

PHILIPPINES

	2011	2012
INTERNET FREEDOM STATUS	n/a	Free
Obstacles to Access (0-25)	n/a	10
Limits on Content (0-35)	n/a	5
Violations of User Rights (0-40)	n/a	8
Total (0-100)	n/a	23

* 0=most free, 100=least free

POPULATION: 96 million
INTERNET PENETRATION 2011: 29 percent
WEB 2.0 APPLICATIONS BLOCKED: No
NOTABLE POLITICAL CENSORSHIP: No
BLOGGERS/ ICT USERS ARRESTED: No
PRESS FREEDOM STATUS: Partly Free

INTRODUCTION

The Philippines connected to the internet in 1994 via the Philippine Internet Foundation (PHNet), the first internet service provider in the country. Penetration increased slowly until 2005, when Executive Order 109 was enacted calling for the expansion of telecommunication services to underserved areas, which in turn promoted competition in the information and communications technology (ICT) sector. Internet use further accelerated after 2008 with the entry of a number of industry players, although the use of mobile phones has remained more widespread. Penetration of such technologies is higher in urban areas where middle- to upper-income classes are concentrated.

People in the Philippines enjoy nearly unrestricted access to the internet and other ICTs. To date, the government has steered clear of blocking access to any type of online content. Currently weak regulations, however, have been at the center of heated debates among citizens and lawmakers, some of whom argue that new threats to the safety of online users call for stricter laws pertaining to child pornography, gambling, and cybercrime. Such proposals have, in turn, raised concerns that the government is seeking to institute filtering without blatantly violating the freedom of expression and speech, and when the filtering infrastructure is in place, it could be potentially used for political and social censorship as well.

OBSTACLES TO ACCESS

According to the International Telecommunications Union (ITU), internet penetration in the Philippines stood at 29 percent as of 2011, up from under 6 percent in 2006.¹ Nevertheless, usage is mainly limited to the national capital region and other urban areas, and it remains largely absent among the lower-income population, most of whom live in rural areas.² An increasing number of users are now accessing the internet from home and workplace,³ although cybercafés remain popular among those without a personal computer. In contrast, there were over 87 million mobile phone subscribers in 2011, a penetration rate of 92 percent.⁴ Subscriptions to fixed telephone lines lag far behind with approximately 3.5 million.⁵ Mobile phone subscriptions increased significantly in recent years, and the SMS application has dominated the market for 2G cell phones since the mid-2000s.

Steep broadband internet subscription fees have stood in the way of a higher penetration rate in a country where 45 percent of the population lives on US\$2 a day.⁶ The average monthly broadband subscription is between US\$7 to US\$19,⁷ and the penetration of fixed broadband subscriptions stood at only 1.9 percent in 2011.⁸ Internet cafes charge from US\$0.30 to \$0.50 per hour.⁹ The national government acknowledged many weaknesses in the development of ICT infrastructure in the Philippine Digital Strategy for 2011 to 2016, a roadmap for ICTs in the country. Among the weaknesses are limited market competition, poorly dispersed broadband services, lack of ICT training and skills among government leaders, and lack of transparency in the government.

The government does not place any restrictions on internet connectivity, and a wide range of Web 2.0 applications are available in the country. YouTube, Facebook, Twitter, and

¹ International Telecommunication Union (ITU), "Percentage of individuals using the Internet, fixed (wired) Internet subscriptions, fixed (wired)-broadband subscriptions," 2006 & 2011, accessed July 13, 2012, <http://www.itu.int/ITU-D/ICTEYE/Indicators/Indicators.aspx#>.

² Iremae D. Labucay, "Internet Use in the Philippines," paper presented at the 2011 Annual Conference of the World Association for Public Opinion, September 21-23, 2011, Amsterdam, The Netherlands.

³ "Digital Philippines 2011: Yahoo!-Nielsen Net Index Highlights," Yahoo! Southeast Asia Ptd. Ltd. and The Nielson Company (Philippines), Inc., 2011, accessed February 2, 2012, <http://www.scribd.com/doc/70871638/PH-Net-Index-2011-PR-Final>.

⁴ International Telecommunication Union (ITU), "Mobile-cellular telephone subscriptions," 2011, accessed July 13, 2012, <http://www.itu.int/ITU-D/ICTEYE/Indicators/Indicators.aspx#>.

⁵ National Statistics Office, "Philippines in Figures 2011," Republic of the Philippines, 2011, accessed February 2, 2012, http://www.census.gov.ph/data/publications/2011PIF_final.pdf.

⁶ "Country briefing: Philippines. Multidimensional Poverty Index (MPI) At a Glance," Oxford Poverty and Human Development Initiative (OPHI), December 2011, <http://www.ophi.org.uk/wp-content/uploads/Philippines1.pdf?cda6c1>.

⁷ Based on current rates published in March 2012 on the websites of the three biggest providers: Sun Broadband (owned by Digitel and acquired by PLDT in October 2011), PLDT, and Globe Telecom.

⁸ 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#>.

⁹ "Digital Media in the Philippines," Singapore Management University, last modified March 31, 2012, https://wiki.smu.edu.sg/digitalmediaasia/Digital_Media_in_Philippines#cite_note-7.

international blog-hosting services are freely available, and penetration rates of these platforms are among the highest in the region.¹⁰ However, a significant number of users still rely on dial-up connections¹¹ as broadband adoption in the country remains slow due to constraints such as access to frequencies, quality of service, and universal access.¹² The opposition of the Philippine Long Distance Telephone Company (PLDT)/Smart to the National Telecommunications Commission's (NTC) move to reduce interconnection prices has also slowed down broadband services.¹³

Latest government statistics reported 241 registered internet service providers (ISPs) as of 2009.¹⁴ The slow growth of the broadband industry is mainly due to the dominance of the privately-owned PLDT that has maintained a stronghold since the late 1920s, owning a vast majority of fixed-lines and, consequently, the most stable backbone. Many local ISPs go through the PLDT because it owns the 10,000-kilometer Domestic Fiber Optic Network (DFON) connected to several international cable routes and has the highest capacity in the country at 250 Gbps.¹⁵ PLDT also owns or manages several international cable landings in the country.¹⁶ Further, the country's telecommunications industry in the last decade has been characterized by mergers and acquisitions amid the country's market liberalization initiatives during the 1980s and the absence of anti-trust laws. By the end of 2010, three privately-owned telecom companies were dominant: PLDT/Smart, Globe Telecommunications, Inc., and Digitel.¹⁷ With PLDT's recent acquisition of majority shares in Digitel, the company now controls 70 percent of the country's ICT sector.¹⁸

To enter the ICT industry in the Philippines, companies must go through a two-stage process. First, they must obtain a congressional license that involves parliamentary hearings

¹⁰ "Philippines Facebook Statistics," Socialbakers, accessed July 13, 2012, <http://www.socialbakers.com/facebook-statistics/philippines>.

¹¹ The Philippines saw an increase of 7.8 percent in narrowband adoption in the 3rd quarter of 2011. Source: Akamai Technologies, Inc., "The State of the Internet, 3rd Quarter, 2011 Report," 2012, [http://www.akamai.com/dl/whitepapers/akamai_soti_q311.pdf?curl=/dl/whitepapers/akamai_soti_q311.pdf&solcheck=1&\(registration required\)](http://www.akamai.com/dl/whitepapers/akamai_soti_q311.pdf?curl=/dl/whitepapers/akamai_soti_q311.pdf&solcheck=1&(registration%20required)).

¹² Fiber infrastructure remains unavailable to "more than a fifth" of the country's provinces and 33 percent does not have access to 3G/HSPA mobile services. Source: Erwin A. Alampay, "ICT Sector Performance Review for Philippines," in LIRNEasia's *Sector Performance Review (SPR)/Telecom Regulatory Environment (TRE)* research project, September 2011.

¹³ Lenie Lectura, "Smart opposes NTC interconnection fees," *Business Mirror*, February 12, 2012, <http://businessmirror.com.ph/home/top-news/23188-smart-opposes-ntc-interconnection-fees>. The Philippines has the highest interconnection rates in Asia at an average of US\$0.10 compared to others' average of \$0.03-05. Source: Erwin A. Alampay, "ICT Sector Performance Review for Philippines," in LIRNEasia's *Sector Performance Review (SPR)/Telecom Regulatory Environment (TRE)* research project, September 2011.

¹⁴ National Statistics Office, "Philippines in Figures 2011," Republic of the Philippines, 2011.

¹⁵ Mary Ann LL. Reyes, "PLDT boosts domestic fiber optic network," *The Philippine Star*, September 14, 2011, <http://www.philstar.com/Article.aspx?articleId=726803&publicationSubCategoryId>.

¹⁶ Erwin A. Alampay, "ICT Sector Performance Review for Philippines."

¹⁷ Ibid.

¹⁸ Winston Castelo, "Controversy on PLDT-Digitel Merger," The Official Website of Congressman Winston "WINNIE" Castelo, November 22, 2011, <http://www.winnicastelo.net/controversy-on-pldt-digitel-merger/>.

and the approval of both the upper and lower houses. Second, they need to apply for a Certificate of Public Convenience and Necessity (CPCN) from the NTC. The constitution limits foreign entities to only 40 percent ownership of a business to be established in the country. Internet service is currently classified as a value-added service and is therefore subject to fewer regulatory requirements compared to mobile and fixed phone services.

Institutional arrangements regarding the ICT sector are highly bureaucratic, with much ambiguity and overlapping responsibilities among government bodies overseeing ICT development in the country. Successive government administrations have in one way or another modified the structure of the administrative body for ICTs. The latest changes came through Executive Order 47,¹⁹ issued by President Benigno Aquino, Jr. on June 23, 2011, that created the Information and Communications Technology Office (ICTO) under the Department of Science and Technology (DOST), abolishing the Commission on Information and Communications Technology (CICT).²⁰ The ICTO is tasked with conducting research, development, and capacity-building in the ICT industry. The National Telecommunications Commission (NTC), created in 1979, regulates the industry with quasi-judicial powers and develops tariff and technical regulations, licensing conditions, and competition and interconnection requirements. All heads of the aforementioned organizations are appointed by the president.

The ICT sector is expecting a few more changes after the president signs Senate Bill No. 50, which will create the Department of Information and Communications Technology (DICT) and subsequently abolish the National Computer Center (NCC), Telecommunications Office (TELOF) and units in the Department of Transportation and Communications (DOTC) dealing with communications.²¹ The new department will be the primary administrative entity of the executive branch tasked to oversee policy, planning, coordination, implementation, and regulation of all ICT matters. It will be composed of a secretary, undersecretaries, and assistant secretaries—all to be appointed by the president. There are sentiments that these government bodies will not be able to operate independently because of their susceptibility to the influence of the incumbent administration and Congress, which determines their budget.²²

¹⁹ Executive Order No. 47, signed June 23, 2011, <http://www.gov.ph/2011/06/23/executive-order-no-47/>.

²⁰ The CICT was created in 2004 as the primary administrative entity of the executive branch mandated to “promote, develop, and regulate integrated and strategic ICT systems” and to serve as a transition to a proposed Department of Information and Communications Technology (DICT).

²¹ Senate Bill No. 50, “An Act Creating the Department of Information and Communications Technology, defining its powers and functions, appropriating funds therefore, and for other purposes.” The Bill has been awaiting a bicameral conference committee as of February 7, 2012 after being approved by both Houses and is expected to be signed by the President. See, Ricardo Saludo, “Will ICT finally get its own department?” *The Manila Times*, April 30, 2012, <http://www.manilatimes.net/index.php/opinion/columnist1/21967-will-ict-finally-get-its-own-department>.

²² Erwin A. Alampay, “ICT Sector Performance Review for Philippines.”

LIMITS ON CONTENT

There is no systematic government censorship of online content, and internet users in the Philippines enjoy unrestricted access to both domestic and international sources of information. Incidents of politically-motivated website blocking or the proactive stifling of internet expression have also not been reported.²³ The latest study by the OpenNet Initiative (ONI) found no evidence of national filtering in the country,²⁴ though several organizations reported monitoring and filtering activities in the workplace,²⁵ emerging privacy problems with regard to unrestricted access by the state and private individuals to mobile content, and local governments issuing ordinances requiring internet cafes to use monitoring technologies.²⁶

Only one law, the Anti-Child Pornography Act of 2009, places restrictions on online content, and it aims to penalize access and distribution of child pornography. The law requires ISPs to install software to monitor a user's access to prohibited content and inform the authorities of user violations, though it does not require ISPs to proactively monitor the content of user communications.²⁷ Section 12 of the law also authorizes local government units to monitor and regulate commercial establishments that provide internet services. As of May 2012, there are eight proposed bills in the Senate calling for regulation of online content pertaining to child pornography, gambling, and phishing, some of which would require ISPs, web-hosts, and educational institutions to monitor its users and disable access to banned content. Some of these bills have prompted concerns among internet freedom advocates about the government's intent to impose certain morality norms in cyberspace.

There have been no reports of officials putting pressure on online journalists or bloggers to delete content when it is critical of the authorities. However, given that many news websites are online versions of traditional media—many of whom self-censor due to the high levels of violence against journalists in the country—it is fair to surmise that self-censorship is reflected in the content of online outlets as well. As such, the precise degree of self-censorship among online journalists and users is difficult to establish, particularly since there have been few attacks against people for their online writings.

²³ Jacques DM Gimeno, "Democracy as the Missing Link: Global Rankings of e-Governance in Southeast Asia," in A. Manoharan & M. Holzer (eds.), *E-Governance and Civic Engagement: Factors and Determinants of E-Democracy* (Hershey, PA: IGI Global, 2012), 561-583.

²⁴ OpenNet Initiative, "Internet Filtering in Asia," 2009, accessed July 13, 2012, <http://opennet.net/research/regions/asia>.

²⁵ Erwin A. Alampay and Regina Hechanova, "Monitoring employee use of Internet: Employers' perspective," *Inquirer.net*, January 24, 2010, <http://business.inquirer.net/money/topstories/view/20100124-249272/Monitoring-employee-use-of-Internet-Employers-perspective>.

²⁶ "Philippines," OpenNet.Asia, accessed February 2, 2012, <http://www.oni-asia.net/country-projects/philippines/>.

²⁷ http://www.lawphil.net/statutes/repacts/ra2009/ra_9775_2009.html

More generally, the Filipino blogosphere is rich and thriving. In 2010, the Philippines together with Indonesia led blog growth in Southeast Asia with an 18 percent increase from the previous year.²⁸ Both state and non-state actors actively use the internet as a platform to discuss politics, especially during elections. Some studies suggest that the popular mass uprising against then-President Joseph Estrada in 2001, later known as People Power II or EDSA Dos, could have been the result of the first active online protests facilitated by blogs and online discussion forums.²⁹ These forums sought to mobilize and gather people in the historic Epifanio de los Santos Avenue (EDSA) in Metro Manila, the site of the first People Power movement in 1986 that ousted the dictator Ferdinand Marcos.

A more recent example of citizen mobilization through social media occurred in September 2011 when approximately ten thousand people gathered at the Mendiola Bridge in front of the presidential palace in Manila to protest the president's proposal to cut the education budget. The event became possibly the world's largest "planking" protest during which protestors lied face down and motionless on the streets to disrupt traffic.³⁰ Parallel protests were staged around the country and were believed to have been organized and sustained by online protests on Facebook, Twitter, and blogs.

VIOLATIONS OF USER RIGHTS

No laws currently exist that directly encroach on citizens' freedom of expression due to the presence of a strong Bill of Rights within the 1987 Constitution, which protects freedom of expression (Section 4) and privacy of communication (Section 1).³¹ However, violence against traditional journalists is a significant problem, and many fear that as internet penetration grows and more people start turning to web-based news sources, the phenomenon may spill into web-based media as well.

Statistics gathered by the Committee to Protect Journalists (CPJ) found that 70 journalists have been murdered in the country since 1992, mostly while covering political beats.³² Violence against individuals exercising free speech, combined with a culture of impunity, the absence of a right to information law, and the use of criminal defamation laws against

²⁸ "Philippines and Indonesia Drive Blog Growth in SE Asia," Online Marketing Trends, March 28, 2011, <http://www.onlinemarketing-trends.com/2011/03/philippines-and-indonesia-drive-blog.html>.

²⁹ Mirandilla (2007) cited in Karan, Gimeno, and Tandoc, "The Internet and Mobile Technologies in Election Campaigns: The GABRIELA Women's Party During the 2007 Philippine Elections," *Journal of Information Technology & Politics* 6, no.3 (2009): 326-339.

³⁰ Karlo Mikhail Mongaya, "Philippines: Creative Protests During Campus Strikes," Global Voices Online, September 28, 2011, <http://globalvoicesonline.org/2011/09/28/philippines-creative-protests-during-campus-strikes/>.

³¹ 1987 Philippine Constitution, Article III, Bill of Rights, http://philippines.abrchk.net/news/mainfile.php/leg_sel/15/.

³² "70 Journalists Murdered in Philippines since 1992," Committee to Protect Journalists, accessed February 5, 2012, <http://cpj.org/killed/asia/philippines/murder.php>.

critics have had a profoundly negative effect on freedom of expression.³³ Three cases of media-related murders and several instances of threats and intimidation against journalists and other media workers in 2011 were also reported. Nevertheless, there have been no reports of online journalists being harmed, threatened, or intimidated thus far.

Libel is another contentious issue in the country and is punishable by fines and imprisonment. The current law against defamatory statements is being challenged amid the unrestricted nature of the internet. In 2009, a Department of Justice resolution established that Articles 353 and 360 of the Revised Penal Code covering libel do not apply to statements posted on websites and thus cannot be treated in the same light as statements made via media covered by the law.³⁴ Nevertheless, three controversial cases of alleged libel committed online were filed in recent years. They involved a government official suing a citizen blogger in early 2010 after she reported that relief goods were left to rot,³⁵ an accusation of medical malpractice over Facebook against a popular “cosmetic surgeon to local stars in 2009,”³⁶ and gossip between local celebrities that went viral.³⁷ The case filed by the cosmetic surgeon, considered the first internet libel case in the country, was dismissed in 2011 on the grounds that prosecuting internet libel in the Philippines has jurisdictional constraints.³⁸

There are no restrictions on anonymous communication in the Philippines. The government does not require the registration of user information prior to logging online or subscribing to internet and mobile phone services, especially since prepaid services are widely available even in small neighborhood stores. Nevertheless, lawmakers have repeatedly warned the public that the lack of internet regulation is resulting in the proliferation of cybercrimes, which range from harmful content for children, sexual exploitation of minors, and identity theft; as a result, several proposals have been pending to address these issues.

³³ “Philippines: ARTICLE 19’s Submission to the UN Universal Periodic Review,” Article 19, November 29, 2011, <http://www.article19.org/resources.php/resource/2879/en/philippines:-article-19%27s-submission-to-the-un-universal-periodic-review>.

³⁴ Department of Justice, Resolution No. 05-1-11895 on Malayan Insurance vs. Philip Piccio, et al., June 20, 2009. Article 353 states that, “libel is committed by means of writing, printing, lithography, engraving, radio, phonograph, painting, theatrical exhibition, cinematographic exhibition, or any similar means.” The Department also stated that the accused are not culpable because they cannot be considered as authors, editors, or publishers as provided for in Article 360.

³⁵ Leila Salaverria, “Solons defend blogger sued by DSWD for libel,” Philippine Daily Inquirer, January 25, 2010, <http://newsinfo.inquirer.net/breakingnews/nation/view/20100125-249403/Solons-defend-blogger-sued-by-DSWD-for-libel>.

³⁶ Melvin G. Calimag, “Philippine Court Hears ‘Facebook Libel’ Case,” Bloomberg Businessweek, September 25, 2009, http://www.businessweek.com/globalbiz/content/sep2009/gb20090925_532132.htm.

³⁷ Kristine Servando, “How to avoid libel suits on Facebook,” ABS-CBNnews.com, January 5, 2010, <http://www.abs-cbnnews.com/lifestyle/01/05/10/how-avoid-libel-suits-facebook>.

³⁸ Karen Flores, “Court junks PH’s first Facebook libel case,” ABS-CBNnews.com, July 26, 2011, <http://www.abs-cbnnews.com/lifestyle/07/26/11/court-junks-phs-first-facebook-libel-case>.

Extralegal government surveillance of online communication does not appear to be a serious problem. Under the Human Security Act of 2007, law enforcement officials must obtain a court order to intercept communications or conduct surveillance activities against individuals or organizations suspected of terrorist association.³⁹ To date, no reports of abuse of this law have been recorded. Moreover, there have been no reports of politically-motivated incidents of technical violence or cyberattacks.

³⁹ “Republic Act 9372 – Human Security Act of 2011 (full text),” Philippine e-Legal Forum, July 10, 2007, <http://jlp-law.com/blog/ra-9327-human-security-act-of-2007-full-text/>.