

Philippines

	2013	2014		
Internet Freedom Status	Free	Free	Population:	96.2 million
Obstacles to Access (0-25)	10	10	Internet Penetration 2013:	37 percent
Limits on Content (0-35)	5	5	Social Media/ICT Apps Blocked:	No
Violations of User Rights (0-40)	10	12	Political/Social Content Blocked:	No
TOTAL* (0-100)	25	27	Bloggers/ICT Users Arrested:	No
			Press Freedom 2014 Status:	Partly Free

* 0=most free, 100=least free

Key Developments: May 2013 – May 2014

- In February 2014, the Supreme Court upheld a contested provision in the Cybercrime Prevention Act of 2012 punishing online libel with jail terms up to eight years (see **Violations of User Rights**).
- The Supreme Court struck down other Cybercrime Prevention Act provisions that would have allowed warrantless content blocking and real-time monitoring (see **Limits on Content** and **Violations of User Rights**).
- The Magna Carta for Philippine Internet Freedom was filed in the Senate to repeal the Cybercrime Prevention Act (see **Limits on Content**).
- The Philippine National Police stepped up anti-cybercrime operations even while the cybercrime law was suspended (see **Violations of User Rights**).

Introduction

Freedom of expression online took a contentious turn in the Philippines after the Supreme Court finally ruled on the Cybercrime Prevention Act of 2012 a year after suspending the law to examine its constitutionality. On February 11, 2014, the court struck down provisions from the act which would have allowed content restrictions and warrantless monitoring of internet traffic by law enforcement in real time. However, it upheld the most contested provision, punishing online libel with up to eight years' imprisonment.¹ In the meantime, the anti-cybercrime unit of the national police—a group formed based on Section 10 of the law—stepped up operations in spite of its suspension.

During the coverage period of this report, Senator Miriam Defensor Santiago filed the Magna Carta for Philippine Internet Freedom seeking to repeal the cybercrime law. The bill, if passed, would significantly improve safeguards for freedom of expression online. It is also the first in the Philippines to be written incorporating direct input from internet users. Democracy.Net.Ph, an online group advocating freedom of expression, headed this initiative to make citizen input via ICTs a fundamental part of the legislative process.

Mobile phone use is widespread in the Philippines, but has yet to significantly boost internet penetration which remains comparatively expensive, in part because two major telecommunication companies have swallowed up lesser players through mergers and acquisitions. Inadequate information and communications technology (ICT) infrastructure has also slowed down penetration, and state-level efforts aim to address a longstanding digital divide between urban and rural areas.

Obstacles to Access

Internet penetration in the Philippines stood at 37 percent in 2013.² Usage is concentrated in urban areas, with rural areas largely underserved.³ However, most users still rely on dial-up connections; just 2.6 percent of the population had fixed broadband in 2013.⁴

Mobile phone subscriptions, on the other hand, have increased significantly in recent years, with penetration reaching 107 percent in 2013, indicating that some users have more than one device.⁵ Mobile internet lags behind. One source put smartphone penetration at just 15 percent in 2013;⁶

1 The maximum jail term for online libel was widely reported as 12 years in the months leading to the Supreme Court decision (see, Purple Romero, "DOJ Drops Online Libel in Cybercrime Law," February 14, 2014, *Rappler*, <http://www.rappler.com/nation/29801-doj-no-more-online-libel-in-new-cybercrime-act>; Jojo Malig, "Internet Libel in PH May Lead to 12 Years in Prison," September 20, 2012, *ABS-CBNnews*, <http://www.abs-cbnnews.com/-depth/09/19/12/internet-libel-may-lead-12-years-prison>). However Supreme Court Chief Justice Maria Lourdes Sereno stated that the maximum jail term is eight years for online libel under Section 6 (see, SC Decision, G.R. No. 203335, February 11, 2014, "Concurring and Dissenting Opinion," C.J. Sereno, http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2014/february2014/203335_sereno.pdf, 17.).

2 International Telecommunication Union, "Percentage of Individuals Using the Internet, 2000-2013," <http://www.itu.int/en/ITU-D/Statistics/Pages/stat/default.aspx>.

3 Tam Noda, "PH to Test TV White Space Technology in Rural Areas," February 1, 2013, *Philippine Star*, <http://www.philstar.com/nation/2013/02/01/903696/ph-test-tv-white-space-technology-rural-areas>.

4 International Telecommunication Union, "Fixed (Wired)-Broadband Subscriptions, 2000-2013."

5 International Telecommunication Union, "Mobile-Cellular Telephone Subscriptions, 2000-2013."

6 Upgrade, "PH's Smartphone Penetration Rate Lowest in Asia Pacific; Tablet Ownership Also Low," <http://www.upgrademag.com/web/phs-smartphone-penetration-rate-lowest-in-asia-pacific-tablet-ownership-also-low/>.

Philippines

another documented mobile broadband subscriptions at 4 percent of the population.⁷ Despite this, rivals Globe Telecommunications and Philippine Long Distance Telephone (PLDT) wireless subsidiary Smart Communications introduced devices for faster 4G LTE and HSPA+ data networks in late 2013,⁸ with the latter claiming a capacity to cover 85 percent of the population.⁹

The government does not place any known restrictions on internet connectivity. Indeed, bridging the digital divide through development of ICT infrastructure is one of the goals of the government's Philippine Digital Strategy for 2011 to 2016. Together with the United States Agency for International Development and Microsoft Philippines, the ICT Office of the Department of Science and Technology launched "Super Wi-Fi" connectivity in mid-2013 in Visayas.¹⁰ It uses TV White Space technologies—which tap previously unused frequencies and overcome physical obstacles—to increase connectivity in poor rural areas.¹¹ However, steep broadband subscription fees still stand in the way of higher penetration in a country where 42 percent of the population lives on US\$2 a day.¹² In December 2013, the multistakeholder coalition Alliance for Affordable Internet reported that lower income households would have to spend nearly 40 percent of their income to afford fixed broadband access, or 20 percent for mobile broadband.¹³ Even as legislators urged telecoms to cut rates by 50 percent in order to promote universal access,¹⁴ the minimum monthly subscription fee for fixed broadband slightly increased from last year, when it was less than \$20. In early 2014, PLDT charged \$22, while Globe charged \$24 for a maximum speed of 2 to 3 Mbps.¹⁵

An industry monopoly has contributed to these inflated costs. In the 1990s, government legislation allowed competitors a foothold in the market, previously dominated by the PLDT, a company that had been U.S.-owned and Philippine government-owned before its current incarnation as a private entity.¹⁶ However, in the absence of antitrust laws to promote healthy competition between businesses, the PLDT now controls 70 percent of the country's ICT sector,¹⁷ and was still planning to acquire provincial companies, according to late-2013 news reports.¹⁸

7 Broadband Commission for Digital Development, "The State of Broadband 2013: Universalizing Broadband," <http://www.broadbandcommission.org/documents/bb-annualreport2013.pdf>.

8 Lawrence Agcaoili, "Smart, Globe race to put up more 4G LTE infra sites," October 14, 2013, <http://www.philstar.com/business/2013/10/14/1244894/smart-globe-race-put-more-4g-lte-infra-sites>.

9 The Philippine Star, "2013: A defining year for LTE in Phil – Smart," <http://www.philstar.com/telecoms/2014/01/04/1274813/2013-defining-year-lte-phl-smart>.

10 Clarice Africa, "The Philippines rolls out TV White Spaces to Improve Fisherfolk Registration," July 30, 2013, <http://www.futuregov.asia/articles/2013/jul/30/philippines-rolls-out-tv-white-spaces-improve-fish/>.

11 Information and Communications Technology Office, Department of Science and Technology, "Government Announces TV White Space Plans," <http://icto.dost.gov.ph/index.php/news-events/current-news/91-government-announces-tv-white-space-plans>.

12 Oxford Poverty and Human Development Initiative, "Philippines Country Briefing," Multidimensional Poverty Index Data Bank, (University of Oxford, 2013) <http://www.ophi.org.uk/wp-content/uploads/Philippines-2013.pdf?cda6c1>.

13 Alliance for Affordable Internet, "The Affordability Report 2013," December 8, 2013, <http://a4ai.org/affordability-report-2013-launched/>.

14 Newsbytes.ph, "79% of Philippines Homes no Internet, Telcos Urged to Cut Rates," January 21, 2013, *Digital News Asia*, <http://www.digitalnewsasia.com/digital-economy/79percent-of-philippines-homes-no-net-access-telcos-urged-to-lower-rate>.

15 Rates published by PLDT and Globe Telecom, February 2014.

16 Mary Ann Li. Reyes, "PLDT: From Voice to Multi-Media (First of Two Parts)," *Philippine Star*, <http://www.philstar.com/business-usual/2012/10/22/859665/pldt-voice-multi-media-first-two-parts>.

17 Winston Castelo, "Controversy on PLDT-Digital Merger," The Official Website of Congressman Winston "WINNIE" Castelo, November 22, 2011, <http://www.winniestel.net/controversy-on-pldt-digital-merger/>.

18 TeleGeography, "PLDT Eyeing Acquisition of Provincial Telcos, Paper Says," October 29, 2013, <http://www.telegeography.com/products/commsupdate/articles/2013/10/29/pldt-eying-acquisition-of-provincial-telcos-paper-says/>.

Philippines

Although the industry appears to have diversified, some of these changes are superficial. The government reported 320 registered internet service providers (ISPs) as of 2011.¹⁹ Yet most connect through the PLDT, which owns the majority of fixed-line connections as well as the 10,000 kilometer domestic fiber-optic network that connects to several international networks. Since the completion of a new cable linking the central provinces of Palawan and Iloilo in January 2014,²⁰ the company now owns or partly owns five out of nine international cable landings.²¹

Globe Telecommunications became the sole challenger to PLDT after it purchased debts from struggling competitor Bayan Telecommunications in early 2013.²² The rivalry has not resulted in the kind of competition which reduces costs and increases efficiency for the end user. After being mired in negotiations over interconnecting their networks for several years and delaying the development of broadband services in many areas, PLDT and Globe finally arrived at an interconnection agreement in focal parts of the country, but so far, only for landlines.²³ Interconnection allows customers to communicate with rival networks without incurring extra costs.

Companies entering the market go through a two-stage process. First, they must obtain a congressional license that involves parliamentary hearings and the approval of both the upper and lower houses. Second, they need to apply for certification from the National Telecommunications Commission, which has regulated the industry with quasi-judicial powers and developed tariff and technical regulations, licensing conditions, and competition and interconnection requirements since its creation in 1979. The constitution limits foreign ownership of local businesses to 40 percent. Internet service is currently classified as a value-added service and is therefore subject to fewer regulatory requirements than mobile and fixed phone services.

Institutions governing the ICT sector are highly bureaucratic, often with ambiguous or overlapping responsibilities which slow the pace of development. Successive government administrations have modified the structure of official ICT bodies, including President Benigno Aquino. His Executive Order 47 of 2011 established an Information and Communications Technology Office under the Department of Science and Technology (DOST) tasked with conducting research, development, and capacity-building in the ICT industry.²⁴ However, the division of labor between this office and the Department of Transportation and Communications, which also deals with ICT-related communications, as well as the National Computer Center and the Telecommunications Office, was hard to perceive.

A streamlining process is anticipated. In 2012, Senate Bill No. 50 created a specialized Department of Information and Communications Technology. Since March 7, 2012, the bill remains pending before

19 Republic of the Philippines National Statistics Office, "Philippines in Figures 2013," <http://www.census.gov.ph/content/2013-philippines-figures>.

20 Miguel R. Camus, "PLDT Completes Palawan-Iloilo Link," *Philippine Daily Inquirer*, <http://business.inquirer.net/161769/pldt-completes-palawan-iloilo-link>.

21 TeleGeography, "Submarine Cable Map," last updated February 1, 2014, <http://www.submarinecablemap.com/#/country/philippines>.

22 By October, it owned 39 percent of Bayan and is awaiting approval from the National Telecommunications Commission to assume full control. See, TeleGeography, "Court Backs Globe-Bayantel Frequency Sharing," January 30, 2014, <http://www.telegeography.com/products/commsupdate/articles/2014/01/23/court-backs-globe-bayantel-frequency-sharing/>.

23 "Globe, PLDT Interconnect Landlines in Davao del Norte," ABS-CBN news, September 9, 2013, <http://www.abs-cbnnews.com/business/09/09/13/globe-pldt-interconnect-landlines-davao-del-norte>.

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

Philippines

a bicameral conference committee before being transmitted to the president for approval.²⁵ If approved, all other ICT-related agencies will be abolished and their powers and personnel transferred to the new department.

All relevant government bodies are headed by presidential appointees. Critics believe this creates a dependence on the incumbent administration, which determines their budget.²⁶

Limits on Content

In February 2014, the Supreme Court struck down provisions of the 2012 Cybercrime Prevention Act which would have enabled the justice department to “restrict or block” a range of online content without a court order.²⁷ There are no signs it was implemented during the coverage period while the law was on hold, despite some internet users’ fears it had been evoked to block a torrent site allegedly hosting pirated entertainment content.

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

Section 19, the infamous “takedown” clause of the Cybercrime Prevention Act that was signed into law on September 12, 2012, would have allowed the Department of Justice to “restrict or block” content without a court order, including some overly broad categories like “cybersex,” which failed to differentiate between consensual and illegal acts.²⁸ The Supreme Court issued an indefinite restraining order on the law in 2013 to consider its constitutionality. In early 2014, the court postponed its ruling after voting among the justices became “complicated.”²⁹ In February, however, the Supreme Court ruled the section unconstitutional, while upholding other provisions criminalizing online libel (see Violations of User Rights).

In June 2013, the Intellectual Property Office (IPO) blocked the torrent hosting website kat.ph as an antipiracy measure under administrative powers it was granted in 2011. Some observers mistakenly feared the IPO was invoking the “takedown” clause as a proxy for the Department of Justice.³⁰

25 Ricardo Saludo, “Will ICT Finally Get its Own Department?,” *Manila Times*, April 30, 2012, <http://www.manilatimes.net/index.php/opinion/columnist1/21967-will-ict-finally-get-its-own-department> .

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

27 Mark Merueñas, “Internet libel in cybercrime law constitutional – SC,” February 18, 2014, <http://www.gmanetwork.com/news/story/348945/scitech/technology/internet-libel-in-cybercrime-law-constitutional-sc>

28 “Republic Act 10175,” Official Gazette, September 12, 2012, <http://www.gov.ph/2012/09/12/republic-act-no-10175/>.

29 Buena Bernal, “‘Complicated Voting’ on Cybercrime Law,” *Rappler*, February 4, 2014, <http://www.rappler.com/nation/49622-supreme-court-to-decide-cybercrime>.

30 J.M. Tuazon, “Kat.ph Seizure Raises Specter of Cybercrime Law’s ‘Take down clause,’” *Interaksyon*, June 17, 2013, <http://www.interaksyon.com/infotech/kat-ph-seizure-raises-specter-of-cybercrime-laws-takedown-clause>.

Philippines

On July 1, 2013, Senator Miriam Defensor Santiago refiled the Magna Carta for Philippine Internet Freedom in the Senate.³¹ The bill attracted widespread support and discussion on social media.³² Democracy.Net.PH, a group of internet freedom advocates, was particularly active,³³ and Santiago credited the group for spearheading citizen participation in drafting a provision that “provides for court proceedings in cases where websites or networks are to be taken down and prohibits censorship of content without a court order.”³⁴

There have been no reports of officials putting pressure on online journalists or bloggers to delete content that is critical of the authorities. However, many news websites are online versions of traditional media which self-censor due to the level of violence against journalists in the Philippines. While the same attitude may be reflected in their online output, the degree is difficult to establish. Notably, however, one of the Senate’s main proponents of the libel clause in the Cybercrime Prevention Act argued that it would instill self-censorship in internet users—the actual phrase was “think before you click,” according to local blogger Raïssa Robles.³⁵

More generally, the Philippine blogosphere is rich and thriving. Both state and nonstate actors actively use the internet as a platform to discuss politics, especially during elections. In 2011, the Department of Education negotiated with the Department of Budget Management to increase funding for state universities and colleges for fiscal year 2012 after a “planking” protest,³⁶ where demonstrators lay face down in the street, was organized via online petition against projected budget cuts.³⁷ In 2013, internet users mobilized to protest the alleged misuse of PHP 10 billion (\$220 million) from a Priority Development Assistance Fund, locally dubbed the “pork barrel,” by senators and congressmen. A Facebook petition called for the abolition of the fund and the filing of criminal charges against the lawmakers.³⁸ Nationwide protests dubbed the Million People March on August 26, incidentally the country’s National Heroes Day, and attended by 350,000 protesters in Manila alone.³⁹ Following the protests, the Supreme Court declared the fund unconstitutional on Novem-

31 Senate of the Philippines, “Magna Carta for Philippine Internet Freedom,” accessed July, 2013, http://www.senate.gov.ph/lis/bill_res.aspx?congress=16&q=SBN-53.

32 “Pinoy Netizens Welcome Miriam’s Online Rights Bill,” ABS-CBNnews, July 4, 2013, <http://www.abs-cbnnews.com/nation/07/03/13/pinoy-netizens-welcome-miriams-online-rights-bill>. Its counterpart, House Bill No. 1086, was also filed in House of Representatives. See Center for Media Freedom and Responsibility, “Update: the Cybercrime Prevention Act of 2012,” <http://www.cmfr-phil.org/2013/09/12/update-the-cybercrime-prevention-act-of-2012/>.

33 Democracy.Net.Ph, “Democracy.Net.Ph. Marks First Anniversary of the Drafting of the Magna Carta for Philippine Internet Freedom (MCPiF),” <http://democracy.net.ph/democracy-net-ph-marks-anniversary-drafting-magna-carta-philippine-internet-freedom-mcpif/>.

34 Norman Bordadora, “Santiago Proposes Magna Carta for Internet,” *Inquirer*, December 1, 2012, <http://technology.inquirer.net/20769/santiago-proposes-magna-carta-for-internet#ixzz2RJNaXMVZ>; Louis Bacani, “Crowdsourcing’ Bill Allows Citizens’ Online Participation in Lawmaking,” *Philippine Star*, July 4, 2013, <http://www.philstar.com/science-and-technology/2013/07/04/961568/crowdsourcing-bill-allows-citizens-online-participation>.

35 Raïssa Robles, “Who Inserted that Libel Clause in the Cybercrime Law at the Last Minute?,” *RaïssaRobles*, September 18, 2012, <http://raissarobles.com/2012/09/18/who-inserted-that-libel-clause-in-the-cybercrime-law-at-the-last-minute/>.

36 Freedom House, “Freedom on the Net 2012,”

37 Kimberly Jane Tan, “CHED Negotiating SUC Budget Increase,” *GMA News*, October 4, 2011.

38 David Lozada, “Aug 26 Anti-pork Barrel Protests Spread Nationwide,” *Rappler*, August 24, 2013, <http://www.rappler.com/move-ph/37195-aug-26-anti-pork-barrel-protests-nationwide>.

39 “Thousands join Million People March vs Pork,” ABS-CBNnews, August 26, 2013, <http://www.abs-cbnnews.com/nation/08/26/13/thousands-join-million-people-march-vs-pork>.

ber 19, 2013.⁴⁰ On April 1 the following year, the Office of the Ombudsman announced that it found probable cause to indict three senators and several NGO officials for plunder and graft.⁴¹

Violations of User Rights

In February 2014, the Supreme Court upheld the contentious libel provision in the Cybercrime Prevention Act, maintaining criminal penalties of up to eight years' imprisonment for online libel—double the maximum sentence for regular libel under the penal code. However, it clarified that commenting on a libelous post would not be penalized, and struck down other sections which would have allowed authorities to access computer data without a warrant. In the meantime, a police anti-cybercrime unit formed under the law continued to operate, ignoring its suspension in 2013. Besides the Magna Carta for Internet Freedom, two other positive bills made progress towards passage, including an act that would allow citizens to comment on pending bills via ICTs and a freedom of information bill that has been pending for the past 22 years.

The Bill of Rights of the 1987 constitution protects freedom of expression (Section 4) and privacy of communication (Section 1).⁴² However, some laws undermine those protections. Libel is punishable by fines and imprisonment under Articles 353 and 360 of the Revised Penal Code. This has historically been challenging to prove in online cases which lack a physical place of publication—one of the requirements for an offline prosecution—and in 2007, a Department of Justice resolution established that the Articles do not apply to statements posted on websites.⁴³

Section 4c (4) of the 2012 cybercrime law, however, classified libel as a cybercrime. Section 6 stipulates a higher degree of punishment and fines for the identical offense perpetrated offline, which is punishable by six months' to four years and two months' imprisonment under the revised penal code.⁴⁴ The Supreme Court suspended implementation of the law after widespread protests, but in a long-awaited decision handed down in February 2014, ruled that the libel provision was constitutional, keeping the disproportionate penalties on the books. However, it clarified that users reacting online to a libelous post could not be held liable, and struck down Sections 12 and 19 that would have allowed law enforcers to monitor and collect real-time traffic data without a court order.⁴⁵ On April 8, 2014, the Department of Justice began the first round of public consultations for the formulation of the Implementing Rules and Regulations (IRR) governing the act in accordance with Section

40 Mark Merueñas, "Supreme Court Declares PDAF Unconstitutional," *GMA News*, <http://www.gmanetwork.com/news/story/336120/news/nation/supreme-court-declares-pdaf-unconstitutional>.

41 Office of the Ombudsman, "Ombudsman Solves First Batch of PDAF Criminal Cases," press release, April 1, 2014, <http://www.ombudsman.gov.ph/docs/pressreleases/PDAFResolutions.pdf>.

42 "1987 Philippine Constitution, Article III, Bill of Rights," via Asian Human Rights Commission, accessed July 2013, http://philippines.ahrchk.net/news/mainfile.php/leg_sel/15/.

43 Department of Justice, Resolution No. 05-1-11895 on Malayan Insurance vs. Philip Piccio, et al., June 20, 2007. 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. Critics have further noted that the Revised Penal Code, which dates from 1932, long predates digital technology, and therefore shouldn't be applied to digital content.

44 Purple Romero, "DOJ Holds Dialogue on 'E-Martial Law,'" October 9, 2012, *Rappler*, <http://www.rappler.com/nation/13837-it-s-not-e-martial-law>.

45 See full decision (p.48), "G.R. No. 203335. February 18, 2014," Supreme Court of the Philippines, <http://sc.judiciary.gov.ph/48>.

Philippines

28 that gives the department 90 days to produce the IRR.⁴⁶ After seven public consultations, with the final session held on May 16, the justice department has yet to release the final document.⁴⁷

If passed, the Magna Carta for Internet Freedom would repeal the cybercrime law and treat online libel as a civil, not a criminal act, with penalties determined by the courts and commensurate to actual damages suffered. It also requires a court order for authorities seeking to obtain any data pertinent to acts criminalized under the bill.⁴⁸ It would further mandate the dissemination of public information as long as such information does not go against provisions in existing laws.⁴⁹

The Magna Carta initiative was supported by Senator Teofisto Guingona III, who filed the Crowdsourcing Act of 2013 in July. Also known as Senate Bill No. 73, the act would not only allow citizens to participate in the legislative process through the use of ICTs, but also require lawmakers to include the people's comments in committee reports concerning pending bills. If passed, it would make some important measures mandatory: the people's committee hearings shall be held in Congress (Section 6); continuous online participation by the people while debates are being held on the floor (Section 7); and a pre-approval consultation (Section 8) wherein the President of the Philippines, before signing a bill into law, must allow people to send online comments about the bill for five days and subsequently consider the comments for at least another three days.⁵⁰ Both bills are still pending in the Science and Technology Committee a year after they were filed.

In another welcome development, the Senate approved the People's Freedom of Information Act of 2013 on its third and final reading on March 10, 2014, 22 years after it was first filed in Congress.⁵¹ Its counterpart in the lower chamber is still awaiting concurrence. It is not clear how long it would take legislators to pass it into law, though the speaker of the house promised to approve it before the end of 2016.⁵² Like the Crowdsourcing Act and the Magna Carta for Internet Freedom, this would also require the government to provide information to the people upon request, subject to national security or data privacy exceptions.⁵³ Overlapping provisions from the three bills could yet be combined.

Despite the Supreme Court's positive ruling to block the cybercrime law's potential for abuse of privacy, some fear that Philippine authorities have already used it as a basis to conduct unauthorized surveillance. Acting on Section 10 of the law, the Philippine National Police created an anti-cybercrime group in March 2013,⁵⁴ said that the restraining order on the law was hindering their opera-

46 Department of Justice, "Public Consultations on Cybercrime IRR begins," April 8, 2014, <http://www.doj.gov.ph/news.html?title=Public%20consultations%20on%20Cybercrime%20IRR%20begins&newsid=276>.

47 Kim Luces, "7th Public Consultation for Cybercrime Prevention Act IRR Meant to be Last," May 17, 2014, *GMA News*, <http://www.gmanetwork.com/news/story/361400/scitech/technology/7th-public-consultation-for-cybercrime-prevention-act-irr-meant-to-be-last>.

48 Jillian C. York, "A Brief Analysis of the Magna Carta for Philippine Internet Freedom," <https://www.eff.org/deeplinks/2013/07/brief-analysis-magna-carta-philippine-internet-freedom>.

49 Magna Carta for Internet Freedom Bill, http://www.senate.gov.ph/lis/bill_res.aspx?congress=16&q=SBN-53.

50 Crowdsourcing Act, <http://www.senate.gov.ph/lisdata/1589313132!.pdf>; Senator Guingona's primer on the bill available at The Guingona Project, <http://theguigonaproject.com/>.

51 Center for Media Freedom and Responsibility, "Freedom of Information: Timeline of FOI Legislation in the Philippines," <http://www.cmfr-phil.org/freedom-of-information/>.

52 Kristine Angeli Sabillo, "FOI Bill Passed by Senate," *Inquirer*, March 10, 2014, <http://newsinfo.inquirer.net/584008/foi-bill-passed-by-senate>.

53 People's Freedom of Information Act of 2013, <http://www.senate.gov.ph/lisdata/1787815101!.pdf>.

54 Official Homepage of the Philippine National Police, "PNP Activates Anti-Cybercrime Group," press release, March 21, 2013, <http://do.pnp.gov.ph/index.php/11-pio/83-pnp-activates-anti-cybercrime-group>.

Philippines

tions,⁵⁵ and warned that they would pursue violators in spite of it.⁵⁶ While most publicized investigations involved online fraud or child pornography, some internet users feared legitimate activity like online dating might also be targeted under the law's overbroad parameters.⁵⁷ Media reports did not provide details of the surveillance and monitoring methods the group used to gather evidence. In February, the group said cybercrime investigations were ongoing in 31 out of a total 81 Philippine provinces.⁵⁸ The first case filed under the act following the Supreme Court's decision involved unauthorized financial transactions.⁵⁹

A 2012 Data Privacy Act established parameters for the collection of personal financial information and an independent privacy regulator.⁶⁰⁶¹ Other laws with privacy implications include the Anti-Child Pornography Act of 2009 which explicitly states that its section on ISPs may not be "construed to require an ISP to engage in the monitoring of any user,"⁶² though it does require them to "obtain" and "preserve" evidence of violations, and threatens to revoke their license for non-compliance; Section 12 of the law also authorizes local government units to monitor and regulate commercial establishments that provide internet services. 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 activity.⁶³ To date, no abuse of this law has been reported.

There are no restrictions on anonymous communication in the Philippines. The government does not require users register to subscribe to internet and mobile phone services, and prepaid services are widely available, even in small neighborhood stores. However, reports about the increasing frequency of crimes committed on the internet, particularly rising incidents of child pornography, have

55 Xianne Arcangel, "TRO on Cybercrime Law No Excuse for 'Inaction' on Child Porn – IBP official," *GMA News*, January 18, 2014, <http://www.gmanetwork.com/news/story/344463/news/nation/tro-on-cybercrime-law-no-excuse-for-inaction-on-child-porn-ibp-official>

56 Loui S. Maliza, "Oro Police Warn Hackers, Internet Users," *Sunstar*, January 13, 2014, <http://www.sunstar.com.ph/cagayan-de-oro/local-news/2014/01/13/oro-police-warn-hackers-internet-users-322946>.

57 "4 Koreans Nabbed for 'Voice Phishing,'" *Interaksyon*, October 31, 2013, <http://www.interaksyon.com/article/73873/4-koreans-nabbed-for-voice-phishing>; Kristine Venet Q. Andal, "Police, Chinese Lawmen Raid Safehouses," *Sunstar*, January 23, 2014, <http://www.sunstar.com.ph/pampanga/local-news/2014/01/23/police-chinese-lawmen-raid-safehouses-324703>; Amanda Fernandez, "PNP Arrests 35 Foreigners, 30 Pinoys in Cybercrime Rings," *GMA News*, August 13, 2013, <http://www.gmanetwork.com/news/story/321831/news/nation/pnp-arrests-35-foreigners-30-pinoys-in-cybercrime-rings>.

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Philippines

prompted some government officials and law enforcers to call on Congress to pass a law requiring the registration of SIM cards for prepaid subscribers.⁶⁴

Violence against journalists is a significant problem in the Philippines. As of April 2014, the Committee to Protect Journalists reported at least 76 Philippine journalists had been killed in relation to their work—most covering political beats—since the organization started compiling records in 1992.⁶⁵ Not one of these murders has been fully prosecuted—meaning that not everyone responsible for ordering and executing each killing has been tried and convicted—creating an entrenched culture of impunity that sends the message that individuals exercising free speech can be attacked at will. There have been no prominent cases reported of attacks on bloggers for online expression, though some fear that may change as internet penetration grows and more people turn to web-based news sources.

There have been no reports of politically motivated incidents of technical violence or cyberattacks perpetrated by the government towards private individuals. The hacktivist group Anonymous Philippines claimed responsibility for defacing several government and private websites in November 2013 at the height of the protests against the cybercrime law and the pork barrel scam.⁶⁶ On November 5, police detained and questioned five self-identified members of the group during an anticorruption rally outside the House of Representatives; they were released without charge.⁶⁷ A week later, the National Bureau of Investigation traced an IP address they said they had links to illegal hacking to an internet shop in the southern Philippines, where they arrested one customer; the bureau said he could face charges.⁶⁸

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