



INDONESIA

	2012	2013
INTERNET FREEDOM STATUS	PARTLY FREE	PARTLY FREE
Obstacles to Access (0-25)	11	11
Limits on Content (0-35)	11	11
Violations of User Rights (0-40)	20	19
Total (0-100)	42	41

POPULATION: 241 million
INTERNET PENETRATION 2012: 15 percent
SOCIAL MEDIA/ICT APPS BLOCKED: No
POLITICAL/SOCIAL CONTENT BLOCKED: Yes
BLOGGERS/ICT USERS ARRESTED: No
PRESS FREEDOM 2013 STATUS: Partly Free

* 0=most free, 100=least free

KEY DEVELOPMENTS: MAY 2012 – APRIL 2013

- The Supreme Court cleared Prita Mulyasari on criminal and civil defamation charges relating to a personal email she sent in 2009 (see **VIOLATIONS OF USER RIGHTS**).
- Electronic defamation could lead to 6 years imprisonment or \$80,000 fines; offline, most sentences are less than 2 years—fines amount to 40 cents (see **VIOLATIONS OF USER RIGHTS**).
- Overbroad blocks on pornography compromised legitimate websites, including LGBT content (see **LIMITS ON CONTENT**).
- In October 2012, the Constitutional Court rejected a request for judicial review of the State Intelligence Law (see **VIOLATIONS OF USER RIGHTS**).
- In mid-2013, an expert told the Associated Press 50 to 100 militants had been recruited directly through Facebook in the past two years (see **LIMITS ON CONTENT**).

INTRODUCTION

Economic development and a democratic political system have spurred internet use in Indonesia, though poor infrastructure across the archipelago's 16,000 islands keeps connections spotty in rural areas. Where people once relied on cybercafés, however, they are increasingly using mobile phones to go online. This change has fuelled the nation's extraordinary appetite for social media. Facebook usage in the world's fourth most populous country has shot up in the past four years, while Twitter is a lifestyle staple for young internet users, and increasingly politicians. President Susilo Bambang Yudhoyono, who will complete his second term in office in 2014, has over 3 million followers.

Though introduced in 1994, internet access only gained momentum after 1998, when the authoritarian leader Suharto resigned in the face of public protests and Indonesia began its transition to democratic rule. Yet the political upheaval, which facilitated extensive human rights abuses that were underreported in the traditional media, may still be impeding online discourse. Of the millions of active blogs and social media accounts, comparatively few are dedicated to domestic politics.

Home to the world's largest Muslim population, as well as many different ethnicities, Indonesia's religious and racial tensions are felt in the online space. A sweeping ban on pornography affects many sites offering legitimate information on sex education, LGBT groups, and tribal culture. Security threats have resulted in a total of nine laws granting various agencies power to intercept electronic communications, but existing privacy protections are inadequate. Just two of the laws require judicial oversight, and civil society groups declared one of these—a 2011 law governing monitoring for intelligence purposes—unconstitutional in 2012. The Constitutional Court rejected their petition for judicial review of the law in October 2012.

Civil society opposition to laws criminalizing legitimate online speech also has yet to bear fruit. Dozens of ordinary internet users have faced criminal charges for defamation via social media or personal email under a 2008 Information and Electronic Transactions (ITE) law. By international standards, civil laws are more appropriate than criminal in defamation disputes.¹ Yet the 2008 law made existing sentences in the penal code even harsher for defamation committed electronically. Spoken or written insults could result in a few months or, at worst, four years behind bars; the same content shared online or on a cell phone comes with a maximum of six years imprisonment. Meanwhile, fines for defamation outlined in the penal code could be paid with less than 50 cents, according to the conversion rate on April 30, 2013.² Under the ITE law, defamation could cost the defendant around \$80,000.

In 2012, the Supreme Court overturned the landmark convictions of housewife Prita Mulyasari on criminal as well as civil defamation charges relating to a personal email she sent in 2009. Astonishingly, this has yet to result in reform of the ITE law's disproportionate penalties.

¹ Article 19, "Criminal Defamation," accessed August 2013, <http://www.article19.org/pages/en/criminal-defamation.html>.

² All conversion rates date from April 30, 2013 or the date of the source document, unless otherwise specified.

Meanwhile, an anticybercrime bill drafted in 2010, which would also provide heavier punishments for crimes committed online than existing laws, appears to be still pending. Authorities cite the wider reach of the internet as justification for this bias against ICTs. But they fail to recognize that when criminal complaints can be filed by any individual, the web is just as likely to create new opportunities for vindictive prosecution as it is to damage reputations.

OBSTACLES TO ACCESS

Internet penetration in Indonesia was just over 15 percent in 2012, according to the International Telecommunication Union, citing a national statistics agency.³ Other estimates were above 20 percent.⁴ Access is not evenly distributed, however. Cable is costly to install across the world's largest archipelago, and poor infrastructure, combined with poverty in rural areas, keeps internet use heavily concentrated in cities, particularly on the islands of Java and Bali. One November 2012 survey estimated more than 90 percent of web users lived in urban areas.⁵ The country's main network-access providers, which link retail level ISPs to the internet backbone, are also clustered on Java, particularly in Jakarta. Mobile phone usage, on the other hand, is almost ubiquitous. Mobile penetration was measured at 115 percent in 2012, indicating some users have more than one device.⁶

In the past, personal internet access was reserved for older, middle, or upper class urban residents. That may be changing, since the nation's largest broadband provider reported a 41 percent jump in fixed-line subscribers from 2012 to 2013.⁷ Yet broadband service, which averages IDR 150,000 (\$12) per month for a fixed-line connection, remains expensive and inconvenient for many. Wireless service is transforming the market, and mobile access has become more popular than cybercafes, according to one survey, which reported that 62 percent of urban respondents went online using a phone in 2012. Less than half used a cybercafe, down from 83 percent in 2009.⁸

The government, particularly the Ministry of Communications and Information Technology (MCI), has made internet expansion a priority. To connect rural areas, the MCI launched a program to establish *desa pintar* (smart villages) with high quality internet and mobile phone reception. By 2012, the MCI reported connecting 5,958 villages.⁹

³ International Telecommunication Union, "Percentage of Individuals Using the Internet, 2000-2012," <http://bit.ly/14IlykM>.

⁴ The Indonesian Internet Service Provider Association reported 63 million internet users in a population of 240 million in 2012, putting penetration at 26 percent, while digital market research firm eMarketer reported 24 percent penetration in 2012. See, Asosiasi Penyelenggara Jasa Internet Indonesia, "Indonesia Internet User, 2012" <http://bit.ly/19KvxsR>; Muhammad Al Azhari, "LTE May Herald an Internet Revolution in Indonesia," May 3, 2013, <http://bit.ly/13lfjln>; eMarketer, "In Indonesia, a New Digital Class Emerges," March 12, 2013, <http://bit.ly/10yQ2ET>.

⁵ eMarketer, "In Indonesia, a New Digital Class."

⁶ International Telecommunication Union, "Mobile-cellular Telephone Subscriptions, 2000-2012."

⁷ "Info Memo," Telkom Indonesia, 1Q2013, <http://bit.ly/1bhCVOb>.

⁸ Survey respondents were aged between 15 and 50. eMarketer, "In Indonesia's Cities, Mobile Boost Internet to No 2 Media Spot," January, 30, 2013, <http://bit.ly/XgM0yu>.

⁹ "Inilah Sederet Prestasi Yang Diklaim Kominfo" [Communications Ministry Achievements of 2012], *Detik*, January 14, 2013, <http://bit.ly/16AfDFc>.

Indonesia has a range of digital service providers, although some privately-owned providers have close ties to government ministers. The two largest ISPs are PT Telecom, which is majority state-owned, and Indosat.¹⁰ Their dominance—along with regulatory obstacles imposed by the government—poses challenges for small ISPs entering the market. Nevertheless, the Indonesian Internet Service Provider Association, APJII,¹¹ had over 250 member ISPs and network access providers in 2013, accounting for around 90 percent of the national total.¹²

Of the nine mobile phone service providers in operation, the most prominent are PT Telkomsel, which covers 60 percent of the market, PT Indosat, with 21 percent, and PT XL Axiata with 19 percent.¹³

Despite their individual allegiances to officials, Indonesian ISPs are a close-knit community thanks to the APJII, which was founded in 1996. In 1997, tired of routing local traffic through expensive and inefficient international channels—and wary of a government-led solution—they independently created the Indonesia Internet Exchange to allow member ISPs to interconnect domestically.¹⁴ APJII also engages the government on behalf of providers regarding censorship, legal, and regulatory issues in ways that freedom of expression experts view as largely constructive.

In January 2013, experts were particularly vocal when the attorney general's office filed corruption charges against one ISP, IM2, for selling bandwidth under a public frequency licensed only to its parent company, Indosat.¹⁵ IM2 was accused of avoiding a private tax rate on the frequency, causing state losses of IDR 1.3 trillion (\$134 million).¹⁶ The investigation was ongoing during the coverage period of this report; a judge ordered IM2 to pay the full amount in damages and jailed a former executive for four years in a highly contested verdict in July.¹⁷ Since ISPs generally rent frequencies from other companies in Indonesia, the APJII condemned the investigation along with the business community and even Tifatul Sembiring, the communication and information minister. Their concerns seemed well-founded in February when an anti-corruption organization filed a report with the attorney general's office accusing 16 more ISPs and 5 mobile service providers of a similar fraud.¹⁸ It is not clear if those providers will face prosecution.

¹⁰ Ronald J. Deibert et al., "Indonesia," in *Access Contested: Security, Identity, and Resistance in Asian Cyberspace*, ed. (Massachusetts Institute of Technology, 2012),

http://www.apjii.or.id/index.php?option=com_content&view=article&id=53&Itemid=11.

¹¹ *Asosiasi Penyelenggara Jasa Internet Indonesia*.

¹² Irvan Nasrun, "Indonesia ISP Association" (presentation, APJII, August 13, 2013),

<http://www.apjii.or.id/v2/upload/Artikel/APJII-JAPAN-ASEAN%20Information%20Security.pdf>; Muhamad Al Azhari, "An Internet Case of Fraud, Tax Evasion," *Jakarta Globe*, February 22, 2013, <http://bit.ly/1ajhRsl>.

¹³ Oxford Business Group, "The Big Three: A Battle for Subscribers and Profit, Indonesia 2012,"

<http://www.oxfordbusinessgroup.com/news/big-three-battle-subscribers-and-profit>

¹⁴ Andy Kurniawan, "Indonesia Internet eXchange, IIX: IIX and IIXv.6 Development Update 2007" (presentation, Asia Pacific Network Information Centre), accessed August 2013, <http://archive.apnic.net/meetings/25/program/ix/id-ix-update.pdf>.

¹⁵ "IM2 Preparing Defense Ward Internet Doomsday," *Jakarta Post*, January 15, 2013, <http://bit.ly/15CrnNm>; Al Azhari, "An Internet Case of Fraud."

¹⁶ Conversion as of January 15, 2013, according to Oanda. The value of the rupiah plunged in 2013; as of July 19, 2013, when news reports announced the verdict, the same amount came to US\$128 million.

¹⁷ Mariel Grazella, "Telco firms rattled by IM2 verdict," *Jakarta Post*, July 9, 2013,

<http://www.thejakartapost.com/news/2013/07/09/telco-firms-rattled-im2-verdict.html>.

¹⁸ Al Azhari, "An Internet Case of Fraud."

The MCI's Directorate General of Post and Informatics (DGPT) is the primary body overseeing telephone and internet services, responsible for issuing licenses to ISPs, cybercafes, and mobile phone service providers. The Indonesia Telecommunication Regulation Body (BRTI) also regulates and supervises telecommunications. There is some overlap between the mandates and responsibilities of the two agencies. Based on the ministerial decree that established it, BRTI is supposed to be generally independent and includes nongovernment representatives. However, observers have questioned its effectiveness and independence, as it is headed by the DGPT director, and draws its budget from DGPT allocations. In May 2012, Sembiring inaugurated nine full BRTI members for the years 2012 through 2015. Two additional members remain from the previous term.¹⁹

LIMITS ON CONTENT

Tens of thousands of websites related to pornography, violent extremism, or censorship circumvention are blocked in Indonesia under laws that grant the government power to filter content without judicial oversight. While there is no systematic abuse of this system to restrict political content, many minority groups, like the LGBT community, find their content inaccessible with no clear avenue of appeal. Social media and communications apps are avidly used, though their potential for spreading hate speech remains a concern. Google blocked the notorious 'Innocence of Muslims' video on YouTube after it sparked unrest.

The internet has expanded Indonesians' access to information, as they are no longer dependent on traditional media for news; many have adopted the internet as their main information source. In response, the government's approach has shifted. The 2008 ITE Law granted the MCI powers to monitor and censor online content at its own discretion without a court order, though it did not outline the process involved.²⁰ An anti-pornography law was also passed in 2008²¹—and upheld by the courts in 2010, despite being challenged as unconstitutional.²²

Since then, filtering of pornographic material has increased, particularly after some public celebrity sex tape scandals in 2010.²³ Defining what constitutes pornography, however, has proved a stumbling block in the Muslim majority nation. The U.S.-based website of the Free Speech Coalition, a trade association for the adult entertainment industry, is censored, along with multiple other legitimate sites. Sex education resources and websites hosted by LGBT organizations, both

¹⁹ BRTI, "Pelantikan Anggota Komite Badan Regulasi Telekomunikasi Indonesia Periode 2012-2015" [Inaugural Regulatory Committee Members Indonesian Telecommunications Regulatory Body Period 2012-2015], May 3, 2013, <http://brti.or.id/component/content/article/75-press-release/239-pelantikan-anggota-komite-regulasi-2012-2015>

²⁰ Article 40(2) of the ITE Law states that "the government, in compliance with the prevailing laws and regulations, aims at protecting public interest from all forms of disturbances that result from the abuse of electronic information and electronic transaction. Law No. 11 of 2008 on Electronic Transaction and Information, available at http://www.setneg.go.id/components/com_perundangan/docviewer.php?id=1969&filename=UU%2011%20Tahun%202008.pdf.

²¹ "Law No. 44 on Pornography."

²² Karishma Vaswani, "Indonesia Upholds Anti-pornography Bill," BBC, <http://news.bbc.co.uk/2/hi/8586749.stm>.

²³ OpenNet Initiative, "Country Profile—Indonesia," August 9, 2012, <http://opennet.net/research/profiles/indonesia>.

domestically and overseas, are consistently filtered, and even art and traditional attire can be considered explicit.

The ministry is not known to systematically filter political content or anti-government criticism, though other broad restrictions are in place. Encryption and circumvention tools are blocked,²⁴ though some can be found in practice. Sites that promote terrorism and file-sharing are also subject to restrictions. In 2011, after a suicide bomber attacked a church in central Java, the MCI announced that it would block 300 out of 900 Islamist websites that the public had reported for promoting violence, radicalism or terrorism, though the list of sites was not published.²⁵ The same year, representatives of the Indonesian music industry urged the MCI to shutter 20 websites that enabled users to download songs without permission from the artists;²⁶ four remain closed.²⁷ In July 2012, the APJII mooted banning all websites that allow illegal downloads, but this had yet to appear by the end of the coverage period.²⁸

There is a general lack of clarity about censorship decisions and how to challenge them. The MCI maintains an online database of blacklisted domains and URLs, *Trust Positif*, as a reference for providers on what to filter. *Trust Positif* listed over 745,000 domain names and 55,000 URLs for pornographic content in 2013, a slight—but not dramatic—increase over the previous year;²⁹ the site also provides an email address and form for individuals to report illegal content. Implementation of these blocks, however, is often inconsistent across service providers. Some requests are apparently also issued directly to providers on an ad hoc basis, while individual companies have been willing to reverse or ignore censorship orders. In early 2012, the U.S.-based International Gay and Lesbian Human Rights Commission reported that a handful of mobile service providers had begun blocking its website on MCI instructions, though at least one operator did not comply.³⁰

Besides the ministry, the independent Nawala Foundation provides a free DNS server enabling service providers to block hundreds of thousands of websites for pornography and gambling, among other categories; a 2013 news report said it had blocked 600 fraudulent stores.³¹ It does not publish its database, and users generally learn sites are unavailable when they encounter the service's error

²⁴ Deibert, "Indonesia."

²⁵ Ratri Adityarani, "To Fight Terrorism Indonesia Blocks 300 Websites," *TechinAsia*, September 29, 2011, <http://www.penn-olson.com/2011/09/29/terrorism-indonesia-blocks-300-websites/>.

²⁶ Achmud Rouzni Noor II, "Menkominfo Didesak Tutup 20 Situs Musik Ilegal" [MCI Pushed to Close Down 20 Illegal Music Website], *Detik*, July 21, 2011, <http://www.detikinet.com/read/2011/07/21/161521/1686205/398/menkominfo-didesak-tutup-20-situs-musik-ilegal>.

²⁷ *Mp3lagu*, *Pandumusica*, *Musik-flazher*, and *Freedownloadmp3* are no longer accessible, but it was not clear if they were shut down or voluntarily discontinued.

²⁸ "Indonesia's ISPs to Block Pirated Music Sites," *Jakarta Post*, July 6, 2012, <http://www.thejakartapost.com/news/2012/07/06/indonesia-s-isps-block-pirated-music-sites.html>.

²⁹ The full database is available at Trust Positif, <http://trustpositif.kominfo.go.id/files/downloads/index.php?dir=database%2F>.

³⁰ International Gay and Lesbian Human Rights Commission, "IGLHRC Website Banned," February 7, 2012, <http://www.iglhrc.org/content/iglhrc-website-banned>.

³¹ "Selain Situs Porno, DNS Nawala Hadang Toko Online Palsu" [In Addition to Porn, DNS Nawala Blocks Fake Online Stores], *Detik*, April 22, 2013, <http://inet.detik.com/read/2013/04/22/082832/2226480/323/selain-situs-porno-dns-nawala-hadang-toko-online-palsu>.

message while browsing. Nawala provides a form for website owners subject to accidental blocking, though how it processes these complaints and how often it complies is not clear.³²

The government has threatened service providers with intermediary liability for failing to implement censorship in the past. In 2011, Research in Motion (RIM) agreed to filter pornographic websites on their BlackBerry devices in Indonesia after the government regulator warned that the firm's market access could be restricted if it failed to comply.³³ When attempting to access a blocked site, BlackBerry users reportedly encounter a technical error rather than a message informing them that access to the site has been deliberately restricted.

In 2012, the Indonesian government made 45 requests to Google to delete videos on YouTube, an increase over the previous year.³⁴ Most requests cited religious reasons, likely in connection with the "Innocence of Muslims" video uploaded in the United States, ostensibly to promoting a movie that denounced Islam.³⁵ Many Indonesians joined restive street demonstrations to protest against the video, and police said the film drove an increase in terror plots, including one targeting the U.S. embassy in Jakarta.³⁶ Tifatul Sembiring publicly confirmed the government had requested that Google block 16 URLs to make it inaccessible in Indonesia.³⁷

Some activists have successfully used digital tools to mobilize in defense of internet freedom. Strong opposition from civil society actors and even some ISPs has successfully derailed some plans for more stringent censorship. A draft Regulation on Multimedia Content introduced in early 2010 prompted a public outcry and fears of increased internet censorship, but it has remained on hold since. The blogging community also rallied round Prita Mulyasari, an internet user accused of criminal defamation in 2009, with a huge campaign called *Koin Keadilan* ("Justice Penny,") collecting tens of thousands of dollars on her behalf.³⁸

Indonesia has enjoyed a thriving blogosphere since around 1999, though traditional media outlets—rather than blogs—typically cover important political developments and corruption investigations. Many of the earliest blogs were written by overseas Indonesians working in IT, until the younger generation adopted the medium to write about their daily lives. By 2005 and 2006, blogs had begun

³² Nawala.org, <http://www.nawala.org/>

³³ Femi Adi, "RIM Says Committed To Indonesia, Will Block Porn on BlackBerrys," Bloomberg, January 17, 2011, <http://www.bloomberg.com/news/2011-01-17/rim-says-committed-to-indonesia-will-block-porn-on-blackberrys.html>; Ardhi Suryadhi, "Sensor di Blackberry terus diawasi" [Censorship on Blackberry Continuously Observed], Detik Inet, January 21, 2011, <http://www.detikinet.com/read/2011/01/21/142056/1551687/328/sensor-di-blackberry-terus-diawasi>.

³⁴ Google Transparency Report, <http://www.google.com/transparencyreport/removals/government/ID/?by=product>

³⁵ Ian Lovett, "Man Linked to Film in Protests Is Questioned," *New York Times*, September 15, 2012, http://www.nytimes.com/2012/09/16/world/middleeast/man-linked-to-film-in-protests-is-questioned.html?_r=2&ref=internationalrelations&_hpid=hp_turkey%3Aterrorism%3Ahomepage%3Aturkey&_hpt=hp_turkey%3Aterrorism%3Ahomepage%3Aturkey; Michael Joseph Gross, "Disaster Movie," *Vanity Fair*, December 27, 2012, <http://www.vanityfair.com/culture/2012/12/making-of-innocence-of-muslims>.

³⁶ The Associated Press, "Indonesia Terror Attack: 'Innocence Of Muslims' Film Said To Fuel Embassy Plot," via *Huffington Post*, October 19, 2012, http://www.huffingtonpost.com/2012/10/29/indonesia-terror-attack_n_2038441.html.

³⁷ "Soal Video 'Innocence of Muslims', Tifatul: Sudah 16 URL Diblokir" [Innocence of Muslims Video, Tifatul: 16 URLs Already Blocked], *Detik*, September 18, 2013, <http://news.detik.com/read/2012/09/18/160114/2024496/10/soal-video-innocence-of-muslims-tifatul-sudah-16-url-diblokir?nd771104bcj>.

³⁸ Mega Putra Ratya, "Penghitungan selesai total koin Prita Rp. 650.364.058" [Counting of Coins for Prita has collected a total of Rp. 650,364,058], *Detik*, December 19, 2009, <http://m.detik.com/read/2009/12/19/113615/1262652/10/penghitungan-selesai-total-koin-prita-rp-650364058>.

to specialize in various topics, including politics, economics, media, food, and entertainment. The *Salingsilang* directory of Indonesian bloggers counted over 5.2 million Indonesian blogs as of the end of 2011, covering issues such as popular culture and international current affairs.³⁹

Indonesians are also avid users of social media, which a January 2013 survey listed as the nation's number one online activity, followed by instant messenger, search engines and e-mail.⁴⁰ Social media and communication apps, including YouTube, Facebook, and Twitter, are freely available, and Indonesia had the fourth largest number of Facebook users in the world in 2013, with 47 million accounts, according to one report.⁴¹ President Susilo Bambang Yudhoyono, who began tweeting in April 2012 as @SBYudhoyono, gained two million followers in less than two weeks.⁴² Another study described the Indonesian capital, Jakarta, as the world's most active city on Twitter, ahead of Tokyo, London, Sao Paulo, and New York. In addition to this distinction, Indonesia was the only country with two cities in the top ten; the second was Bandung, the capital of West Java.⁴³ As Facebook and Twitter use has grown, the popularity of blogging has declined.

Social media growth has produced new concerns about content manipulation. Analysts say anonymous or pseudonymous Twitter accounts circulating politically-motivated rumors and attacks on politicians may be part of sponsored campaigns to influence online discourse, or even blackmail well-known figures seeking to protect their reputations.⁴⁴ Social media pages have also been used by religious extremists. In mid-2013, an expert told the Associated Press that 50 to 100 militants had been recruited directly through Facebook in the past two years.⁴⁵

VIOLATIONS OF USER RIGHTS

In September 2012, the Supreme Court finally cleared Prita Mulyasari on criminal and civil charges relating to a personal email she sent in 2009 complaining about a local hospital, after three weeks in jail, a suspended prison sentence, and earlier court orders that she pay the institution nearly \$15,000 in damages. Yet the provisions of the law which allowed the spurious prosecution are still on the books, and the status of a promised reform remains unclear. Another legal ruling was less positive. In October 2012, the Constitutional Court rejected a civil society petition for judicial review of the 2011 State Intelligence Law, one of a handful of laws that allow authorities to intercept electronic communications with inadequate privacy protections.

³⁹ Salingsilang has since closed and no 2012 count is available.

⁴⁰ eMarketer, "Indonesia's Cities, Mobile Boosts Internet."

⁴¹ Quintly, a company which provides statistics on global Facebook and Twitter use, is based in Germany. Facebook Country Stats, <http://www.quintly.com/facebook-country-statistics?period=1month>.

⁴² "Yudhoyono's Arrival on Twitter Lets Down Pundits, Porn Star," *Jakarta Post*, April 15, 2013, <http://www.thejakartapost.com/news/2013/04/15/yudhoyono-s-arrival-twitter-lets-down-pundits-porn-star.html>.

⁴³ SemioCast, "Twitter Reaches Half a Billion Accounts, More Than 140 Million in the US," July 30, 2012, http://semioCast.com/publications/2012_07_30_Twitter_reaches_half_a_billion_accounts_140m_in_the_US.

⁴⁴ "The Anonymous Denizens of the Indonesian 'Twitterverse,'" *Jakarta Post*, May 7, 2013, <http://www.thejakartapost.com/news/2013/05/07/the-anonymous-denizens-indonesian-twitterverse.html>.

⁴⁵ Niniek Karmini, "AP Exclusive: Facebook Broke Indonesia Terror Case," *The Associated Press*, June 21, 2013, <http://bigstory.ap.org/article/ap-exclusive-facebook-broke-indonesia-terror-case>.

Indonesia's constitution guarantees freedom of opinion in its third amendment, adopted in 2000.⁴⁶ The constitution also includes the right to privacy and the right to gain information and communicate freely.⁴⁷ These rights are further protected by various laws and regulations.⁴⁸ However, other laws limit free expression, despite legal experts' opinions that they conflict with the constitution.⁴⁹

Approximately seven different laws involve internet use, the most prominent being the 2008 ITE Law. A 2011 State Intelligence Law introduced penalties of up to ten years' imprisonment and fines over \$10,000 for revealing or disseminating "state secrets," a term which is vaguely defined vaguely in the legislation.⁵⁰ This framework provides authorities with a range of powers to penalize internet users, even though not all are regularly implemented.

Provisions of the 2008 ITE Law have been used repeatedly to prosecute Indonesians for online expression. The law's penalties for criminal defamation, hate speech, and inciting violence online are harsh compared to those established by the penal code. Sentences allowed under Article 45 can extend to six years in prison; the maximum under the penal code is four years, and then only in specific circumstances—most sentences are less than a year and a half.⁵¹ Financial penalties show an even more surprising discrepancy. While the ITE law allows for fines up to one billion rupiah (\$80,000), the equivalent amounts in the penal code have apparently not been adjusted for inflation. Article 310, for example, allows for paltry fines of IDR 4500 for both written and spoken libel.⁵² As of May 1, 2013, that amounted to 40 cents.

The trial of housewife Prita Mulyasari for online defamation under the ITE Law is the most notable, and only concluded in September 2012. Police first detained Prita—who is widely known by her first name—for three weeks in 2009 for an email to friends that criticized her treatment at a private hospital in Tangerang city, Banten province.⁵³ The Tangerang District Court acquitted her on all criminal charges,⁵⁴ but prosecutors appealed to the Supreme Court, who sentenced her to a six-month suspended sentence and placed her on probation for one year 2011.⁵⁵ Though she did not

⁴⁶ Constitution of 1945, Article 28E(3).

⁴⁷ Constitution of 1945, Articles 28F and 28G(1).

⁴⁸ Among others, "Law No. 39 of 1999 on Human Rights," "Law No. 14 of 2008 on Freedom of Information," and "Law No. 40 of 1999 on the Press."

⁴⁹ Wahyudi Djafar et al., "Elsam, Asesmen Terhadap Kebijakan Hak Asasi Manusia dalam Produk Legislasi dan Pelaksanaan Fungsi Pengawasan DPR RI" [Assessment of the Human Rights Policy in Legislation and the Implementation of Parliament Monitoring], Institute for Policy Research and Advocacy, 2008.

⁵⁰ "Indonesian Parliament Passes Controversial Intelligence Bill," *Engage Media*, October 25, 2011, <http://www.engagemedia.org/Members/emnews/news/indoneisan-parliament-passes-controversial-intelligence-bill>.

⁵¹ Human Rights Watch, "The Legal Framework: Criminal Defamation Law in Indonesia," in *Turning Critics Into Criminals*, May 4, 2010, <http://www.hrw.org/node/90020/section/6>.

⁵² "Kitab Undang-Undang Hukum Pidana" [Criminal Law], available at *Universitas Sam Ratulangi law faculty*, http://hukum.unsrat.ac.id/uu/kuhpidana.htm#b2_16.

⁵³ Nadya Kharima, "UU ITE Makan Korban Lagi" [ITE Bill creates a victim again], *Primaironline*, May 28, 2009, <http://primaironline.com/berita/detail.php?catid=Sipil&artid=uu-ite-makan-korban-lagi>.

⁵⁴ Ismira Lutfia et al, "Prita Acquitted, But Indonesia's AGO Plans Appeal," *Jakarta Globe*, December 29, 2009, <http://www.thejakartaglobe.com/home/prita-mulyasari-cleared-of-all-charges/349844>.

⁵⁵ Faisal Maliki Baskoro and Rangga Prokoso, "Shock Guilty Verdict in Prita Mulyasari Saga," *Jakarta Globe*, July 9, 2011, <http://www.thejakartaglobe.com/jakarta/shock-guilty-verdict-in-prita-mulyasari-saga/451797>.

serve any jail time, the decision was criticized for setting a dangerous precedent.⁵⁶ The hospital also filed a parallel civil suit, despite widespread opposition from bloggers and civil society groups.⁵⁷ A court ordered her to pay the hospital 204 million rupiah (\$14,300) in damages in the civil suit,⁵⁸ though the Supreme Court reversed the ruling on appeal.⁵⁹ In 2012, the Supreme Court reviewed the criminal case again, and found her innocent of all charges.⁶⁰

The opposition to Prita's indictment did not prevent other, similar cases from going to trial. In 2012, Ira Simatupang, a doctor from a hospital in Tangerang, was charged over private emails to friends that accused a colleague of sexual harassment; the colleague denied the charge.⁶¹ She was sentenced to five months' probation without jail time in July 2012. In November, the high court extended it to two years; she said she would appeal.⁶²

Several other criminal cases disproportionate to the offence have been filed under the ITE Law in the past two years, including defamation charges filed by a member of parliament involving photos of her on Twitter,⁶³ and an SMS defamation complaint between two politicians.⁶⁴ No indictments were reported in these cases, which appeared to stall at the police level. Still, they increase self-censorship, and have begun to spur public demand for the law to be amended. Unfortunately, while an MCI spokesman promised to prioritize revising the online defamation provisions in 2013, they had yet to materialize during the coverage period of this report.⁶⁵

In 2010, the government introduced a draft Computer Crimes Law into parliament.⁶⁶ Although mostly addressing business transactions, it also stipulated restrictions on computer and internet usage, and continued the trend of prescribing harsher penalties for offenses already criminalized

⁵⁶ "Membaca Putusan Kasasi MA Dalam Kasus Prita" [Reading into Supreme Court Decision in Prita Case], *Dunia Angara*, July 22, 2011, <http://anggara.org/2011/07/22/membaca-putusan-kasasi-ma-dalam-kasus-prita/>.

⁵⁷ Hertanto Soebijoto, "Kasus Prita: Lima LSM Ajukan 'Amicus Curiae'" [Prita case: 5 NGOs submit Amicus Curiae], *Kompas*, October 14, 2009, <http://bit.ly/15BWpOA>.

⁵⁸ Cyprianus Anto Saptowalyono, "Humas PT Banten: Putusan Buat Prita Belum Berkekuatan Hukum Tetap" [Banten Corporate Public Relations: Verdict for Prita Does Not Have Legal Power], *Kompas*, December 7, 2009, <http://m.kompas.com/news/read/data/2009.12.07.13135791>.

⁵⁹ Ina Parlina, "Supreme Court Overturns Acquittal of Housewife Prita," *Jakarta Post*, July 9, 2011, <http://www.thejakartapost.com/news/2011/07/09/supreme-court-overturms-acquittal-housewife-prita.html>.

⁶⁰ "Ini Dia Kronologi Prita Mencari Keadilan," *Detik*, September 18, 2013, <http://news.detik.com/read/2012/09/18/124551/2023887/10/ini-dia-kronologi-prita-mencari-keadilan?nd771104bcj>.

⁶¹ "Prosecutor Demands Six Months in Prison for Doctor Who Sent Offensive Emails," *Jakarta Globe*, June 13, 2012, <http://bit.ly/16AfH7Q>.

⁶² Andi Saputra, "Tangis Dr. Ira, Curhat Perilaku Cabul Atasan via Email Malah Dipidana" [Dr Ira Sentenced for Obscene Email, Weeps], *Detik*, <http://bit.ly/ZLLoRx>.

⁶³ Lia Harahap, "Kartika Siap Hadapi Laporan Anggota F-Gerindra Noura Gara-gara Twitter" [Kartika ready to report Gerindra Faction Member Noura because of Twitter], *Detik*, May 13, 2011, <http://bit.ly/18Ahben>.

⁶⁴ Aprisal Rahmatullah, "Yusuf Supendi Coba Jerat Presiden PKS Dengan Pasel ITE" [Yusuf Supendi use ITE law to report PKS (Social Justice Party) President], *Detik*, March 29, 2011, <http://news.detik.com/read/2011/03/29/180409/1604007/10/yusuf-supendi-coba-jerat-presiden-pks-dengan-pasal-ite>.

⁶⁵ "Kemenkominfo Prioritaskan Revisi UU ITE Tahun Ini," *Kompas*, January 13, 2013, <http://tekno.kompas.com/read/2013/01/16/11530420/Kemenkominfo.Prioritaskan.Revisi.UU.ITE.Tahun.Ini>.

⁶⁶ The Computer Crimes Law is abbreviated as TPT or the "Tipiti bill" after its Bahasa name, *Tindak Pidana Teknologi Informasi*. Wendy Zeldin, "Indonesia: Cyber Crime Bill," Library of Congress, January 13, 2010, http://www.loc.gov/lawweb/servlet/lloc_news?disp3_l205401769_text.

under existing legislation.⁶⁷ Passage of the measure would potentially increase the number of laws regulating criminal defamation to eight, with each calling for a different sentence.

A draft law on ICT convergence to replace the Telecommunications Law, the Broadcasting Law, and possibly the ITE Law, is also under discussion. Critics have raised concerns that under the law, websites and other ICT applications would be required to obtain a license from the MCI for a fee, a process that could place restrictions on freedom of expression and the open source community, as well as Wi-Fi hotspots.⁶⁸ As of May 2013, neither of the drafts had been enacted.

The police,⁶⁹ the Indonesian Corruption Commission,⁷⁰ and the national narcotics board Badan Narkotika Nasional have legal authority to conduct surveillance in Indonesia,⁷¹ while the anti-pornography law requires cybercafe owners to monitor their customers. There is little oversight and there are few checks in place to prevent abuse of monitoring powers used to combat terrorism, the best known use of surveillance techniques. Surveillance concerns intensified in 2011 with the passage in October of a new State Intelligence Law, though several problematic provisions were removed prior to passage, partly thanks to civil society activism.⁷² International and domestic human rights groups said the law authorized the state intelligence body, Badan Intelijen Negara, to intercept communications. Although a court order is required in most cases, concerns remain that due to limits on judicial independence, permission will be granted too easily.⁷³ The law is one of at least nine that allow surveillance or wiretapping, yet the only other law that explicitly requires judicial oversight involves narcotics. Even then, the procedures are unclear. In October 2012, the Indonesian Constitutional Court rejected a request for judicial review of the State Intelligence Law by the Alliance for Independent Journalists, four other civil society groups, and thirteen individuals.⁷⁴

In 2013, news reports said the MCI was investigating three ISPs after the University of Toronto-based Citizen Lab detected FinSpy spyware from the FinFisher surveillance apparently being operated by the providers or their customers.⁷⁵

⁶⁷ Muhammad Aminudin, "Cyber Crime Menggurita, DPR Kebut UU Tindak Pidana TI" [Cybercrimes Imminent, Parliament Speedup Cybercrime Law], *Detik*, March 3, 2012, <http://inet.detik.com/read/2012/03/25/091604/1875607/399/cyber-crime-menggurita-dpr-kebut-uu-tindak-pidana-ti>.

⁶⁸ Harry Sufehmi, Twitter post, October 8, 2010, 23:30, <https://twitter.com/sufehmi>.

⁶⁹ "Law No. 16 of 2003 on the Stipulation of Government Regulation in Lieu of Law No. 1 of 2002 on the Eradication of Crimes of Terrorism" (State Gazette No. 46 of 2003, Supplement to the State Gazette No. 4285), available at: <http://bit.ly/18zYER7>.

⁷⁰ Ministry of State Secretariat of the Republic of Indonesia, "Law No. 30 of 2002 on the Anti-Corruption Commission," http://www.setneg.go.id/components/com_perundangan/docviewer.php?id=300&filename=UU_no_30_th_2002.pdf.

⁷¹ Ministry of State Secretariat of the Republic of Indonesia, "Law No. 35 of 2009 on Narcotics," <http://bit.ly/19etZoD>.

⁷² International Crisis Group, "Indonesia: Debate over a New Intelligence Bill," Asia Briefing no. 124, July 12, 2011, <http://www.crisisgroup.org/en/regions/asia/south-east-asia/indonesia/B124-indonesia-debate-over-a-new-intelligence-bill.aspx>.

⁷³ Human Rights Watch, "Indonesia: Repeal new Intelligence Law. Overbroad Provisions Facilitate Repression," October 26, 2011, <http://www.hrw.org/print/news/2011/10/26/indonesia-repeal-new-intelligence-law>.

⁷⁴ Arif Abrams, "MK Tolak Uji Materi UU Intelijen Negara" [The Court Rejected State Intelligence Law Judicial Review], *Kontan*, October 10, 2012, <http://nasional.kontan.co.id/news/mk-tolak-uji-materi-uu-intelijen-negara>.

⁷⁵ Enricko Lukman, "Indonesian Top Internet Service Providers Accused of Spying on Users," March 18, 2013, <http://www.techinasia.com/indonesian-top-internet-service-providers-accused-spying-users/>.

Mobile phone users are technically required to register their numbers with the government by text message when they buy a phone, though this obligation is often ignored. Some telecommunication companies are known to have complied with law enforcement agencies' requests for data. In 2011, amidst concerns that the RIM's Blackberry encrypted communication network would hinder anti-terrorism and anti-corruption efforts, the company reportedly cooperated with the authorities in isolated incidents,⁷⁶ and agreed to establish a local server. When they developed this in Singapore instead of Indonesia, the government threatened to introduce a regulation requiring telecommunications companies to build data centers in-country. This has yet to materialize, and RIM has resisted the pressure,⁷⁷ although some recent news reports said it was losing its market dominance.⁷⁸

There have been no reports of extralegal attacks, intimidation, or torture of bloggers or other internet users. However, it is common for police—and sometimes Islamic fundamentalist groups—to conduct searches of cybercafes without prior notice, since the venues are perceived as promoting immoral conduct.⁷⁹ Most of the searches are conducted without warrants and are rarely followed by court proceedings, leading observers to believe police carry out some raids to extract bribes from the owners.

Politically motivated cyberattacks against civil society groups have not been reported in Indonesia. However, several government websites have been targeted in the past.

⁷⁶ Arientha Primanita and Faisal Maliki Baskoro, "Pressure on BlackBerry Maker to Build Servers in Indonesia," *Jakarta Globe*, December 14, 2011, <http://www.thejakartaglobe.com/business/pressure-on-blackberry-maker-to-build-servers-in-indonesia/484588>.

⁷⁷ "RIM: Buat Apa Bangun Server Blackberry di Indonesia" [RIM: Create a Server for BlackBerry in Indonesia?], *Detik*, February 21, 2012, <http://inet.detik.com/read/2012/02/21/151942/1847914/317/rim-buat-apa-bangun-server-blackberry-di-indonesia>.

⁷⁸ "BlackBerry Searching High and Low in India, Indonesia," Reuters, February 4, 2013, <http://in.reuters.com/article/2013/02/04/blackberry-india-asia-idINDEE91300220130204>.

⁷⁹ "Shariah Police Arrest Five in Banda Aceh Punk Raid," *Jakarta Globe*, September 5, 2012, <http://www.thejakartaglobe.com/archive/shariah-police-arrest-five-in-banda-aceh-punk-raid/>.

"Police Bust High School Students for Cutting Class in Favor of Facebook," *Jakarta Globe*, March 3, 2010, <http://www.thejakartaglobe.com/home/police-bust-high-school-students-for-cutting-class-in-favor-of-facebook/361673>.