

# MALAYSIA

	2011	2012
<b>INTERNET FREEDOM STATUS</b>	<b>Partly Free</b>	<b>Partly Free</b>
<b>Obstacles to Access (0-25)</b>	9	10
<b>Limits on Content (0-35)</b>	11	14
<b>Violations of User Rights (0-40)</b>	21	19
<b>Total (0-100)</b>	<b>41</b>	<b>43</b>

\* 0=most free, 100=least free

**POPULATION:** 29 million  
**INTERNET PENETRATION 2011:** 61 percent  
**WEB 2.0 APPLICATIONS BLOCKED:** No  
**NOTABLE POLITICAL CENSORSHIP:** No  
**BLOGGERS/ ICT USERS ARRESTED:** Yes  
**PRESS FREEDOM STATUS:** Not Free

## INTRODUCTION

The Malaysian government's active encouragement of internet and mobile phone access has resulted in a steady growth in the use of such media since the first internet service provider (ISP) was inaugurated in 1992. By 2011, internet penetration had reached over 60 percent of the population. In the watershed general elections of March 2008, the ruling National Front (BN) coalition lost its two-thirds parliamentary majority for the first time since 1969, and the use of the internet for political mobilization was widely perceived as contributing to the opposition's electoral gains.<sup>1</sup> Many observers then sensed that the government and ruling coalition had recognized the potential political impact of the internet and had therefore grown more determined to control it.

Such fears have not materialized, for the most part, though some restrictions have increased. Since early 2011, there has been a notable drop in the number of bloggers arrested and one notorious security law was repealed, but other troubling infringements on internet freedom have emerged. Prominent online news outlets and opposition-related websites have faced cyberattacks at politically critical moments, and legal amendments rendering intermediaries liable for seditious comments posted by other users were passed in April 2012. In addition, there has been a palpable increase in the presence of "cybertroopers," online commentators paid by the government and political parties to attack opponents through blogs and social media. Nevertheless, citizens continue to communicate via advanced web applications, online news websites, and social-networking services, and in July 2011, internet users

<sup>1</sup> "Malaysia's Uneasy Dance with the Web," Asia Sentinel, August 17, 2010, [http://asiasentinel.com/index.php?option=com\\_content&task=view&id=2645&Itemid=178](http://asiasentinel.com/index.php?option=com_content&task=view&id=2645&Itemid=178).

documented a police crackdown on peaceful protesters that was downplayed by the more tightly-controlled traditional media.

## OBSTACLES TO ACCESS

Internet penetration in Malaysia is among the highest in Asia, reaching as many as 17.5 million users—or 60 percent of the population—by mid-2011, according to official figures and the International Telecommunications Union (ITU).<sup>2</sup> Malaysians can access the internet through home connections, their workplaces, mobile phones, or cybercafes. In April 2012, Kuala Lumpur’s municipal government introduced a new policy to require businesses acquiring a food and beverage license to provide free or low cost WiFi service.<sup>3</sup> Cybercafes play an important role in bridging the urban-rural connectivity gap. Nevertheless, there remains an acute digital divide in the country, with more than 80 percent of internet users living in urban areas as of 2010,<sup>4</sup> and significantly lower penetration rates in more sparsely populated states in East Malaysia, where most residents belong to indigenous groups. To narrow this gap, by 2011, the government had reportedly established around 250 Community Broadband Centers nationwide and distributed nearly 500,000 netbooks to students and low income citizens in rural and suburban areas.<sup>5</sup>

Mobile phone use has also increased significantly in recent years, surpassing the country’s total population in 2011, resulting in less of an urban-rural divide compared to internet connectivity. By the end of 2011, the number of subscribers was 36.6 million, indicating some individuals had multiple phone lines.<sup>6</sup> Mobile internet access is available and generally affordable. By mid-2011, there were about 10 million 3G subscribers and 2.9 million

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<sup>2</sup> “Rural Broadband Initiatives in Malaysia,” Ministry of Information Communication and Culture Malaysia, September 21, 2011, <http://www.scribd.com/doc/68533475/Rural-Broadband-Initiatives-in-Malaysia>; “Fixed line and broadband penetration rate hit 81%,” Star Online, December 13, 2011,

<http://thestar.com.my/news/story.asp?file=/2011/12/13/parliament/10085852&sec=parliament>; International Telecommunication Union (ITU), “Percentage of individuals using the Internet, fixed (wired) Internet subscriptions, fixed (wired)-broadband subscriptions,” 2011, accessed July 13, 2012, <http://www.itu.int/ITU-D/ICTEYE/Indicators/Indicators.aspx#>.

<sup>3</sup> 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>.

<sup>4</sup> “Malaysian Internet Usage Driven Primarily by People in Central Region,” ComScore, October 7, 2010, [http://www.comscore.com/Press\\_Events/Press\\_Releases/2010/10/comScore\\_Expands\\_Segmentation\\_Capabilities\\_in\\_Malaysia](http://www.comscore.com/Press_Events/Press_Releases/2010/10/comScore_Expands_Segmentation_Capabilities_in_Malaysia).

<sup>5</sup> “Rural Broadband Initiatives in Malaysia,” Ministry of Information Communication and Culture Malaysia.

<sup>6</sup> International Telecommunication Union (ITU), “Mobile-cellular telephone subscriptions,” 2011, accessed July 13, 2012, <http://www.itu.int/ITU-D/ICTEYE/Indicators/Indicators.aspx#>.

broadband mobile users;<sup>7</sup> approximately 20 percent of Malaysians aged 20-24 reportedly accessed the internet via their mobile phones.<sup>8</sup>

The lack of high-quality infrastructure in many parts of the country remains the primary obstacle to improved connectivity.<sup>9</sup> In response, the Malaysian government has prioritized the development of broadband internet infrastructure. Broadband usage has increased significantly since 2007, with household penetration surpassing 60 percent by early 2012.<sup>10</sup> Nevertheless, the infrastructure remains insufficient to meet growing demand.<sup>11</sup> In March 2010, the government launched a National Broadband Initiative, which introduced five programs to expedite expansion of broadband internet and mobile phone coverage. Some programs were implemented in cooperation with formerly state-owned Telekom Malaysia, the country's largest telecommunications company, which retains a monopoly over the fixed-line network.<sup>12</sup> In addition, the introduction of wireless WiMAX technology since 2008 has enabled provision of broadband services to regions that are difficult to reach via cable connections; four WiMAX providers were in operation as of mid-2010.

Under the 1998 Communication and Multimedia Act (CMA), a license is required to own and operate a network facility. There are 25 ISPs operating in the country, most of them privately-owned. There have not been any reported denials of ISP license applications, but the licensing process could serve as a means of control, and the owners of major ISPs and mobile phone service providers often have connections to the government. Of the two largest ISPs, TMnet and Jaring, the former is a subsidiary of the privatized national phone company Telekom Malaysia, and the latter is wholly owned by the Ministry of Finance. Maxis Communications, the largest mobile phone service provider, was founded by Ananda Krishnan, who also owns the largest satellite broadcaster and enjoys close ties to former Prime Minister Mahathir Mohamad. Two new mobile phone providers have joined the market since 2008: YTL Communications and Umobile, both of whose owners are closely associated with the ruling party. In recent years, some local authorities have introduced

<sup>7</sup> "Rural Broadband Initiatives in Malaysia," Ministry of Information Communication and Culture Malaysia; "Communications and Multimedia Pocketbook of Statistics," Malaysian Communications and Multimedia Commission, 2011, [http://www.skmm.gov.my/attachment/Pocket%20Book/Q3\\_2011\\_Eng.pdf](http://www.skmm.gov.my/attachment/Pocket%20Book/Q3_2011_Eng.pdf).

<sup>8</sup> "Malaysian Internet Usage Takes Off in 2010," Nielsen Wire, April 25, 2011, <http://blog.nielsen.com/nielsenwire/global/malaysian-internet-usage-takes-off-in-2010/>.

<sup>9</sup> "Your 10 Questions for Dr. Mohamed Awang Lah," Star Online, May 22, 2010, <http://biz.thestar.com.my/news/story.asp?file=/2010/5/22/business/6298179&sec=business>.

<sup>10</sup> Pia Ruffino, "Malaysia to reach 60 per cent broadband penetration target," Asia Pacific FutureGov, March 11, 2011, <http://www.futuregov.asia/articles/2011/mar/11/malaysia-reach-60-cent-broadband-penetration-target/>; "Communications and Multimedia Pocketbook of Statistics," Malaysian Communications and Multimedia Commission, 2011; "Malaysia among top 3 in economic impact of internet study," New Straits Times, February 1, 2012, <http://www.nst.com.my/latest/malaysia-among-top-3-in-economic-impact-of-internet-study-1.40267#ixzz1lf2fVQj>.

<sup>11</sup> MCMC, "Broadband Meter: Subscribers and Users," MyConvergence, March 2010, [http://myconvergence.com.my/main/images/stories/SpecialEdition/pdf/MyConBumper\\_p97\\_BBMeter.pdf](http://myconvergence.com.my/main/images/stories/SpecialEdition/pdf/MyConBumper_p97_BBMeter.pdf).

<sup>12</sup> 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>.

restrictions on cybercafe licensing to curb the mushrooming of venues offering access to illegal online activities like gambling. In some regions, this has also made it difficult for legitimate cybercafes to open, limiting the internet access opportunities for a broad range of users.

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. Both the MCMC and the ministry are guided by the CMA, which gives the information minister a wide range of licensing and other powers. The government appoints MCMC commissioners, although three out of the six commissioners represent non-governmental entities, currently all from the private sector.<sup>13</sup> 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. In past years, the MCMC had emerged as a driving force in efforts to curtail online speech. However, since early 2011, such aggressiveness subsided, possibly to avoid controversy ahead of elections to take place before April 2013.

## LIMITS ON CONTENT

The Malaysian government does not employ any known filtering technology to actively block websites, though the authorities have taken other measures to restrict the circulation of certain information. A provision of the CMA explicitly states that nothing in the act “shall be construed as permitting the censorship of the Internet.” The Bill of Guarantees of the Multimedia Super Corridor (MSC), an information technology development project, also promises no censorship of the internet. Throughout 2011, officials, including Prime Minister Najib Razak, repeatedly reinforced their commitment not to censor the internet.<sup>14</sup> However, in April 2012, the parliament passed an amendment to the 1950 Evidence Act that holds intermediaries liable for content posted by anonymous users, raising concerns that this would damper free expression online and open the door to selective, politically motivated prosecutions.

Incidents of website blocks have occasionally been reported. In May 2011, the MCMC sent a memo to ISPs requesting that they block access to 10 file-sharing websites (including Pirate

<sup>13</sup> Malaysian Communications and Multimedia Commission, “Commission members,” [http://www.skmm.gov.my/index.php?c=public&v=art\\_view&art\\_id=1](http://www.skmm.gov.my/index.php?c=public&v=art_view&art_id=1).

<sup>14</sup> Melissa Chi, “PM vows no Internet censorship despite FB, Twitter influence,” *Malaysia Today*, February 12, 2011, <http://www.malaysia-today.net/mtcolumns/newscommentaries/38089-pm-vows-no-internet-censorship-despite-fb-twitter-influence>; Kal Kamel, “No Internet censor, but bloggers must know where to draw the line: Malaysian Prime Minister,” *Grey Review*, April 25, 2011, <http://www.greyreview.com/2011/04/25/no-internet-censor-but-bloggers-must-know-where-to-draw-the-line-malaysian-prime-minister/>; Clara Chooi, “Najib repeats promise of no Internet censorship,” *the Malaysian Insider*, April 24, 2011, <http://www.themalaysianinsider.com/malaysia/article/najib-repeats-promise-of-no-internet-censorship/>.

Bay and Megavideo) in an effort to crackdown on copyright violations. The memo cited Section 263 of the CMA alongside the copyright law as the basis for the requested blocking.<sup>15</sup> In addition, many government-linked companies and public universities restrict access for their students and employees to certain sensitive websites, such as the independent online news outlet Malaysiakini.

Although there is no significant technical blocking, there have been cases of administrative efforts to remove content from the internet. The MCMC has been known in the past to track online discussions and then instruct bloggers or online news outlets to remove content perceived as overly critical of the government. Procedures surrounding such requests are generally nontransparent. The energy, water, and communications minister reported in September 2008 that the MCMC had formed a panel to monitor websites and blogs that was composed of representatives from the police, attorney general's office, and the Home Ministry. Although this mechanism appears to be somewhat active, there were no controversial incidents reported in 2011 and early 2012, as there had been in 2009 when the MCMC directed Malaysiakini to take down two videos from its website.<sup>16</sup>

In January 2011, a top Home Ministry official announced that the government was considering amending the Printing Presses and Publications Act (PPPA) to expand its scope to online content, including possibly to posts on blogs, the social-networking site Facebook, or the video-sharing platform YouTube.<sup>17</sup> The PPPA is one of several laws that restrict freedom of expression among traditional media, in part by requiring news outlets to obtain annual ministerial permission for their continued publication. The statement immediately prompted a strong outcry from parliament members,<sup>18</sup> news websites,<sup>19</sup> and a range of Malaysian civil society groups.<sup>20</sup> The government appears to have subsequently abandoned the proposal.

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<sup>15</sup> "Pirate Bay, MegaUpload & Others Blocked By Government Order," Torrent Freak (blog), June 9, 2011, <http://torrentfreak.com/pirate-bay-megaupload-others-blocked-by-government-order-110609/>.

<sup>16</sup> The videos showed Muslim demonstrators marching with a cow's head to protest the relocation of a Hindu temple. Malaysiakini's editor-in-chief, Steven Gan, refused to comply with the order, stating that his outlet had no ill intentions in posting the videos. The MCMC forwarded the case to the attorney general, urging that Malaysiakini be prosecuted for failing to comply with the removal order. Should the attorney general pursue the case, Malaysiakini faces a potential fine of up to 50,000 ringgits (US\$14,300), and Gan could receive up to a year in prison. As of May 2012, the attorney general had not yet made a final decision whether to pursue the or not. This was the only reported case of its kind. 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](http://en.rsf.org/malaysia-malaysiakini-website-refuses-to-24-09-2009_34575).

<sup>17</sup> "Publications Act to be amended to address loopholes," Star Online, January 26, 2011, <http://thestar.com.my/news/story.asp?file=/2011/1/26/nation/7873307&sec=nation>.

<sup>18</sup> Jerrenn Lam, "Malaysia: Amending the law to censor internet?" Global Voices (blog), February 15, 2011, <http://globalvoicesonline.org/2011/02/15/malaysia-amending-the-law-to-censor-internet/>.

<sup>19</sup> Steven Gan, "A killer blow to online media," Malaysiakini, January 26, 2011, <http://www.malaysiakini.com/news/154538>.

<sup>20</sup> International Freedom of Expression eXchange (IFEX), "Civil society groups oppose government plan to impose Internet censorship," news alert, February 2, 2011, [http://www.ifex.org/malaysia/2011/02/02/opposition\\_to\\_censorship/](http://www.ifex.org/malaysia/2011/02/02/opposition_to_censorship/).

In a more troubling development, in April 2012, the parliament passed an amendment to the 1950 Evidence Act that holds intermediaries liable for seditious content posted anonymously on their networks or websites.<sup>21</sup> This would include hosts of online forums, news outlets, and blogging services, as well as businesses providing WiFi services.<sup>22</sup> The amendment also holds liable the person whose name is attributed to such content or who owns the computer it was sent from, whether or not they were indeed the author, thereby presuming guilt and shifting the burden of proof to the accused.<sup>23</sup> The legal change was pushed through hurriedly, but garnered significant public backlash after its passage. As of early May 2012, the amendment had yet to come into effect. Civil society and lawyers' groups were mobilizing efforts to pressure the government to delay its entrance into the official gazette.<sup>24</sup>

The level of self-censorship appears to have remained consistent compared to previous years. Although the repeated prosecution of bloggers has caused some online writers to exercise greater caution, critical commentary and exposés of official misconduct have a regular presence in online discourse. The authorities discourage free expression on “red-line” issues such as Islam’s official status, race, royalty, and the special rights enjoyed by *bumiputera* (ethnic Malays and other indigenous people, as opposed to the ethnic Chinese and Indian minorities).

Expanded internet access has led to the emergence of a vibrant blogosphere, and an increasing number of Malaysians are turning to the internet as their main source of news. Advanced web applications like YouTube, Facebook, and the microblogging application Twitter are freely accessible and their use has grown dramatically in recent years. In early 2012, Facebook, YouTube, and Google’s blog-hosting service Blogger were among the top five most visited websites, while Malaysiakini was ranked 14<sup>th</sup> and the more pro-government *Star Online* was ranked 20<sup>th</sup>.<sup>25</sup> An October 2011 study by the digital analytics company ComScore found that Malaysians over the age of 15 spent approximately one-third of their time on social-networking services.<sup>26</sup> By May 2012, there were just over 12 million

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<sup>21</sup> 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>.

<sup>22</sup> Teoh El Sen, “Paktan seeks to halt new Evidence Act,” Free Malaysia Today News, June 28, 2012, <http://www.freemalaysiatoday.com/category/nation/2012/06/28/pakatan-seeks-to-halt-new-evidence-act/>.

<sup>23</sup> Parliament of Malaysia, *Act to amend the Evidence Act 1950*, 2012, <http://www.parlimen.gov.my/files/billindex/pdf/2012/DR162012E.pdf>.

<sup>24</sup> The amendment reportedly came into effect in June 2012. See, Edwin Yapp, “Evidence Act amendments, a slippery slope,” Digital News Asia, May 24, 2012, <http://www.digitalnewsasia.com/node/165>.

<sup>25</sup> “Top Sites in Malaysia,” Alexa Web Information Company, accessed January 25, 2012, <http://www.alexa.com/topsites/countries/MY>.

<sup>26</sup> “Social Networking Accounts for One Third of All Time Spent Online in Malaysia,” ComScore, October 17, 2011, [http://www.comscore.com/Press\\_Events/Press\\_Releases/2011/10/Social\\_Networking\\_Accounts\\_for\\_One\\_Third\\_of\\_All\\_Time\\_Spent\\_Online\\_in\\_Malaysia](http://www.comscore.com/Press_Events/Press_Releases/2011/10/Social_Networking_Accounts_for_One_Third_of_All_Time_Spent_Online_in_Malaysia).

Facebook users in the country, reflecting about 70 percent of internet users and more than 40 percent of the total population.<sup>27</sup> There were at least 1.6 million estimated Twitter users by the end of 2011.<sup>28</sup> Almost all prominent politicians and civil society groups, including those representing ethnic minorities, blog or tweet regularly, and many also have a presence on Facebook. English and Malay are the dominant blogging languages.

The government seems to have decided that it is preferable to engage with and rebut online criticism than to censor it. Prime Minister Najib Razak blogs and is an ardent Facebook user, boasting over one million followers.<sup>29</sup> He and other government representatives have used websites and social media to directly communicate with citizens. The police force, for example, has Facebook and Twitter accounts where officers provide updates on policing activities and occasionally respond to accusations of abuse by members of the public.<sup>30</sup>

Some such engagement has taken a more manipulative turn, however. Notably, since 2010 there has been a palpable increase in the number of “cybertroopers” used by political parties to generate favorable content on their behalf or to post information harmful to their opponents’ reputation. Both government and opposition sources have confirmed that bloggers and other online commentators are paid to influence internet content,<sup>31</sup> though it appears that the resources available to the ruling coalition are greater. Concerns have also been raised that large sums of public funds have been used toward this purpose. The prime minister’s National Front (BN) party, for example, reportedly has its own Unit Media Baru, a group of bloggers paid to improve the party’s image online. In February 2012, the government admitted paying international PR firm FBC Media 83.8 million MYR (US\$26.5 million) to boost Prime Minister Najib’s image abroad via programming on the British Broadcasting Corporation (BBC) and CNBC.<sup>32</sup> Other reports have indicated that as much as US\$55,000 per month had been promised to FBC Media for online campaigns, including ones involving bloggers based in the United States.<sup>33</sup> The impact of the government’s efforts

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<sup>27</sup> Lim Yung-Hui, “Facebook Hits 70% Penetration Rate in Malaysia,” *Forbes*, December 20, 2011, <http://www.forbes.com/sites/limyunghui/2011/12/20/facebook-hits-70-penetration-rate-in-malaysia/>.

<sup>28</sup> “Lead Generation and Internet Marketing in Malaysia,” MVF Global, accessed September 18, 2012, <http://www.mvfglobal.com/malaysia>.

<sup>29</sup> Najib Razak’s Facebook page, accessed July 19, 2012, [www.facebook.com/najibrazak](http://www.facebook.com/najibrazak); Najib Razak’s blog, “1Malaysia,” accessed July 19, 2012, <http://www.1malaysia.com.my/>.

<sup>30</sup> Polis Diraja’s Facebook page, <http://www.facebook.com/PolisDirajaMalaysia>.

<sup>31</sup> Joanna Yap, “PRS’ cyber-troopers ready for coming polls,” *Boreno 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<sup>th</sup> general election will be the dirtiest election yet,” *DapMalaysia*, November 21, 2011, <http://dapmalaysia.org/english/2011/nov11/lge/lge1414.htm>.

<sup>32</sup> Mariam Mokhtar, “Sorry no cure, BBC,” *Free Malaysia Today News*, February 17, 2012, <http://www.freemalaysiatoday.com/category/opinion/2012/02/17/sorry-no-cure-bbc/>; “BBC’s worldwide apology exposes Malaysian gov’t image,” *Harakah Daily*, February 13, 2012, <http://en.harakahdaily.net/index.php/berita-utama/4376-bbcs-worldwide-apology-exposes-malaysian-govts-image.html>

<sup>33</sup> “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/>.

remains unclear, however, as observers noted that the opposition retained the upper hand in the blogosphere at the end of 2011.<sup>34</sup>

Online news sources and social media have emerged as effective tools for political mobilization and challenging the government's grip on traditional media. This was especially evident before, during, and after a July 2011 rally calling for electoral reforms, greater government transparency, and reduced corruption. The protest was organized by the Coalition for Free and Fair Elections (Bersih 2.0)—whose Facebook page had 200,000 fans—and drew tens of thousands of people to the streets, despite warnings of a government crackdown. The authorities responded harshly and arrested over 1,500 protestors, though most were quickly released. Mainstream media downplayed police brutality or distorted the protestors' largely peaceful behavior in an effort to justify the assault. By contrast, social media were flooded with images of police firing teargas and water cannons, chasing and arresting demonstrators, or wearing riot gear as they face off with protestors.<sup>35</sup> According to one blogger, nearly 900,000 tweets with relevant hashtags were circulated and 1,600 videos were uploaded to YouTube,<sup>36</sup> including one posted by Malaysiakini that showed police beating a participant.<sup>37</sup> Within one week of the incident, a Facebook petition calling for the prime minister's resignation had garnered 200,000 supporters. In the run-up to general elections in 2013, the influence of online news and social media is expected to further increase.

## VIOLATIONS OF USER RIGHTS

Malaysia's constitution provides citizens with "the right to freedom of speech and expression," but allows for limitations on this right. The government exercises tight control over print and broadcast media through restrictions on licensing and the use of the Official Secrets Act (OSA), the Sedition Act, and harsh criminal defamation laws to penalize journalists and other critics. Violations of these laws are punishable by several years in prison.

<sup>34</sup> Tedewin Ngumbang, "Barisan Nasional Unit Media Baru Will Wallop Opposition a PBB YB Boasted!" Borneo Warrior (blog), September 27, 2011, <http://borneo-warrior.blogspot.com/2011/09/barisan-nasional-unit-media-baru-will.html>; Nawawi Mohamad, "Money and infighting in Umno: Even the cyber-troopers have to play it 'smart,'" Malaysia Chronicle, May 19, 2012, [http://malaysia-chronicle.com/index.php?option=com\\_k2&view=item&id=33361:money-and-infighting-in-umno-even-the-cyber-troopers-have-to-play-it-smart&Itemid=2](http://malaysia-chronicle.com/index.php?option=com_k2&view=item&id=33361:money-and-infighting-in-umno-even-the-cyber-troopers-have-to-play-it-smart&Itemid=2).

<sup>35</sup> "Police Beating," YouTube video, :53, posted by "malaysiakini," July 9, 2011, [http://www.youtube.com/verify\\_age?next\\_url=/watch%3Fv%3DZqCmcF7pZZI](http://www.youtube.com/verify_age?next_url=/watch%3Fv%3DZqCmcF7pZZI); Jerrenn Lam, "Malaysia: Bersih 2.0 Rally Rattles the Government," Global Voices (blog), July 11, 2011, <http://globalvoicesonline.org/2011/07/11/malaysia-bersih-2-0-rally-rattles-the-government/>.

<sup>36</sup> Joshua Ongys, "Statistics on Bersih 2.0 Rally – Malaysia 9 July 2011," Joshuaongys.com (blog), July 9, 2011, <http://joshuaongys.com/2011/07/bersih-2-0-rally-malaysia-9-july-2011-online-social-media-statistics-youtube-facebook-twitter/>.

<sup>37</sup> "Police Beating," YouTube video, :53, posted by "malaysiakini," July 9, 2011.

With regard to online expression, the government has repeatedly circumvented protections afforded by the MSC Bill of Guarantees and the CMA,<sup>38</sup> carrying out arbitrary arrests and launching investigations against internet users under the older, more restrictive laws that had principally been applied to traditional media. In some cases, the government has relied in prosecutions on the CMA itself and its broadly worded Section 233, which bans content deemed “indecent, obscene, false, threatening, or offensive.”<sup>39</sup> In 2009 and 2010, several individuals were arrested and charged with sedition for comments posted in blogs<sup>40</sup> or for alleged threats made on Facebook.<sup>41</sup> In 2011, fewer such cases reported and several earlier prosecutions were discontinued. Nevertheless, defamation cases against bloggers that involved disproportionate requests for damages threatened to chill online expression.

In September 2011, Prime Minister Najib Razak raised hopes at home and abroad when he announced that the government would abolish or amend some of the country’s harsh security laws, like the Internal Security Act (ISA).<sup>42</sup> Indeed, in April 2012, several important changes were made to the legal framework surrounding freedom of expression and national security. The ISA, which allowed for detention without trial and had been used in the past to detain bloggers, was abolished. That same month, the Security Offences (Special Measures) Act (SOA) was passed to replace it, though as of May 2012, it had yet to come into effect. The new law provides several improved protections to detainees. These include requiring police to immediately inform a detainee’s family and reducing to 28 days the maximum amount of time that someone can be held without charge or being brought before a judge.<sup>43</sup> The law also includes a provision explicitly stating that “no person shall be arrested and detained...solely for his political belief or political activity.”<sup>44</sup> 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—

<sup>38</sup> Multimedia Super Corridor (MSC), “MSC Malaysia 10-Point Bill of Guarantees,” accessed November 16, 2010, <http://www.mscomalaysia.my/topic/MSCom+Malaysia+Bill+of+Guarantees>; MCMC, “Communications and Multimedia Act 1998,” accessed November 16, 2010, [http://www.skmm.gov.my/index.php?c=public&v=art\\_view&art\\_id=43](http://www.skmm.gov.my/index.php?c=public&v=art_view&art_id=43).

<sup>39</sup> 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](http://en.rsf.org/malaysia-malaysiakini-website-refuses-to-24-09-2009_34575).

<sup>40</sup> Charles Ramendran, “Bomb Threat by Blogger,” Sun2Surf, January 13, 2010, <http://www.sun2surf.com/article.cfm?id=42322>.

<sup>41</sup> G Vinod, “PAS Member: I Did Not Threaten to Kill Saiful,” Free Malaysia Today, May 19, 2010, <http://www.freemalaysiatoday.com/fmt-english/news/general/5771-pas-member-i-did-not-threaten-to-kill-saiful>.

<sup>42</sup> “Najib announces major changes in controversial laws as Malaysia Day gifts,” Star Online, September 16, 2011, <http://thestar.com.my/news/story.asp?file=/2011/9/16/nation/20110916070850&sec=nation>; James Hookway, “Malaysian Leader Opens Door for Reforms,” The Wall Street Journal, September 16, 2011, [http://online.wsj.com/article/SB10001424053111903927204576571934144265052.html?mod=WSJASIA\\_hpp\\_MIDDLETopNews](http://online.wsj.com/article/SB10001424053111903927204576571934144265052.html?mod=WSJASIA_hpp_MIDDLETopNews); “Malaysia Repeals Security Act and Emergency Provisions,” Freedom House, <http://www.freedomhouse.org/article/malaysia-repeals-security-act-and-emergency-provisions>.

<sup>43</sup> Parliament of Malaysia, *Security Offences (Special Measures) Act 2012*, accessed September 18, 2012, <http://www.parlimen.gov.my/files/billindex/pdf/2012/DR152012E.pdf>.

<sup>44</sup> Ibid.

to intercept communications without the need for a court order in cases involving security offenses.<sup>45</sup>

While the SOA focuses primarily on security offenses, the government also made changes to the penal code that could allow for punishment of political speech, specifically adding a new criminal offense of “any activity detrimental to parliamentary democracy.” Civil society groups raised concerns that this broadly defined term could be construed to include criticism of parliament, government officials, or particular policies, rendering such expression punishable with jail time. The law minister stated in an interview, however, that the provision would not be applied for nonviolent activities.<sup>46</sup> Meanwhile, other laws previously used to detain bloggers, such as the OSA and Sedition Act, remain in place.

In 2011, a number of bloggers faced legal harassment, intimidation, fines, and brief periods of detention. No bloggers were imprisoned at year’s end, though several had charges pending against them. Among them was Raja Petra Kamarudin, a blogger and founder of *Malaysia Today* who fled into exile in 2009 to avoid sedition charges.<sup>47</sup> Although some charges against him were dropped, he reportedly continues to be the subject of various police investigations due to his criticism of the government from abroad.<sup>48</sup>

Bloggers have also been arrested on charges of sedition after posting remarks critical of the monarchy. In 2009 and 2010, there were at least ten such cases, but only one ended in conviction.<sup>49</sup> In 2011, the number of such detentions dropped dramatically, though at least one such incident occurred. In March 2011, blogger Mohd Nur Hanief Abdul Jalil was arrested for referencing on his blog allegations of a sex scandal involving the Sultan of Selangor and a celebrity model.<sup>50</sup> He was investigated under the Sedition Act by police and

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<sup>45</sup> Ibid.

<sup>46</sup> 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>.

<sup>47</sup> 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>.

<sup>48</sup> 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>.

<sup>49</sup> Centre for Independent Journalism, “Debate on Royal Powers Draws Attacks and Threats; Bloggers Ahiruddin Attan and Jed Yoong Questioned by Police,” International Freedom of Expression eXchange (IFEX), March 4, 2009, [http://www.ifex.org/malaysia/2009/03/04/capsule\\_report\\_debate\\_on\\_royal/](http://www.ifex.org/malaysia/2009/03/04/capsule_report_debate_on_royal/); Centre for Independent Journalism, “Six People Charged with ‘Insulting’ Royalty Online,” International Freedom of Expression eXchange (IFEX), March 16, 2010, [http://www.ifex.org/malaysia/2009/03/16/six\\_people\\_charged\\_with\\_insulting/](http://www.ifex.org/malaysia/2009/03/16/six_people_charged_with_insulting/); International Freedom of Expression eXchange (IFEX), “Government Hounds Bloggers That Criticise Royalty,” news alert, March 25, 2009, [http://www.ifex.org/malaysia/2009/03/25/government\\_hounds\\_bloggers\\_that/](http://www.ifex.org/malaysia/2009/03/25/government_hounds_bloggers_that/).

<sup>50</sup> Hanief, Malaysia: Tong Taik Umno (blog), Hanief.blogspot.com.

MCMC officials. No charges were pressed, however, and he was released within 24 hours.<sup>51</sup> Sedition charges against blogger Khairul Nizam Abdul Ghani from 2010 were also still pending as of May 2012.<sup>52</sup>

More common in 2011 were disproportionate defamation suits filed against bloggers. In July 2011, a Kuala Lumpur court ordered blogger and opposition party member Amizudin Ahmat to pay 400,000 MYR (US\$130,000) in damages and legal costs to Minister of Information, Communications, and Culture Rais Yatim. Amizudin had posted on his blog allegations that Yatim had raped an Indonesian maid working in his home, copying the information from a news website.<sup>53</sup> Upon realizing the report's inaccuracy, the blogger deleted it and apologized to Yatim. The latter's continued pursuit of the case and the exorbitant punishment raised concerns of politically motivated intimidation.<sup>54</sup> In February 2011, the Japanese company Asahi Kosei filed a defamation suit for 10 million MYR (US\$3.3 million) against activist Charles Hector, who authored blog posts about abuses of Burmese migrant workers at the firm's facility in Malaysia, drawing on a series of interviews conducted with employees.<sup>55</sup> In August, the case was settled out of court, with Hector promising to pay 1 MYR in damages and publish an apology in local media. Labor and human rights advocates criticized the outcome, speculating that Hector was left with no choice but to comply because of the high sums involved, although his investigation was legitimate.<sup>56</sup> In a more unusual case from June 2011, Fahmi Fazdil, a social commentator and aide to an opposition politician, was forced to apologize on Twitter 100 times as part of a settlement in a defamation case with Blulnc Media. The case related to a tweet Fazdil had sent in January claiming a pregnant friend employed by the company had been poorly treated.<sup>57</sup>

<sup>51</sup>"Blogger 'arrested' at midnight under Sedition Act," Malaysia Today, March 19, 2011, <http://malaysia-today.net/mtcolumns/from-around-the-blogs/38903-blogger-arrested-at-midnight-under-sedition-act>; "Blogger 'arrested' at midnight under Sedition Act," Uppercaise (blog), March 19, 2011, <http://uppercaise.wordpress.com/2011/03/19/blogger-hanief-faces-sedition-probe/>.

<sup>52</sup>"Malaysian Blogger Charged with Insulting Dead Sultan," China Post, January 31, 2010, <http://www.chinapost.com.tw/asia/malaysia/2010/01/31/243065/Malaysian-blogger.htm>; Sarban Singh, "Blogger pleads not guilty to insulting Johor royals (update)," Star Online, January 29, 2010, <http://thestar.com.my/news/story.asp?file=/2010/1/29/nation/20100129170602&sec=nation>.

<sup>53</sup>M. Mageswari, "Dr Rais sues blogger over rape allegation, May 6 for case management," Star Online, April 18, 2011, <http://thestar.com.my/news/story.asp?file=/2011/4/18/nation/20110418160508&sec=nation>.

<sup>54</sup>International Freedom of Expression eXchange (IFEX), "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/](http://www.ifex.org/malaysia/2011/07/22/amizudin_defamation_suit/).

<sup>55</sup>International Freedom of Expression eXchange (IFEX), "Blogger on migrant workers' treatment faces company's defamation claim," news alert, June 24, 2011, [http://www.ifex.org/malaysia/2011/06/24/charles\\_hector\\_lawsuit/](http://www.ifex.org/malaysia/2011/06/24/charles_hector_lawsuit/).

<sup>56</sup>"Malaysian migrant workers' advocate pressured to accept settlement with electronics company," Clean Clothes Campaign, September 5, 2011, <http://www.cleanclothes.org/news/malaysian-migrant-workers-advocate-made-to-accept-settlement-with-electronics-company>; "Malaysia: Defamation case against human rights defender Charles Hector Fernandez ended with a settlement," World Organization Against Torture, August 26, 2011, <http://www.omct.org/human-rights-defenders/urgent-interventions/malaysia/2011/08/d21400/>.

<sup>57</sup>"Malaysian to tweet apology 100 times in Twitter defamation case," The Guardian, June 2, 2011, <http://www.guardian.co.uk/world/2011/jun/02/malaysian-tweet-apology-defamation>.

Some bloggers have faced legal harassment for content that most observers regarded as humorous satire. In September 2010, police arrested cartoonist Zulfiklee Anwar Ulhaque, better known as Zunar, under the ISA for publishing cartoons deemed insulting to the prime minister and his deputy. Zunar was quickly released and no formal charges were pressed.<sup>58</sup> He subsequently sued the government for unlawful detention.<sup>59</sup> In a positive development, a case filed against blogger Irwan Abdul Rahman in 2010 was dropped in March 2011.<sup>60</sup> The MCMC had charged Rahman with circulating false news over a satirical blog post claiming that Malaysia's main utility company was planning to sue the World Wildlife Fund for its Earth Hour initiative, in which individuals are requested to turn off all lights and electrical appliances for one hour.<sup>61</sup> A small number of other cases have involved content related to religion or corruption allegations.<sup>62</sup>

In recent years, the authorities have repeatedly hinted that they may take steps to register bloggers, though the idea has been set aside following protests by the blogging community and journalists. In December 2011, news emerged of a Computing Professionals Bill being considered.<sup>63</sup> If passed, the law would initiate registration with a government-appointed board of all computing and information technology (IT) professionals working on Critical National Information Infrastructure (CNII).<sup>64</sup> The sudden announcement caught many IT professionals off-guard, sparking confusion and anger.<sup>65</sup> Among the criticisms of the bill were the inclusion of minimum educational requirements as a prerequisite to registration and the

<sup>58</sup> "Malaysian Cartoonist Goes into Hiding After Sedition Arrest," RFI English, September 28, 2010, <http://www.english.rfi.fr/asia-pacific/20100928-malaysian-cartoonist-goes-hiding-after-sedition-arrest>.

<sup>59</sup> In July 2012, the High Court ruled that the police had acted unlawfully when confiscating 66 copies of a compilation of Zunar's cartoon, but that their detention of Zunar was legal. K. Pragalath, "Partial victory for cartoonist Zunar," Free Malaysia Today, July 31, 2012. <http://www.freemalaysiatoday.com/category/nation/2012/07/31/partial-victory-for-cartoonist-zunar/>. Tom Spurgeon, "CR Holiday Interview #7: Zunar," The Comics Reporter, December 27, 2010, [http://www.comicsreporter.com/index.php/cr\\_holiday\\_interview\\_7\\_zunar/](http://www.comicsreporter.com/index.php/cr_holiday_interview_7_zunar/).

<sup>60</sup> International Freedom of Expression eXchange (IFEX), "Case against blogger withdrawn, but disturbing message prevails," news alert, March 18, 2011, [http://www.ifex.org/malaysia/2011/03/18/case\\_dropped/](http://www.ifex.org/malaysia/2011/03/18/case_dropped/).

<sup>61</sup> Reena Raj, "MM Editor Charged for Poking Fun at TNB," Malay Mail, September 2, 2010, <http://www.mmail.com.my/content/48276-mm-editor-charged-poking-fun-tnb>; Hafizah Hoze Rizal, "Blogger Hassan Skodeng's Case Set for March 15," Malay Mail, January 26, 2011, <http://www.mmail.com.my/content/62051-blogger-hassan-skodengs-case-set-march-15>.

<sup>62</sup> 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 May 2012, 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/>.

<sup>63</sup> Lim Yung-Hui, "Malaysian IT Community Response to Board of Computing Professionals Malaysia Bill 2011: Where's the Beef?," Forbes, December 12, 2011, <http://www.forbes.com/sites/limyunghui/2011/12/12/malaysian-it-community-response-to-board-of-computing-professionals-bill-2011-wheres-the-beef/>; Vijandren Ramadass, "Computing Professionals Bill 2011 – Draft," Lowyat.net (blog), December 9, 2011, [http://www.lowyat.net/v2/index.php?option=com\\_content&task=view&id=5800&Itemid=2](http://www.lowyat.net/v2/index.php?option=com_content&task=view&id=5800&Itemid=2).

<sup>64</sup> "The Computing Professionals Bill 2011: An Orwellian "Big Brother"," Philosophy Politics Economics (blog), December 13, 2011, <http://tonypua.blogspot.com/2011/12/computing-professionals-bill-2011.html>

<sup>65</sup> Malaysians Against Board of Computing Professionals Bill Facebook Page, <http://www.facebook.com/pages/Malaysians-Against-Board-of-Computing-Professionals-Bill/289002177811647>.

broad definition of CNII to include not only banking and national security sectors, but also energy, transportation, health, and government.<sup>66</sup> Responding to the outcry, the Ministry of Science, Technology and Innovation claimed that registration would be voluntary.<sup>67</sup> As of May 2012, the bill had not yet been introduced to parliament.

The extent of government surveillance of the internet is unclear, but privacy protections are generally poor in Malaysia. As noted above, the new SOA allows for the interception of communications without a judicial order, at least in cases involving security offenses.<sup>68</sup> The authorities appear to be capable of identifying anonymous internet and mobile phone users with the help of service providers. Ongoing court cases indicate that police regularly gain access to the content of text messages from telecommunications companies, sometimes without needing to go through judicial channels. Beginning in 2007, all mobile phone users, including roughly 18 million prepaid users, were required to register as part of an effort to decrease rumor mongering, though the rule appears to have been weakly enforced. Users in cybercafes are not required to register.<sup>69</sup> A government plan to provide free email accounts to all citizens over the age of 18 was announced in 2011, prompting fears it would expand the government's ability to monitor people's online activities.<sup>70</sup>

Although bloggers and online journalists have been subject to arbitrary arrest, they generally do not face physical violence. However, independent online news outlets and some opposition-related websites continue to face distributed denial-of-service (DDoS) attacks, including at moments of crucial political importance. For example, the popular independent online news outlet Malaysiakini was rendered inaccessible by sustained DDoS attacks in April 2011, days before important state elections in Sarawak.<sup>71</sup> It was targeted again in July 2011 in the run-up to the Bersih 2.0 rally, but weathered them better thanks to a server upgrade.<sup>72</sup> Several other news websites and blogs were hit by attacks during those same periods.

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<sup>66</sup> "Computing Professionals Bill 2011 Preliminary Analysis," Illegitimate Code (blog), December 10, 2011, <http://illegitcode.wordpress.com/2011/12/10/computing-professionals-bill-2011-analysis/>; Foong Cheng Leong & Joachim Leong, "Computing Professionals Bill 2011 – Ambiguity, Arbitrariness and Uncertainty," *The Malaysian Bar*, December 13, 2011, [http://www.malaysianbar.org.my/legal/general\\_news/computing\\_professionals\\_bill\\_2011\\_ambiguity\\_arbitrariness\\_and\\_uncertainty.html](http://www.malaysianbar.org.my/legal/general_news/computing_professionals_bill_2011_ambiguity_arbitrariness_and_uncertainty.html).

<sup>67</sup> "MCA: Computing Professionals Bill will stifle talent growth," December 21, 2011, <http://www.nst.com.my/local/politics/mca-computing-professionals-bill-will-stifle-talent-growth-1.22120> (site discontinued).

<sup>68</sup> 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](https://www.privacyinternational.org/issues/asia/privacy_in_asia_phase_1_report.pdf).

<sup>69</sup> "Dec 15 Registration Deadline Stays: MCMC," *Bernama*, August 18, 2006, <http://www.bernama.com/kpdnhep/news.php?id=214811&lang=en>.

<sup>70</sup> Rebekah Heacock, "Malaysia: Government's Free E-mail Plan Met with Opposition," *OpenNet Initiative*, April 26, 2011, <http://opennet.net/blog/2011/04/malaysia-governments-free-e-mail-plan-met-with-opposition>.

<sup>71</sup> Mong Palatino, "Malaysia: Cyber Attacks Shut Down Independent News Website," *Global Voices* (blog), April 13, 2011, <http://globalvoicesonline.org/2011/04/13/malaysia-cyber-attacks-shut-down-independent-news-website/>.

<sup>72</sup> "Malaysiakini comes under DDOS attack," *Malaysiakini*, July 8, 2011, <http://www.malaysiakini.com/news/169343>.

Although the attacks have not been conclusively traced to the government, some observers believe they were either sponsored or condoned by Malaysian security agencies. Meanwhile, in June 2011, dozens of government websites were attacked shortly after the hacking group Anonymous threatened to target Malaysian government sites to protest media censorship and the blocking of file-sharing websites.<sup>73</sup>

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<sup>73</sup> Kelly Goh & Austin Camoens, “Hacker group tells why it wants to attack Malaysian Govt portal,” Star Online, June 14, 2011, <http://thestar.com.my/news/story.asp?file=/2011/6/14/nation/20110614143743&sec=nation>; “Hackers attack Malaysia government websites,” BBC, June 16, 2011, <http://www.bbc.co.uk/news/world-asia-pacific-13788817>.