a search warrant in late June 2020. 203 In October 2019, Anne Kreuger of the alternative media site Paglimutad was arrested on the same charges. 204 In August 2019, two Mindanao journalists were accused of maintaining links with the Communist Party of the Philippines (CPP). 205

Journalists and others also get red-tagged publicly on social media. 206 In April 2020, a 2013 photo of female journalists conducting a media safety training session surfaced on social media; however, the description claims that one of the photographed women, who works with ABS-CBN, actually has links with local communist groups. 207 Separately, police in Butuan City posted a photo that named several organizations as communist groups on Facebook, while police in Baguio named several left-wing groups as terrorists on Twitter. 208

After the coverage period, hundreds and potentially thousands of dummy Facebook accounts were found to impersonate student activists and journalists, among others (see B5). Some of the targets reported that death threats and messages threatening
sexual violence were sent from the accounts, as well as other incendiary and violent messages. While the motive behind the accounts remained unclear, some have suggested they were created for the purposes of intimidation and harassment. 209

Those criticizing Duterte’s war on drugs have also faced harassment and intimidation. In February 2019, Bishop Pablo Virgilio David of Caloocan, an outspoken critic of the drug war and its abuses, reportedly received text messages that he “was next in line for execution.” 210

Violence against journalists and activists is a significant problem in the Philippines, although not directly in relation to their online activity. In August 2019, Brandon Lee, an American journalist for the English-language newspaper and website Nordis, was shot and critically wounded by unidentified assailants in the town of Lagawe. In the past, Lee reported on government corruption and rights violations, was allegedly surveilled and harassed by the military, and labelled an “enemy of the state” on social media. 211 The CPJ reported that 83 Philippine journalists were killed in relation to their work—most covering political issues like corruption—between 1992 and 2019. 212 Attackers generally enjoy impunity.

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<td>Are websites, governmental and private entities, service providers, or individual users subject to widespread hacking and other forms of cyberattack?</td>
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Technical attacks targeting media groups continued during the coverage period, with over 17 cases of DDoS attacks against alternative news outlets reported in recent years. 213 Swedish nonprofit media foundation Qurium reported that Nordis, the news outlet that shooting victim Brandon Lee worked with (see C7), and the Philippine Human Rights Information Center (PHRIC) were targeted with DDoS attacks in April 2020. 214 In February 2020, at the height of ABS-CBN franchise-renewal discussion, employees of the network reported receiving a Google alert warning them of possible government-backed hacking attempts. 215
Beginning in December 2018, the alternative media outlets Bulatlat, Kodao Productions, Pinoy Weekly, and AlterMidya reported experiencing a series of DDoS attacks.\textsuperscript{216} In January 2019, Bulatlat was targeted again by DDoS attacks, following the publication of a report criticizing the government’s efforts to lower the age of criminal liability, as well as a report on the release of a National Democratic Front of the Philippines (NDFP) peace consultant from prison.\textsuperscript{217}

In the beginning of 2019, the websites of Manila Today and the NUJP were also subjected to similar attacks. In a joint editorial on Bulatlat’s website, the outlets blamed the government for the attacks.\textsuperscript{218} In March 2019, four media groups—the Alipato Media Center, Kodao Productions, AlterMidya, and the Pinoy Media Center—filed a case before the Quezon City Regional Trial Court against two companies they believe were responsible for the attacks.\textsuperscript{219} In February 2020, the groups withdrew the charges against the companies after they agreed to support press freedom and establish mechanisms to prevent similar situations in the future.\textsuperscript{220}

Government accounts and websites also experience technical attacks. In January 2020, the official Instagram account of the PCOO was hacked.\textsuperscript{221} In April 2020, the website of the public information office of Pasig City was reportedly hacked.\textsuperscript{222} Pornographic photographs were posted on the website, which was quickly restored. A day after the incident, the website of the Philippines Graphic, a literary magazine, was also hacked, and URLs on the website redirected users to pornographic websites.\textsuperscript{223}

\textbf{Footnotes}


3 “Philippines Profile (2018),” International Telecommunications Union, 2019, https://www.itu.int/itu-d/apis/clients/res/pdf/country_profile/report_P....


More footnotes

On Philippines
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Country Facts

Global Freedom Score
59/100  Partly Free

Internet Freedom Score
64/100  Partly Free

Freedom in the World Status
Partly Free

Networks Restricted
Yes

Social Media Blocked
No

Websites Blocked
No

Pro-government Commentators
Yes

Users Arrested

Yes

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