INDONESIA

	2009	2011
INTERNET FREEDOM STATUS	**n/a**	**Partly Free**
Obstacles to Access	n/a	14
Limits on Content	n/a	13
Violations of User Rights	n/a	19
Total	**n/a**	**46**

POPULATION: 235.5 million
INTERNET PENETRATION: 18 percent
WEB 2.0 APPLICATIONS BLOCKED: No
SUBSTANTIAL POLITICAL CENSORSHIP: No
BLOGGERS/ONLINE USERS ARRESTED: Yes
PRESS FREEDOM STATUS: Partly Free

INTRODUCTION

Digital communication in Indonesia has developed rapidly since 1994, when the first commercial internet-service provider (ISP) introduced it to the public. This growth has expanded avenues for freedom of expression and access to information for ordinary Indonesians. In particular, the popularity of social-networking applications has grown exponentially, with Indonesia becoming home to some of the largest contingents of Twitter and Facebook users in the world.

However, the authorities have also sought to regulate online content in recent years. In the process, a number of actions taken, including passage of the Law on Information and Electronic Transactions (ITE Law) of 2008, have fallen short of international democratic standards. In 2009 and 2010, there were several incidents in which platforms for user-generated content were blocked, at least eight individuals have faced prosecution for comments made online, and the government has considered implementing regulations that would require ISPs to filter certain content, including information of political consequence. Together, these measures and an atmosphere of legal uncertainty have raised concerns that in the near future greater restrictions on internet freedom could emerge. Bloggers, civil society groups, and ISPs have resisted such efforts via online mobilization and advocacy, in some instances successfully fending off new restrictions or reversing existing ones.

OBSTACLES TO ACCESS

Access to the internet has grown dramatically since 1998, when the government reported that only 0.26 percent of the population had used the medium.[1] By 2009, Indonesia had an estimated 20 million internet users, according to the International Telecommunications Union (ITU).[2] In June 2010, the Ministry of Communications and Information Technology (MCI) reported that the number had reached 45 million, or approximately 18 percent of the population.[3] Access has not been evenly distributed across the country due to poverty and poor infrastructure in rural areas. Given Indonesia's archipelagic geography, cable infrastructure has been costly to provide and is mostly confined to urban areas, particularly on the islands of Java and Bali. Consequently, although the number of broadband internet connections has doubled since 2006,[4] broadband service remains prohibitively expensive or otherwise unavailable to many Indonesians. A personal broadband internet connection currently costs 75,000 to 160,000 Indonesian rupiah (US$8-14) per month; by comparison, the average monthly per capita income among the poorest segments of the population is 200,000 rupiah (US$22),[5] and in Jakarta the minimum wage for workers is about 1.1 million rupiah (around US$122) per month.[6] Most of those with home broadband connections are therefore middle- or upper-class urban residents, particularly in cities on Java. Cybercafes have played a key role in enabling internet access to penetrate every corner of Indonesia at a relatively low price.

The growth of internet access via mobile phones has been a positive development, as prices are relatively affordable and the cost of the necessary infrastructure is far less than for cable broadband. Telkomsel, the largest mobile-phone service provider, has reported that mobile-phone internet service is available in all major cities and the capitals of all regencies.[7]

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[1] International Telecommunication Union, "ICT Statistics 2000—Internet," http://www.itu.int/ITU-D/icteye/Reporting/ShowReportFrame.aspx?ReportName=/WTI/InformationTechnologyPublic&ReportFormat=HTML4.0&RP_intYear=2000&RP_intLanguageID=1&RP_bitLiveData=False.

[2] International Telecommunication Union, "ICT Statistics 2009—Internet," http://www.itu.int/ITU-D/icteye/Reporting/ShowReportFrame.aspx?ReportName=/WTI/InformationTechnologyPublic&ReportFormat=HTML4.0&RP_intYear=2009&RP_intLanguageID=1&RP_bitLiveData=False.

[3] Ardhi Suryadhi, "Pengguna Internet Indonesia Capai 45 Juta"[Indonesian Internet Users Reach 45 Million], Detikinet, June 9, 2010, http://us.detikinet.com/read/2010/06/09/121652/1374756/398/pengguna-internet-indonesia-capai-45-juta.

[4] BuddeComm, *2007 Asia—Telecoms, Mobile and Broadband in Indonesia and Timor Leste* (Bucketty, Australia: BuddeComm, 2007), http://www.budde.com.au/Research/2007-Asia-Telecoms-Mobile-and-Broadband-in-Indonesia-and-Timor-Leste.html.

[5] Badan Pusat Statistik, Jumlah dan Presentase Penduduk Miskin, Garis Kemiskinan, Indeks Kedalaman Kemiskinan, dan Indeks Keparahan Kemiskinan, Menurut Propinsi, pada Maret 2009, [Central Bureau of Statistics, Number and Percentage of Poor Population, Poverty Line, Poverty depth index, and index of severity of Poverty, by Province, March 2009], http://www.bps.go.id/tab_sub/view.php?tabel=1&daftar=1&id_subyek=23&notab=3.

[6] "UMP Jakarta 2010 Naik 4,5 Persen" [Jakarta Per Capita Minimum Wage increases 4.5 percent in 2010], Kompas.com, November 13, 2009, http://megapolitan.kompas.com/read/2009/11/13/18491935/UMP.Jakarta.2010.Naik.4.5.Persen.

[7] Chanuka Wattegama, Juni Soehardjo, and Nilusha Kapugama, "Telecom Regulatory and Policy Environment in Indonesia: Results and Analysis of the 2008 TRE Survey," March 18, 2008, p. 8 [henceforth "TRE Survey"], http://www.lirneasia.net/wp-content/uploads/2009/07/TRE_Indonesia_2009Mar18.pdf.

Such widespread service, together with the proliferation of cheaper phones and related devices, has contributed to a drastic increase in the number of internet users over the past two years. Between June 2008 and June 2009, the number of mobile internet users rose from 300,000 to over one million.[8]

The Indonesian government, and especially the MCI, has made the expansion of internet usage a priority. It has decreased tariffs on fixed-line and mobile-phone use, and launched a program to establish so-called Smart Villages (Desa Pintar), which would have good internet access and mobile-phone reception. The aim is to enable all villages to have internet access by 2014.[9] Separately, civil society groups have promoted the RT/RW Net product, despite the fact that it is currently prohibited by the government. The system uses wireless technology to allow multiple users to share a broadband connection, thereby reducing the cost of access per household significantly.[10]

The video-sharing site YouTube, the social-networking site Facebook, and international blog-hosting services are generally available without interference. Indeed, the number of Indonesian Facebook users has grown exponentially in recent years, from 2 million in 2009 to over 30 million by the end of 2010, the second most users in the world.[11] However, in April 2008 the minister of communication and information sought to limit circulation of the anti-Islamic Dutch film *Fitna* in Indonesia after coming under pressure from groups such as the Majelis Ulama Indonesia (MUI), the country's official council of Muslim clerics. The minister ordered ISPs to "immediately use all effort to block all sites and blogs which post the *Fitna* movie." ISPs across the country consequently blocked access to content-sharing sites including YouTube, MySpace, Multiply, RapidShare, and Metacafe. In response, several corporations filed lawsuits against the Association of Indonesian Internet Service Providers (APJII), requesting compensation for lost marketing and advertising revenue, while individual users circulated petitions urging the government to retract the ban on the applications. After about a week, the government yielded to public pressure and withdrew its order.[12]

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[8] Spire Research and Consulting, "Indonesia: Asia's Mobile Internet Success Story," *Spire E-Journal* (December 2009), http://www.spireresearch.com/pdf/archive/ejournal-dec09/Indonesia-%20Asia%27s%20mobile%20internet%20success%20story.pdf.

[9] Suci Astuti, "Depkominfo Sampaikan Program Kerja 100 Hari" [The Ministry of Communication and Information Conducts a 100 Day Program], Elshinta Radio, November 23, 2009, http://www.elshinta.com/v2003a/readnews.htm?id=82635.

[10] Harry Sufehmi, "Kalengbolic, Solusi Internet Kecepatan Tinggi & Murah Meriah" [Kalengbolic, The Fastest and Cheapest Internet Solution], *Harry.Sufehmi.com* (blog), April 7, 2008, http://harry.sufehmi.com/archives/2008-04-07-1628/; interview with Harry Sufehmi, Second Deputy Chairperson of Open Source Association of Indonesia (AOSI) and information-technology practitioner, May 17, 2010.

[11] Nick Burcher, "Facebook Usage Statistics—March 2010 (with 12 month increase figures)," *Nick Burcher* (blog), March 31, 2010, http://www.nickburcher.com/2010/03/facebook-usage-statistics-march-2010.html.

[12] Geoff Thompson, "Indonesia Bans YouTube, MySpace," Australian Broadcasting Corporation (ABC), April 10, 2008, http://www.abc.net.au/news/stories/2008/04/10/2212779.htm?section=entertainment; "Download Surat 'Ultimatum' Menkominfo Untuk Pemblokiran" [Download the Warning Letter from The Ministry of Communication and Information on (internet) Blocking], Detikinet, April 4, 2008, http://www.detikinet.com/index.php/detik.read/tahun/2008/bulan/04/tgl/04/time/175015/idnews/918570/idkanal/447

The government responded more mildly in May 2010 when an account on Facebook promoted a competition to draw the prophet Muhammad. Organizations including the Islamic Group Forum and the Indonesian Student Action Muslim Union urged the government to ban Facebook,[13] but rather than issuing instructions to block the full application, the authorities sought to focus their censorship measures on the account in question. Officials sent a letter to Facebook urging closure of the account, asked all ISPs to limit access to the account's link as the content was in violation of the ITE Law, and invited the Indonesian Association of Internet Cafe Entrepreneurs to restrict access to the group. Due to opposition from bloggers and civil society, however, ISPs disregarded the government's requests, and the account remained accessible. While commending the decision not to fully block Facebook, free expression advocates raised concerns over government officials' attempt to use the incident to energize plans to censor the internet more systematically.[14]

Indonesia has a range of privately-owned digital media service providers, though some are known to have close ties to government ministers. As of 2007, there were 298 ISPs operating throughout Indonesia, the six largest being Bakrie Telecom, Indosat, Indosat Mega Media, Telkom, Telkomsel, and dan XL Axiata.[15] This dominance, together with regulatory obstacles imposed by the government, have created a significant barrier for small ISPs to enter the market legally. As of early 2010, there were 9 mobile-phone service providers, of which the most prominent were PT Telkomsel, PT Indosat, and PT XL Axiata, with Telkomsel itself covering 50 percent of the market.[16] The country's main network-access providers (NAPs), which link retail-level ISPs to the internet backbone, are concentrated on Java, and particularly in Jakarta.

Government permission is required to develop internet infrastructure and establish cybercafes, and some analysts have attributed the lack of infrastructure in much of the country to ineffective regulation and restrictive government policies.[17] The MCI, with its Directorate General of Post and Telecommunication (DGPT), is the primary body

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[13] Hanin Mazaya, "Panggil ISP, Menkominfo akan blokir Facebook?" [Call your ISP, The Minister of Communication and Information will block Facebook?], Arrahmah.com, May 20, 2010, http://www.arrahmah.com/index.php/news/read/7894/panggil-isp-kominfo-akan-blokir-facebook.

[14] Aliansi Jurnalis Independen [Alliance of Independent Journalists] (AJI), "RPM Konten Multimedia adalah 'sensor 2.0'" [Multimedia content of RPM is Censor 2.0], news release, May 20, 2010, http://www.ajiindonesia.org/index.php?option=com_content&view=article&id=224:aji-rpm-konten-multimedia-adalah-sensor-20&catid=14:alert-bahasa-indonesia&Itemid=287.

[15] Ministry of Communication Information Technology (MCI), "Press Conference of Minister of Kominfo Tifatul Sembiring on Preparation of Plan for Blocking Internet Porn," press release, August 10, 2010, http://bit.ly/9N8NWk.

[16] Hendarsyah Tarmizi, "Mergers and acquisitions inevitable in mobile phone industry," *Jakarta Post,* March 1, 2010, http://www.thejakartapost.com/news/2010/03/01/mergers-and-acquisitions-inevitable-mobile-phone-industry.html; Direktorat Jenderal Pos dan Telekomunikasi, Kementerian Komunikasi dan Informasi, Buku Statistik Bidang Pos dan Telekomunikasi 2009, [The Directorate General of Post and Telecommunication, The Ministry of Communication and Information, Statistics Book on Post and Telecommunication 2009], http://www.postel.go.id/webupdate/Download/Data_Statistik_Smt-1_09.pdf; TRE Survey, 9.

[17] TRE Survey, 12.

overseeing telephone and internet services; it is responsible for issuing licenses for ISPs, cybercafes, and mobile-phone service providers. In addition, the Indonesia Telecommunication Regulation Body (BRTI) conducts regulation, supervision, and control functions related to telecommunications services and networking. In practice, there is an unclear overlap between the mandates and work 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.[18]

LIMITS ON CONTENT

The introduction of the internet has expanded Indonesians' access to information, as they are no longer dependent on traditional media (television, radio, and newspapers) for news. Many Indonesians, especially those from the urban middle and upper classes, have adopted the internet as their main information source. In response, the government's approach to the internet has shifted as well. In March 2008, the government passed the ITE Law, which broadened the authority of the MCI to include supervision of the flow of information and possible censorship of online content.[19] Since then, several initiatives have raised the possibility of increased censorship, though none appear aimed at systematically targeting content critical of the government or current administration. Strong opposition from civil society and, to an extent, from ISPs has successfully derailed some such plans.

Following enactment of the ITE Law, the ministry began exploring ways to restrict content deemed to constitute a disturbance to public order, but few measures had been taken by the end of 2009. In early 2010, the ministry published a draft Regulation on Multimedia Content that, if implemented, would require ISPs to filter or otherwise remove certain material. The types of content listed include vaguely worded categories such as pornography, gambling, hate incitement, threats of violence, exposure of private information, intellectual property, false information, and content that degrades a person or group on the basis of a physical or nonphysical attribute, such as a disability.[20] The regulation

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[18] TRE Survey, 16.

[19] Article 40(2) of 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.

[20] Ministry of Communication and Information, "Tentang Sikap Kementerian Kominfo Dalam Menyikapi Peningkatan Maraknya Penyalah-Gunaan Layanan Internet" [About the Ministry of Communication and Information's Stance in Addressing the Increase of Internet Service Abuse], news release, February 11, 2010, http://www.depkominfo.go.id/berita/siaran-pers-no-22pihkominfo22010-tentang-sikap-kementerian-kominfo-dalam-menyikapi-peningkatan-maraknya-penyalah-gunaan-layanan-internet/ .

also calls for the creation of a Multimedia Content Screening Team, which many fear would essentially function as an internet censorship body.[21] The team would consist of 30 people and be headed by the DGPT director; half of the members would be government officials, and the other half would come from civil society, most likely from groups closely affiliated with the government.[22] The panel's tasks would include identifying websites with illegal content, and taking punitive measures, such as imposing fines or revoking the licenses of providers that enable the content's continued circulation. The draft regulation includes no procedure for appeals of a team decision; while affected users might file a civil suit, that would not be a practical or timely remedy for inappropriate content removal, given the Indonesian courts' already large backlog of cases.

The announcement of the draft regulation prompted strong opposition from society, especially from ISPs and journalists.[23] The Alliance of Independent Journalists (AJI) raised concerns over the vague wording and broad range of information that would be affected, as well as the creation of a government-run content control institution, particularly one that would target advanced web applications. It argued that such a mechanism would not be in compliance with the Indonesian constitution or the Press Law, and urged the government to instead set up a more diverse, multi-stakeholder commission to regulate internet content.[24] Following the public outcry, the government announced that it would take time to process suggestions from the public before proceeding with the draft regulation.[25] Nevertheless, the proposal was not formally terminated, prompting fears that it might be resurrected in the future.

To date, the authorities are not known to have placed any restrictions on content addressing political issues, criticizing the authorities, or spreading ideology that is not in line with that of the government. However, in August 2009, after arresting Muhammad Jibril, publisher of a radical Islamist website and magazine,[26] for allegedly arranging funding for bombings at two hotels in Jakarta the previous month, the authorities temporarily shut

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[21] Enda Nasution, "Selamat Datang Lembaga Sensor Internet Indonesia" [Welcome to the Institute of Indonesian Internet Censorship], Politikana, February 12, 2010, http://www.politikana.com/baca/2010/02/12/selamat-datang-lembaga-sensor-internet-indonesia.html.

[22] Carolina Rumuat, "SOS Internet Indonesia," Global Voices, February 17, 2010, http://globalvoicesonline.org/2010/02/17/sos-internet-indonesia/.

[23] Southeast Asian Press Alliance, "Media Group Asks Indonesian Minister to Junk Controversial Internet Regulation Draft," news release, March 18, 2010, http://www.seapabkk.org/newdesign/alertsdetail.php?No=1235.

[24] Aliansi Jurnalis Independen [Alliance of Independent Journalists] (AJI), "RPM Konten Multimedia adalah 'sensor 2.0'" [Multimedia content of RPM is Censor 2.0], news release, May 20, 2010, http://www.ajiindonesia.org/index.php?option=com_content&view=article&id=224:aji-rpm-konten-multimedia-adalah-sensor-20&catid=14:alert-bahasa-indonesia&Itemid=287.

[25] Bagus BT Saragih, "Tifatul to Ease Back from Pushing Through Web Bill," *Jakarta Post*, February 25, 2010, http://www.thejakartapost.com/news/2010/02/25/tifatul-ease-back-pushing-through-web-bill.html.

[26] "Situs Ar-rahmah Milik Muhammad Jibril Tak Bisa Diakses" [Arrahmah website of Muhammad Jibril is not accessible], Metro TV News, August 26, 2009, http://metrotvnews.com/index.php/metromain/newsvideo/2009/08/26/89056/Situs-Ar-rahmah-Milik-Muhammad-Jibril-Tak-Bisa-Diakses.

down his website, Arrahmah.com.[27] In addition, in July 2010, the DGPT issued a letter ordering all ISPs to block access to websites carrying pornography. The instructions left the decision of which particular websites to filter in the hands of the ISPs themselves.[28] Although the letter is not fully legally binding, by December 2010, six of the largest ISPs had reportedly complied with the request. Many smaller ISPs provided subscribers with the option to choose for such content to be blocked. In practice, users wishing to nonetheless access the websites have had little trouble circumventing the censorship.

Some restrictions on content have been carried out under pressure from private actors, sometimes with ties to prominent politicians, as occurred with the Okezone online news website, a subsidiary of the MNC media group, one of Indonesia's largest.[29] In 2008, the Attorney General's Office uncovered a corruption scandal involving the Directorate General of General Legal Administration in the Law and Human Rights Ministry. Among those implicated in the scandal was a top executive of the MNC group. The company's owners subsequently intervened in and directed Okezone's coverage of the scandal. Okezone's reporters were required to dedicate a disproportionate share of their reporting to one of the accused in the scandal, Sarana Rekatama Dinamika, or to Yusril Ihza Mahendra, then minister of law and human rights. An AJI report analyzing the coverage found that of 80 reports on the scandal, Okezone cited Dinamika as its primary source 16 times, and Mahendra 15 times. Only 10 citations referred to the attorney general's office.[30] Okezone also deleted from its website information considered unfavorable to Dinamika. Queries to Okezone's internal search engine turned up 81 news titles that mentioned the scandal, but only 48 of the articles were actually accessible.[31]

The development of Indonesia's blogosphere began between 1999 and 2000, with most early blogs written by Indonesians living abroad and working in the field of information technology. In 2001, the younger generation came to dominate Indonesian blogs, largely writing about their daily lives. By 2005 and 2006, blogs had begun to specialize in various topics, including politics, economics, media, food, and entertainment. The number of bloggers reached 50,000 by the end of 2006, and according to blogger Enda Nasution, the figure ballooned to 1.2 million by 2009.[32] Only a few blogs play a watchdog

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[27] Agence France-Presse, "Indonesia Arrests Second Man Over Bomb Funds: Police," *Hindustan Times*, August 26, 2009, http://www.hindustantimes.com/Indonesia-arrests-second-man-over-bomb-funds-police/Article1-447051.aspx.

[28] Reporters Without Borders, "Government Orders ISPs to start Anti-Porn Filtering," International Freedom of Expression eXchange (IFEX), August 11, 2010, http://www.ifex.org/indonesia/2010/08/11/anti_porn_filtering/.

[29] According to a survey by Alexa Internet in April 2009, Okezone was ranked as the 23rd most visited website in Indonesia. Okezone uploaded on average 300 news articles a day. MNC group is one of the biggest media groups in Indonesia. It owns television stations such as RCTI, TPI, Global TV, and SUN TV, and newspapers such as *Seputar Indonesia* and *Kanal Okezone*. Further information is available at http://www.mnc.co.id/.

[30] "Geger di Sisminbakum, Sunyi di RCTI dan Okezone, dalam Wajah Retak Media: Kumpulan Laporan Penelusuran," [Dispute in Sisminbakum, Quiet at RCTI and Okezone, the Negative Face of Media: Fact Finding Report] (Jakarta: AJI Indonesia, 2009).

[31] Ibid.

[32] Stefanus Yugo Hindarto, "Blogger Belum 'Jamah' Indonesia Timur" [Bloggers not yet reached Eastern Indonesia], Okezone, June 21, 2010, http://techno.okezone.com/read/2010/06/21/55/345116/.

role by scrutinizing government activities, although these blogs have been extremely important in exposing incidents of corruption. They are typically maintained by nongovernmental organization (NGO) activists, human rights lawyers, or journalists.

The internet as a whole nevertheless serves as an important source of information on political issues and related discussions. In the run-up to the 2009 presidential election, the use of Google searches to seek out information about candidates grew exponentially, with searches for incumbent president Susilo Bambang Yudhoyono increasing by 625 percent, and those for his main challenger, Megawati Sukarnoputri, rising by 40 percent between January and July.[33] Similarly, research noted an increase in Facebook postings citing the term "jilbab," which in Indonesia refers to a Muslim woman's headscarf; the topic had become a wedge issue during the campaign.[34]

Civil society groups have used the internet to mobilize and advocate against government censorship plans. After the enactment of the ITE Law, NGOs formed a coalition called the Indonesia National Alliance on Cyber Law Reform (ANRHTI). It consisted of the Indonesian Legal Aid and Human Rights Association (PBHI), the Institute for Criminal Justice Reform (ICJR), the Institute for Policy Reform and Advocacy (ELSAM), the Indonesian Legal Aid Foundation (YLBHI), the AJI, and the Legal Aid Center for Press (LBH Pers).

One prominent example of effective mobilization against internet censorship was the case of housewife Prita Mulyasari, one of the first people brought to court under the ITE Law. She was arrested in May 2009, held for three weeks, and charged with defamation for an e-mail message she circulated to friends and relatives in which she criticized her treatment at a private hospital in Tangerang. The PBHI published a press release on Prita's detention,[35] and she soon gained popular support, including from bloggers; five NGOs submitted an amicus brief to the Tangerang District Court in October, as it was examining her criminal defamation case.[36] In December, the Banten High Court ruled against Prita in her appeal of the parallel civil case, ordering her to pay 204 million rupiah (US$19,600) in damages to the Omni International Hospital.[37] The blogging community responded with a huge campaign called Koin Keadilan, or Justice Penny, and succeeded in collecting more

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[33] Scott Hartley, "Google: Tomorrow's Silicon (Not Crystal) Ball," *Internet and Democracy Blog*, July 15, 2009, http://blogs.law.harvard.edu/idblog/2009/07/15/electionprediction/.

[34] Scott E. Hartley, "Reading Google in Jakarta," *Foreign Policy*, July 6, 2009, http://www.foreignpolicy.com/articles/2009/07/06/reading_google_in_jakarta?page=0,1.

[35] 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.

[36] "Kasus Prita: Lima LSM Ajukan 'Amicus Curiae'" [Prita case: 5 NGOs submit Amicus Curiae], Kompas.com, October 14, 2009, http://megapolitan.kompas.com/read/2009/10/14/16474375/Kasus.Prita:.Lima.LSM.Ajukan..quot.Amicus.Curiae.quot.

[37] 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.com, December 7, 2009, http://m.kompas.com/news/read/data/2009.12.07.13135791.

than 600 million rupiah on her behalf.[38] By the end of 2009, the hospital had decided to drop the civil suit, and Prita won her criminal case in Tangerang District Court, which acquitted her on all charges.[39] Nevertheless, her case and other prosecutions under the ITE Law have contributed to an increased atmosphere of caution and self-censorship among online writers and average users. The public campaign against the proposed Regulation on Multimedia Content also utilized online platforms, with many Indonesians submitting their protests directly to the communication and information minister's Twitter account, or writing about the issue on their blogs.[40]

Another incident reflecting the growing role of social media in political mobilization in Indonesia stemmed from charges filed against the leadership of the Indonesian Anti-Corruption Commission (KPK). In November 2009, the national police declared the two KPK deputy chairs, Bibit Samad Riyanto and Chandra Hamzah, to be extortion suspects. After wiretap recordings revealed a conspiracy to discredit the widely respected KPK, and many came to believe that the new arrests were part of the plot, an ordinary Indonesian citizen set up a Facebook group called "Gerakan 1.000.000 Facebookers dukung Chandra Hamzah & Bibit Samad Riyanto," (The Movement of 1 million Facebookers to support Chandra Hamzah & Babit Samad Riyanto),[41] which quickly grew to more than half a million members, and had 1.3 million by August 2010.[42] As of December 2010, the attorney general's office reportedly planned to drop the charges, under a legal provision enabling such action to protect the "public interest."[43]

VIOLATIONS OF USER RIGHTS

The constitution guarantees freedom of opinion in its third amendment, adopted in 2000.[44] The guarantee also includes the right to privacy and the right to gain information and

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[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], Detikcom, December 19, 2009, http://m.detik.com/read/2009/12/19/113615/1262652/10/penghitungan-selesai-total-koin-prita-rp-650364058.

[39] Ismira Lutfia, Heru Andriyanto, Putri Prameshwari, and Ronna Nirmala, "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; Yudi Rahmat, "PBHI Apresiasi putusan hakim PN Tangerang di Kasus Prita" [PBHI appreciates verdict of Tangerang State Court judge in Prita Case], Primaironline, December 29, 2009, http://primaironline.com/berita/detail.php?catid=Sipil&artid=pbhi-apresiasi-putusan-hakim-pn-tangerang-di-kasus-prita.

[40] For example, prominent blogger Antyo Rentjoko's writings about the draft regulation can be found at http://blogombal.org/2010/02/13/mendidik-masyarakat-siapa-mendidik-siapa.

[41] The Facebook group is located at http://facebook.com/group.php?gid=169178211590.

[42] Peter Gelling, "Indonesia: Corruption Junction," GlobalPost, November 9, 2009, http://www.globalpost.com/dispatch/indonesia/091106/indonesia-corruption-kpk.

[43] "Police Admit They Have No Recordings in Bibit and Chandra Case," *Jakarta Globe,* August 11, 2010, http://www.thejakartaglobe.com/home/police-admit-they-have-no-recordings-in-bibit-and-chandra-case/390619; Peter Gelling, "Indonesia: Corruption Junction," GlobalPost, November 9, 2009, http://www.globalpost.com/dispatch/indonesia/091106/indonesia-corruption-kpk.

[44] Constitution of 1945, Article 28E(3).

communicate freely.[45] These rights are further protected by various laws and regulations.[46] However, a range of other laws are used to limit free expression, despite legal experts' claims that they conflict with the constitution.[47] Approximately seven different laws address internet freedom in one aspect or another; this legal framework is fairly harsh, although the authorities do not always use the full range of powers granted by the laws.

In addition to the controversies mentioned above involving potential internet censorship under the 2008 ITE Law, other provisions of the law have raised concerns, as they have been used to prosecute users for online expression. In particular, the ITE Law has enabled heavier penalties for criminal defamation than those set out in the penal code. Anyone convicted of committing defamation online may face up to six years in prison, and a fine of up to 1 billion rupiah (US$111,000).[48] As of June 2010, there were at least eight cases in which citizens had been indicted on defamation charges under the ITE Law for comments on e-mail lists, blogs, or Facebook.[49] In some of the cases, the accused users were temporarily detained at the beginning of the process. One of these was the high-profile case of housewife Prita Mulyasari, described above. In another case from February 2010, teenager Nur Farah, from Bogor in West Java, was convicted based on a report that she had insulted one of her friends by addressing her as a "dog" on Facebook.[50] Journalist and blogger Nurliswandi Piliang was charged under the ITE Law in 2008. He and three other bloggers—Edy Cahyono, Nenda Inasha Fadillah, and Amrie Hakim—filed a petition to the Constitutional Court with the help of ANRHTI, but the court upheld the law in May 2009.[51] While there have been some discussions among government agencies about amending the ITE Law, no concrete action had been taken as of December 2010.

In terms of indecency on the internet, Law No. 44 of 2008 on Pornography defines the crime of "pornography" very broadly, and includes requirements for supervision of users at cybercafes. The government is reportedly planning to enhance implementation of such

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[45] Ibid., Articles 28F and 28G(1).

[46] Among others, Law No. 39 of 1999 on Human Rights, available at http://www.legalitas.org/incl-php/buka.php?d=1900+99&f=uu39-1999eng.htm ; Law No. 14 of 2008 on Freedom on Information, available at http://www.setneg.go.id/components/com_perundangan/docviewer.php?id=1971&filename=UU%2014%20Tahun%202008.pdf ; and Law No. 40 of 1999 on the Press, available at http://www.legalitas.org/incl-php/buka.php?d=1900+99&f=uu40-1999.htm.

[47] Wahyudi et al., "Elsam, Asesmen Terhadap Kebijakan Hak Asasi Manusia dalam Produk Legislasi dan Pelaksanaan Fungsi Pengawasan DPR RI" [Assesment to the Human Rights Policy in Legislation Product and the Implementation of the Parliament Monitoring Function], 2008. Hard copy on file with the author.

[48] ITE Law, Article 45.

[49] Supriyadi W. Eddyono, "Tabulasi Kasus Pidana Penghinaan dengan Menggunakan UU ITE" [Tabulation of Criminal Defamation Cases using the ITE Law], Institute for Media Defense Litigation Network (IMDLN), 2009. Hard copy on file with the author.

[50] Anwar Hidayat, "Terbukti Menghina Lewat Facebook, Farah Divonis 2 Bulan Bui" [Proven to have insulted someone through Facebook, Farah sentenced to 2 months in Jail], Detik.com, February 16, 2010, http://www.detiknews.com/read/2010/02/16/134623/1300580/10/terbukti-menghina-lewat-facebook-farah-divonis-2-bulan-bui.

[51] Perhimpunan Bantuan Hukum dan HAM Indonesia (Indonesian Association for Legal Aid and Human Rights), "Pasal 27 ayat (3) UU ITE tidak bisa ditafsirkan secara sewenang [Article 27 paragraph (3) of the ITE cannot be arbitrarily interpreted], press release, May 5, 2009 https://anggara.files.wordpress.com/2009/05/siaran-pers-pengujian-pasal-27-ayat-3-uu-ite.pdf.

supervision by pushing through the Draft Law on Computer Crimes. The draft stipulates numerous restrictions on computer and internet usage, often prescribing harsher penalties for offenses already covered in the criminal code and other legislation. Passage of the new measure would bring to eight the number of laws regulating criminal defamation, with each calling for a different sentence; however, the law was pending at year's end.

Also under discussion has been a draft law on ICT convergence, one that would collectively replace the Telecommunications Law, Broadcasting Law, and possibly the ITE Law. Critics have raised concerns that under the law, ICT applications (including websites) would be required to obtain a license from the MCI for a fee, a process that could place restrictions on freedom of expression, as well as for the open source community[52] and expansion of WiFi hotspots. [53]

Abusive surveillance practices are not a serious concern in Indonesia, although there is little oversight or checks in place to prevent abuse by agencies conducting monitoring for the purposes of combating terrorism and identifying terrorist networks, the most known use of surveillance techniques. At present, only the State Intelligence Body (Badan Intelijen Negara, or BIN),[54] the police,[55] the KPK,[56] and the National Narcotics Board (Badan Narkotika Nasional) have the legal authority to conduct surveillance.[57]

Indonesia has at least nine laws that allow the authorities to conduct surveillance or wiretapping.[58] The only one that explicitly states the need for judicial oversight is Law No. 35 of 2009 on Narcotics, and even in that instance the requisite procedures are unclear. Forthcoming regulations called for in the ITE Law may provide a more unified and coherent procedure for conducting surveillance, but the article is currently being challenged by human rights activists before the Constitutional Court.

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[52] Taken from his tweet @sufehmi on 8 October 2010, 23:30, Harry Sufehmi is 2nd Deputy Chairperson of AOSI and IT Practitioner.

[53] Interview with Harry Sufehmi, 2nd Deputy Chairperson of AOSI and IT Practitioner.

[54] Presidential Decision No. 103 of 2001, available at
http://www.setneg.go.id/components/com_perundangan/docviewer.php?id=1476&filename=Keputusan_Presiden_no_103_th_2001.pdf; Minister of Communication and Information Regulation No. 01/P/M.KOMINFO/03/2008 on the Recording of Information for the Purposes of the State's Defense and Security, available at
http://anggara.files.wordpress.com/2009/12/permen-kominfo-perekaman-informasi.pdf.

[55] 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://www.setneg.go.id/components/com_perundangan/docviewer.php?id=1548&filename=PP_Pengganti_UU_No_1_th_2002.pdf.

[56] Law No. 30 of 2002 on the Anti-Corruption Commission, available at
http://www.setneg.go.id/components/com_perundangan/docviewer.php?id=300&filename=UU_no_30_th_2002.pdf.

[57] Law No. 35 of 2009 on Narcotics, available at
http://www.setneg.go.id/components/com_perundangan/docviewer.php?id=2351&filename=UU%2035%20Tahun%202009.pdf.

[58] The laws are, among others, (1) Chapter XXVII Indonesian Criminal Code, Article 430—434; (2) Law No. 5 of 1997 on Psychotropic Drugs; (3) Law No. 31 of 1999 on Eradication of Corruption; (4) Law No. 36 of 1999 on Telecommunication; (5) Government Regulation in Lieu of Law No. 1 of 2002 on Combating Terrorism; (6) Law No. 18 of 2003 on Advocates; (7) Law No. 21 of 2007 on Combating Human Trafficking; (8) Law No. 11 of 2008 on Electronic Transaction and Information; and (9) Law No. 35 of 2009 on Narcotics.

In terms of anonymity, mobile-phone users are obliged to register their numbers upon purchasing a phone by submitting their identity information directly to the government via text message. In practice, however, this obligation is often ignored. The government has taken steps to pressure the Canadian company Research in Motion (RIM) to set up local servers and filter pornography for its Blackberry devices in Indonesia, considering the growing number of such users, and concerns that the encrypted communication network would hinder anti-terrorism and anti-corruption efforts.[59]

There have been no reports of extralegal attacks, intimidation, or torture of bloggers or other internet users. However, it is common for police to conduct searches of cybercafes without prior notice to the owners, since these venues are generally perceived as places conducive to accessing pornography; some searches are carried out by nonstate actors such as Islamic fundamentalist groups as well. According to various reports, these searches are conducted fairly regularly in different parts of the country, particularly in cities with a large student population, partly with the aim of catching those skipping school to get online.[60] Most of the searches are conducted without warrants and are rarely followed up with court proceedings. Moreover, the raids are also seen as a means for police to extract bribes from cybercafe owners.

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[59] "Indonesia Says Blackberry Will Filter Out Porn," Associated Press, January 11, 2011, http://ipolitics.ca/2011/01/11/indonesia-says-blackberry-to-filter-out-porn/; John Ribeiro, "Indonesia Presses RIM Over its Blackberry Service," Network World, August 5, 2010, http://www.networkworld.com/news/2010/080510-indonesia-presses-rim-over-its.html.
[60] "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; "Indonesia rounds up students in cybercafés," *Agence France-Presse,* February 23, 2010, http://newsinfo.inquirer.net/breakingnews/infotech/view/20100223-254794/Indonesia-rounds-up-students-in-cybercafs.