

SOUTH KOREA

	2009	2011
INTERNET FREEDOM STATUS	n/a	Partly Free
Obstacles to Access	n/a	3
Limits on Content	n/a	12
Violations of User Rights	n/a	17
Total	n/a	32

POPULATION: 48.9 million
INTERNET PENETRATION: 82 percent
WEB 2.0 APPLICATIONS BLOCKED: No
SUBSTANTIAL POLITICAL CENSORSHIP: Yes
BLOGGERS/ONLINE USERS ARRESTED: Yes
PRESS FREEDOM STATUS: Free

INTRODUCTION

South Korea's internet infrastructure is one of the most advanced in the world, and its democratic institutions—including an independent judiciary—generally protect free expression. However, regulatory measures such as a real-name registration system and a recent series of arrests of bloggers have presented challenges to internet freedom. The United Nations special rapporteur on freedom of expression and international human rights groups have voiced concerns that the space for free expression has been diminishing since protests against American beef imports that broke out in 2008.¹

South Korea's high internet penetration rate is widely attributed to a series of state-led initiatives implemented since the 1990s, such as Cyber Korea 21 (1999–2002), the e-Korea Vision 2006 (2002–2006), and the U-Korea Master Plan (2006–2010). The government's rationale for this policy of nationwide promotion of information and communication technologies (ICTs) is that a country with few natural resources like South Korea must move quickly toward a knowledge-based economy if it is to compete with

¹ Frank La Rue, "Full Text of Press Statement Delivered by UN Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, Mr. Frank La Rue, After the Conclusion of His Visit to the Republic of Korea," United Nations Office of the High Commissioner for Human Rights, May 17, 2010, <http://www2.ohchr.org/english/issues/opinion/docs/ROK-Pressstatement17052010.pdf>; Irene Khan, "Statement by Irene Khan, Amnesty International Secretary General, on the Completion of Her Visit to South Korea," Amnesty International, November 24, 2009, <http://www.amnesty.org/en/library/asset/ASA25/013/2009/en/81c8df37-c1d9-4d49-aa8c-825cd7ce9203/asa250132009en.pdf>; Reporters Without Borders, *Enemies of the Internet—Countries Under Surveillance* (Paris: Reporters Without Borders, March 12, 2010), http://en.rsf.org/IMG/pdf/Internet_enemies.pdf.

established economic powers.² Cyber Korea 21 was well received by the Korean public, partly because such a rationale appealed to them in the aftermath of the Asian financial crisis of 1997, and partly because a foundation of computer-mediated communications had already been laid. In the late 1980s and early 1990s, the *PC tongshin* (PC communication) culture had thrived, using an early, text-based form of online communication comparable to the Minitel in France. The half-dozen *PC tongshin* service providers then helped ease the Korean public onto the internet, the commercialization of which began around 1994.

OBSTACLES TO ACCESS

South Korea is one of the most wired countries in the world, in terms of both internet penetration and high connection speeds. As of 2009, there were an estimated 39.4 million users, comprising about 80 percent of the population.³ According to the National Bureau of Statistics, as of December 2010, over 80 percent of households had access to the internet,⁴ and nearly all connections are broadband. The country has not only the highest number of broadband connections per capita in the world but also the world's highest rate of WiFi hotspots per capita, with 55,000 hotspots in place throughout the country by the end of 2010.⁵ Several factors have contributed to the country's high level of connectivity. First, high-speed connections are relatively affordable. Most residences have connections capable of reaching 100 mbps for a cost of around 30,000 won (US\$28) per month.⁶ Second, the population is highly concentrated in urban areas. Roughly 70 percent of South Koreans live in cities dominated by high-rise apartment buildings that can easily be connected to fiber-optic cables.⁷ Finally, the government has carried out programs to expand infrastructure and access, including subsidies to provide access to low-income groups.⁸ In terms of mobile-

² National Computerization Agency, *Informatization White Paper 2002: Global Leader e-Korea* (Seoul: NCA, 2002), http://www.itglobal.or.kr/file/m_board/download.asp?file=%BF%B5%B9%AE_b2002eng.pdf.

³ International Telecommunication Union, "ICT Statistics 2009: Estimated Internet Users, Fixed Internet Subscriptions, Fixed Broadband Subscriptions," ITU ICT Eyes, 2009, 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.

⁴ "Households with Access to the Internet and Access to a Home Computer," e-National Indicators, December 6, 2010, http://www.index.go.kr/egams/stts/jsp/potal/stts/PO_STTS_idxMain.jsp?id_idx_cd=1345&bbs=INDEX_001 (in Korean). According to the latest OECD Key ICT Indicators, the figure nears 96 percent of the households when internet access through devices other than computers is also included. "Households with Access to the Internet in Selected OECD Countries," OECD Key ICT Indicators, December 24, 2010, <http://www.oecd.org/dataoecd/19/45/34083073.xls>.

⁵ "Number of WiFi Hotspots in S. Korea Rises to World's No. 3," *Yonhap News*, November 7, 2010, <http://english.yonhapnews.co.kr/techscience/2010/11/05/49/0601000000AEN20101105007300320F.HTML>.

⁶ John D. Sutter, "Why Internet Connections Are Fastest in South Korea," *CNN Tech*, March 31, 2010, http://articles.cnn.com/2010-03-31/tech/broadband.south.korea_1_broadband-plan-south-korea-broadband-internet?s=PM:TECH.

⁷ J. C. Herz, "The Bandwidth Capital of the World," *Wired* (August 2002), http://www.wired.com/wired/archive/10.08/korea.html?pg=1&topic=&topic_set.

⁸ Sutter, "Why Internet Connections Are Fastest in South Korea."

phone penetration, as of December 2010, there were 50.8 million subscriptions, exceeding the total population of 48.9 million.⁹ More than 56 percent of these users have been accessing the internet from their mobile phones.¹⁰ Smartphone ownership has grown exponentially, reaching the world's highest average traffic per user on smartphones at 271 MB/month, 2 to 3 times higher than the global average.¹¹

There is no significant gap in access to ICTs with respect to gender or income level,¹² although differences in computer literacy across generational and professional lines persist.¹³ In addition to the high household subscription rates, the absence of a large digital divide is attributable to the omnipresence of cybercafes, known as *PC bangs* (PC rooms) in Korean. The facilities offer broadband access at a price of approximately US\$1 per hour, and also serve as venues for social interaction, particularly among youth, who frequent the cafes to play online video games.¹⁴

Despite such widespread connectivity, some obstacles to access remain. For example, foreign residents have difficulty accessing many online services, both governmental and commercial.¹⁵ This is partly due to language barriers, but a more important factor is the real-name registration system adopted in 2004 under an amendment to the Public Official Election Act.¹⁶ Users are required to verify their identities by submitting their Resident Registration Numbers (RRNs) when they wish to join and contribute to web portals and other major sites. As RRNs are assigned only to Korean citizens at birth, foreign nationals must individually contact webmasters to confirm their identities.

In 2007, the internet real-name registration system was expanded to apply to any website with more than 100,000 visitors per day.¹⁷ This included the video-sharing website YouTube, but the site's U.S.-based parent company, Google, refused to ask its Korean customers for their RRNs. Instead, it has blocked users from uploading content onto YouTube Korea. Users are able to bypass the restriction by changing their location setting to

⁹ Korea Communications Commission, "Wired/Wireless Subscriptions December 2010," Resources: Statistical Data, January 25, 2011, <http://www.kcc.go.kr/user.do?mode=view&page=P02060400&dc=K02060400&boardId=1030&cp=1&boardSeq=30693> (in Korean).

¹⁰ Korea Internet and Security Agency, *2010 Survey on Wireless Internet Usage* (Seoul: KISA, December 2010), <http://isis.kisa.or.kr/board/index.jsp?pageId=040100&bbsId=7&itemId=773&pageIndex=1> (in Korean).

¹¹ "Smartphones Account for Almost 65% of Mobile Traffic Worldwide," Informa Telecoms & Media, November 2, 2010, <http://www.informatm.com/itmgcontent/icoms/s/press-releases/20017822478.html>.

¹² Korea Internet and Security Agency, *2010 Survey on Internet Usage* (Seoul: KISA, December 2010), <http://isis.kisa.or.kr/board/index.jsp?pageId=040100&bbsId=7&itemId=771&pageIndex=1> (in Korean).

¹³ G. W. Shin, J. H. Goh, et al., *2009 Digital Divide Index* (Seoul: National Information Society Agency, 2010), <http://www.nia.or.kr/Extra/Module/Common/Lib/Attach/DownLoad.aspx?Seq=18459> (in Korean).

¹⁴ Herz, "The Bandwidth Capital of the World"; Jun-Sok Huh, "Culture and Business of PC Bangs in Korea," *Games and Culture* 3, no. 1 (2008): 26–37.

¹⁵ Korea Internet and Security Agency, *2010 Survey on the Internet Usage of Foreign Residents in Korea* (Seoul: KISA, December 2010), <http://isis.kisa.or.kr/board/index.jsp?pageId=040100&bbsId=7&itemId=770&pageIndex=1> (in Korean).

¹⁶ The amendment became Article 82, Provision 6 of the act.

¹⁷ The expansion was a result of the Act on Promotion of Information and Communications Network Utilization and Data Protection.

“worldwide.” Even the Korean presidential office maintains its YouTube channel in this way.¹⁸ Other popular applications such as the social networking site Facebook and the microblogging service Twitter are freely available, and these international sites are currently exempt from the identity verification requirement. Although subject to the real-name registration system, locally based social networking sites like Cyworld and web portals like Naver and Daum are also popular among Korean users.

The telecommunications sector in South Korea is relatively diverse and open to competition, with 127 internet service providers (ISPs) operating as of December 2010.¹⁹ Nevertheless, the market remains dominated by three companies: Korea Telecom (43.1 percent), SK Telecom (20.9 percent), and LG Telecom (16.1 percent).²⁰ The same firms share the country’s mobile-phone service market, with 31.6 percent, 50.6 percent, and 17.8 percent, respectively.²¹ All three are publicly traded companies (Korea Telecom was state-owned until privatization in 2002), but they are part of the country’s *chaebol*—large, family-controlled conglomerates—which are in turn closely connected by marriage ties to the political elite.²² This has given rise to speculation that favoritism was at play in the privatization process and in the selection of bidders for mobile-phone licenses.

One of the first priorities of the conservative government that took office in February 2008 was to restructure key regulatory institutions dealing with ICTs. The Ministry of Information and Communication (MIC) and the Korean Broadcasting Commission (KBC) were merged to create the Korea Communications Commission (KCC), tasked with overseeing both telecommunications and television broadcasting with more coherence than the previous arrangement.²³ The KCC consists of five commissioners, with the president appointing two (including the chairman) and the National Assembly choosing the remainder. Given that the first chairman is reputed to be the president’s “political mentor,”²⁴ some observers have viewed the restructuring as an effort by the administration to establish tighter control over regulation of the ICT industry.

¹⁸ President Lee Myung-bak’s channel is located at <http://www.youtube.com/user/PresidentMBLee>.

¹⁹ Korea Internet and Security Agency, “Infrastructure Statistics: ISPs,” Internet Statistics Information System, 2010, <http://isis.kisa.or.kr/sub01/?pageId=010302> (in Korean).

²⁰ Korea Communications Commission, “Broadband Subscriptions September–December 2010,” Resources: Statistical Data, February 16, 2011, <http://www.kcc.go.kr/user.do?mode=view&page=P02060400&dc=K02060400&boardId=1030&cp=1&boardSeq=30824> (in Korean).

²¹ Korea Communications Commission, “Wired/Wireless Subscriptions December 2010.”

²² G. M. Cho, *Study on Marriage Chains Among Korean Media Owners* (master’s dissertation, Sogang University, Seoul, 2005) (in Korean); “Internet and E-Commerce Industry in South Korea,” *Ecommerce Journal*, April 5, 2010, http://ecommerce-journal.com/articles/27693_internet-and-e-commerce-industry-south-korea.

²³ Jong Sung Hwang and Sang-hyun Park, “Republic of Korea,” in *Digital Review of Asia Pacific 2009–2010* (London: Sage Publications, 2009), 234–240.

²⁴ J. N. Kang, “Who’s Who Behind Lee Myung-bak: Choi See-joong the Chairman of the KCC (Appointed),” *Shindonga* (583, 2008), 48–49 (in Korean).

LIMITS ON CONTENT

As internet access has spread, online communications have become an increasingly integral part of South Korean society. Although the South Korean blogosphere is vibrant and creative, there are a number of restrictions on the free circulation of information, including content of public interest. Two types of censorship are particularly evident in South Korea: technical filtering of websites related to North Korea, and the administrative deletion of certain content on the orders of the Korea Communications Standards Commission (KCSC) and the National Election Commission (NEC).

According to testing conducted by the OpenNet Initiative in 2006 and 2008, North Korea–related content has been heavily and explicitly filtered under the provisions of the National Security Law. At least 20 websites containing North Korean propaganda or promoting reunification of the two Koreas were found to be consistently blocked by the largest ISPs.²⁵ By 2010, media reports indicated that the number of blocked North Korea–related sites had risen to 65.²⁶ A small number of gambling and Korean-language pornographic websites were found to be filtered as well.²⁷ The National Intelligence Service and the Korean National Police Agency can also ask the KCSC to have websites carrying pro–North Korean content blocked. The most recent example occurred in August 2010, when authorities blocked the official North Korea Twitter account, @uriminzok, within days of its launch. The justification given was that it violated the National Security Law, which classifies content that “praises, promotes, and glorifies North Korea” as “illegal information.”²⁸

The KCSC is an independent statutory organization. It was established in 2008 to maintain ethical standards in broadcasting and internet communications. One of its main tasks is to monitor online content for possible violations including obscenity, defamation, and threats to national security. Citizens can also submit petitions against content that they believe has violated their privacy or harmed their reputation. The KCSC then makes recommendations to bulletin board operators, or ISPs when it deems necessary, to undertake corrective measures ranging from deletion of postings to blocking of designated internet protocol (IP) addresses. Such recommendations are not legally binding in themselves. However under the Comprehensive Measures on Internet Information Protection issued in 2008, in cases of noncompliance, the KCC may step in and impose

²⁵ OpenNet Initiative, “Internet Filtering in South Korea in 2006–2007,” <http://opennet.net/studies/south-korea2007>.

²⁶ The author has compiled the statistics from information located on the KCSC website at http://www.kcsc.or.kr/04_info/info_Communication_List.php (in Korean).

²⁷ OpenNet Initiative, “Country Profile—South Korea,” December 26, 2010, <http://opennet.net/research/profiles/south-korea>.

²⁸ Josh Halliday, “North Korea Twitter Account Banned in South Korea,” *The Guardian*, August 19, 2010, <http://www.guardian.co.uk/technology/pda/2010/aug/19/north-korea-twitter-banned-south>.

heavy fines on service providers.²⁹ Consequently, the vast majority of censorship recommendations are implemented. The KCSC process has been criticized by civil society groups for its vaguely defined standards and the wide discretionary power that this single entity possesses to determine what information should be deleted.³⁰

The KCSC intermittently publishes on its website the results of its deliberations, including statistics on the corrective measures taken. From the KCSC's establishment in February 2008 to the end of 2010, 10,641 items were reportedly deleted for "disturbing social order," while 5,336 items were deleted for obscenity, 2,711 for violation of others' rights, 645 for inciting violence, and 6,171 for encouraging gambling.³¹

Among the types of content subject to potential deletion is material deemed to have "obstructed business." There have been several incidents in recent years in which content that was apparently disseminated in the public interest was nevertheless deleted. A significant example stemmed from a wave of candlelight demonstrations between May 25 and July 10, 2008. The protesters were criticizing the new conservative government for hastening an agreement to import American beef, despite public concerns over the credibility of U.S. food regulation and the danger of mad cow disease.³² Demonstrators also began criticizing the country's three dominant, conservative newspapers—Chosun Ilbo, Joongang Ilbo, and Dong-a Ilbo, commonly referred to collectively as Chojoongdong—for being explicitly supportive of the government's actions after taking the opposite stance when the liberal government was in power. Protesters used an online bulletin board to identify companies that placed advertisements in the three dailies and threatened to boycott those that failed to withdraw their ads. The media outlets responded by pressuring the authorities to take action, and at least 58 boycott-related postings on the bulletin board were permanently deleted in July 2008 on the advice of the KCSC.³³ Boycott supporters then created a publicly accessible Google-based document in a bid to replace the bulletin board and circumvent the Korean restrictions.

In another case, the KCSC in 2007 ordered the deletion of articles posted by environmentalist Choi Byung-sung that revealed carcinogenic ingredients in cement made by particular firms. The deletion was reportedly ordered on the grounds that the articles defamed the cement companies. Choi filed a lawsuit against the KCSC's actions. On February 1, 2010, the Seoul Administrative Court ruled that the KCSC's instruction be

²⁹ Ha-won Jung, "Internet to Be Stripped of Anonymity," *Joongang Daily*, July 23, 2008, <http://joongangdaily.joins.com/article/view.asp?aid=2892691>.

³⁰ People's Solidarity for Participatory Democracy, "Written Statement on Freedom of Opinion and Expression of the ROK to the UNHRC," February 21, 2011, <http://blog.peoplepower21.org/English/21030>.

³¹ The author has compiled the statistics from information located on the KCSC website at http://www.kocsc.or.kr/04_info/info_Communication_List.php (in Korean).

³² Paul Krugman, "Bad Cow Disease," *New York Times*, June 13, 2008, <http://www.nytimes.com/2008/06/13/opinion/13krugman.html>.

³³ E. H. Chae, "Delete Postings That Pressurize Advertisers in Chojoongdong", Says KCSC," *Pressian*, July 1st, 2008, http://www.pressian.com/article/article.asp?article_num=40080701194755&Section=06 (in Korean).

revoked. In addition to overturning the KCSC's directive in this instance, the ruling also set an important precedent that the commission's decisions are subject to review by administrative courts.³⁴

More recently, a controversy arose after a North Korean military attack on Yeonpyeong Island in November 2010. At that time, the KCC reportedly considered the adoption of special measures under which, in "emergency situations", the KCC may directly request ISPs to delete certain content, circumventing the KCSC's deliberation. In the face of public criticism, the KCC appeared to back off from the plan.³⁵

Restrictions on online expression surrounding elections are more stringent than in other democracies, and have gradually tightened since grassroots e-campaigning and citizen journalism were widely regarded as the deciding factors in the December 2002 presidential elections. Although the measures adopted have been aimed at ensuring fair electoral competition, their broad scope raises concerns about the restriction of political speech that is important for voters and candidates. Article 93 of the Public Official Election Act prohibits individual voters from distributing or displaying "an advertisement, letter of greeting, poster, photograph, document, drawing, printed matter, audio tape, video tape, or the like" during the 180 days prior to election day if it contains an endorsement of or opposition to a candidate or a political party. The NEC has interpreted this article as also applying to blog posts, user comments on news websites, and user-generated content over advanced web applications. Commissioners may demand that websites or blog-hosting services delete postings that carry such content. According to research by the OpenNet Initiative, the NEC has two divisions responsible for regulating online content related to elections: the Internet Election News Deliberation Commission, which deals with online news outlets, and the Cyber Censorship Team, which deals with user-generated content and other websites. The latter reportedly hires 1,000 part-time staff in the four months ahead of an election to monitor online content and flag violations of the election law.³⁶ In April 2010, the NEC issued guidelines that expanded the scope of restricted content from endorsement of candidates to endorsement of policies, thereby inhibiting the dissemination of information about key campaign issues such as environmental projects or subsidized school meals.

The aforementioned regulations, in addition to real-name registration and prosecution of bloggers, have contributed to an atmosphere of self-censorship among users, particularly on topics like North Korea. They have also led some providers and websites to institute their own registration or content monitoring policies so as to preempt censorship orders from government agencies and avoid violation of existing laws.³⁷

³⁴ S. Y. Kim, "I Thank the Toxic Cement Manufacturers", Says the Citizen Journalist Who Ignited the Debate about the Unconstitutionality of 'Internet Censorship'," *OhmyNews*, February 18, 2011, http://www.ohmynews.com/NWS_Web/view/at_pg.aspx?CNTN_CD=A0001525285 (in Korean).

³⁵ J. S. Kim, "Government to Pursue Unannounced Deletion of Internet Content in 'Tense Situations'," *Hankyoreh*, December 22, 2010, <http://www.hani.co.kr/arti/economy/it/455022.html> (in Korean).

³⁶ OpenNet Initiative, "Country Profile—South Korea."

³⁷ OpenNet Initiative, "Country Profile—South Korea."

South Koreans have enthusiastically embraced online technology to facilitate civic engagement and mobilization. As one of the first societies with widespread high-speed internet access, South Korea is home to pioneering examples of grassroots e-campaigning, such as the Nosamo internet-based voluntary association,³⁸ and citizen journalism initiatives such as the website OhmyNews.³⁹ The protests against American beef imports in 2008 marked a further development of the intersection between online and offline protest, as it featured real-time coordination and live broadcasting of large-scale demonstrations via SMS and wireless internet on personal laptops.⁴⁰

VIOLATIONS OF USER RIGHTS

The constitution guarantees freedom of speech, the press, assembly, and association to all citizens, but it also enables restrictions, stating that “neither speech nor the press may violate the honor or rights of other persons nor undermine public morale or social ethics.” South Korea has an independent judiciary and a national human rights commission that have taken decisions upholding freedom of expression. Nonetheless, a rise in criminal cases brought for online speech has generated a chilling effect, even if some of the accused have ultimately been acquitted. Following a fact-finding visit to South Korea in May 2010, the UN special rapporteur on freedom of expression, Frank La Rue, raised concerns over the government’s “new and more restrictive interpretations and application of existing laws.”⁴¹

Several laws in South Korea have been used to restrict freedom of expression in traditional media as well as for online communications. The 1948 National Security Law allows prison sentences of up to seven years for praising or expressing sympathy for the North Korean regime. In April 2010, the Ministry of Unification also issued a notice reminding users that the Act on Exchanges and Collaboration Between South and North Korea applies to online communications as well as offline encounters, and that any visit to websites or pages maintained by people in North Korea must be reported to the government in advance. Anyone failing to do so faces a fine of up to one million won (US\$890).⁴²

³⁸ Nosamo is an internet-based voluntary association Act on Exchanges and Collaboration Between South and North Korea of supporters of Roh Moo-hyun, the 16th president of South Korea, who was in office from February 2003 to February 2008. See also N. Hachigian, “Political Implications of the Information Revolution in Asia,” in *The Information Revolution in Asia* (Arlington, VA: RAND, 2003), 55–91.

³⁹ OhmyNews is considered the inspiration for similar projects around the globe, or even “a glimpse into the future” of news media generally. D. Gillmor, *We the Media: Grassroots Journalism By the People, For the People* (Sebastopol: O’Reilly Media, 2004), 110. However, in 2010, this 10-year-old website admitted that it was less financially viable than initially thought. Eugene L. Meyer, *By The People: The Rise of Citizen Journalism* (Washington, DC: Center for International Media Assistance, December 16, 2010), http://cima.ned.org/sites/default/files/CIMA-Citizen_Journalism-Report.pdf.

⁴⁰ Sunny Lee, “Party Time at South Korea’s Protest 2.0,” *Asia Times*, June 13, 2008, <http://www.atimes.com/atimes/Korea/JF13Dg01.html>.

⁴¹ La Rue, “Full Text of Press Statement.”

⁴² Ministry of Unification, “Notice on the Use of North Korean Internet Sites,” News & Statements, April 8, 2010, <http://www.unikorea.go.kr/CmsWeb/viewPage.req?idx=PG0000000346&boardDataId=BD0000186451&CP0000000002>.

Defamation remains a criminal offense, and although prosecutions have decreased, some have occurred in recent years.

Touching more directly on online content is Article 44(7) of the Act on Promotion of Information and Communications Network Utilization and Data Protection, which lists “obstruction of business” as a punishable crime. In a high-profile case related to the above-mentioned anti-U.S. beef protests, two-dozen members of the online community established to coordinate the 2008 newspaper boycott effort were charged with obstructing business under Article 44(7). All were found guilty in the initial trial in February 2009, though nine were exonerated in an appeal in December of that year.⁴³

Internet users have also faced prosecution under Article 93 of the Public Official Election Act for circulating election-related information during the restricted period before balloting. In April 2010, a 43-year-old blogger faced charges for running an informal poll about the approaching regional elections and making the results public through his Twitter account. He subsequently expressed his intention to take his case to the Constitutional Court and challenge the regulations restricting such dissemination of information.⁴⁴ During the same round of regional elections held in June 2010, Bae Ok-byeong, an education activist, was prosecuted for advocating for a free school meal program; the case was pending at year’s end.⁴⁵

A copyright law that restricts file sharing was passed in May 2009 and came into effect two months later. Often referred to as the “three-strikes rule,” it allows the government to shut down an entire online bulletin board after a third warning to take down pirated content. Internet companies and civil liberties advocates have raised concerns that this is an excessive scheme which could threaten fair use and free expression.⁴⁶

In a positive development, the Constitutional Court ruled in December 2010 that Article 47 of the Telecommunications Business Act (TBA) was unconstitutional.⁴⁷ The provision, which had been used as the basis for numerous prosecutions of bloggers, prohibited individuals from disseminating “false information” over the internet with the intent of harming the public interest, a vaguely defined term. Violations were punishable by

[BO0000000033 Action=boardView&CP0000000002_BO0000000033_ViewName=board/BoardView&curNum=12](http://www.edaily.co.kr/news/NewsRead.edy?SCD=DC16&newsid=02450166592941368&DCD=A01405&OutLnkChk=Y) (in Korean).

⁴³ S. A. Gwak, “9 Netizens Not Guilty for Boycotting Chojoongdong’s Advertisers,” *Mediaus*, December 18, 2009, <http://www.mediaus.co.kr/news/articleView.html?idxno=8890> (in Korean). There still are ongoing cases against members of the community, which is now a registered activist group called Eonsoju, a Korean acronym for Press Consumers’ Rights.

⁴⁴ J. S. Ham, “First Twitter User Booked for Violation of the Election Law; Considering an Appeal to the Constitutional Court,” *e-Daily*, April 30, 2010, <http://www.edaily.co.kr/news/NewsRead.edy?SCD=DC16&newsid=02450166592941368&DCD=A01405&OutLnkChk=Y> (in Korean).

⁴⁵ J. G. Park, “Promotion of Free School Meals Not Violation of the Election Law,” *Nocut News*, February 18, 2011, <http://www.nocutnews.co.kr/show.asp?idx=1722303> (in Korean).

⁴⁶ B. H. Ahn, “The New Copyright Law and ‘the Three-Strikes Rule’,” *Digital Times*, August 12, 2009, http://www.dt.co.kr/contents.html?article_no=2009081302011869718001 (in Korean).

⁴⁷ Song Jung-A, “S. Korean Court Rules on Internet Law,” *Financial Times*, December 28, 2010, <http://www.ft.com/cms/s/0/38b354a4-126d-11e0-b4c8-00144feabdc0.html>.

up to five years in prison or a fine of up to 50 million won (US\$44,500). The court's ruling stemmed from the case of Park Dae-sung, a popular financial blogger known as Minerva, who was arrested in January 2009 and charged with upsetting currency markets by spreading pessimistic predictions in an online discussion forum.⁴⁸ Park was detained for more than 100 days before being acquitted. The Constitutional Court ultimately found that the concept of "public interest" was so "unclear and abstract" that it failed to meet the required standard of specificity for criminal violations.⁴⁹ The decision may put an end to other investigations into "rumors" disseminated over the internet.

Anonymous communication online is significantly compromised in South Korea, given the real-name registration regime. The system has remained in place despite the national human rights commission's assertion that it "clearly qualifies as pre-censorship, restricts freedom of internet-based expression rooted in anonymity, inhibits public opinion formation, and contravenes freedom of expression."⁵⁰ While users must register their real identities before posting, they are permitted to choose pseudonyms that will appear to the public next to their comments. However, since February 2009, the portal Nate has been requiring users to have their real name displayed when leaving comments.⁵¹ The system has encouraged some Korean users to abandon domestic services in favor of their international counterparts.⁵² Mobile-phone purchase also requires users to provide their RRN if they are Korean citizens.

Regarding surveillance, individual users' personal information may be made available to the police and the prosecution upon request for investigative purposes, under Article 83(3) of the TBA. According to a recent civil society submission to the UN Human Rights Council, there were 119,280 cases of the acquisition of personal information in 2008.⁵³ There have also been incidents in which the authorities have failed to follow the appropriate protocol when obtaining such information, raising concerns about internet users' right to privacy. For example, prosecutors were found to have confiscated seven years' worth of e-mails sent or received by Ju Kyeong-bok, a 2008 candidate for the position of education superintendent of Seoul, during an investigation into his possible violation of the election law. In another instance, police were found to have seized e-mails and other data of human

⁴⁸ Cheon Jong-woo, "South Korea Detains Financial 'Prophet of Doom,'" *Reuters*, January 8, 2009, <http://af.reuters.com/article/oddyEnoughNews/idAFTRE50728720090108?pageNumber=1&virtualBrandChannel=0>.

⁴⁹ Park Si-soo, "Law on Internet to Prosecute Rumormongers 'Unconstitutional,'" *Korea Times*, December 28, 2010, http://www.koreatimes.co.kr/www/news/nation/2010/12/117_78782.html.

⁵⁰ La Rue, the UN special rapporteur, has also recommended that the system be abolished. La Rue, "Full Text of Press Statement."

⁵¹ Reporters Without Borders, "Countries Under Surveillance: South Korea," http://en.rsf.org/surveillance-south-korea_36667.html; Developed by SK Telecom, Nate is one of the major services in the Korean cyberspace. It acquired the country's biggest social networking site Cyworld in 2003, and its instant messenger NateOn also has been more popular than international alternatives.

⁵² B. G. Gu, "Legislator Choi Moon-soon Lists 5 'Backward' Regulations in the Digital Environment," *Hankyoreh*, June 24, 2010, <http://www.hani.co.kr/arti/economy/it/427362.html> (in Korean).

⁵³ People's Solidarity for Participatory Democracy, "Written Statement."

rights activist Park Rae-gun while investigating the “Yongsan tragedy”—an incident in which resistance to the forcible eviction of an area cited for demolition resulted in the deaths of five tenants and a police officer.⁵⁴ In both instances, authorities did not issue a prior notice of seizure as prescribed by the penal code.⁵⁵ In another case in 2009, television producers were charged with defaming officials from the Ministry of Agriculture in a documentary related to U.S. beef imports.⁵⁶ During the investigation, the personal e-mail accounts of the accused were searched, and certain messages were disclosed to the press in June 2009.⁵⁷ This raised objections among the legal profession as a potential violation of the law on the protection of communications secrecy and prompted one of the accused to file a lawsuit against the prosecutor’s office and media outlets that carried the content of the messages. More recently, the Civil Service Ethics Division, which reports directly to the prime minister, was found to have conducted surveillance on a 56-year-old civilian, monitoring his e-mail and credit card records and secretly searching his office. The surveillance was allegedly motivated by the fact that he shared a video of a popular satire that was critical of the current president on a blog at the financial firm where he worked. This revelation was followed by other allegations in the media against the authorities’ abuses of surveillance capabilities against opponents of the president. The officials involved in the surveillance scandal are still under investigation, though at least one top official had resigned by July 2010.⁵⁸

There have been no reports of violence against bloggers by government agencies. However, online vigilantism and cyber-bullying have grown in recent years, as users, many of them teenagers, launch relentless verbal assaults over the internet against celebrities and ordinary users for comments made online or offline. In some cases, the subjects of such attacks have reportedly committed suicide because of the harassment.⁵⁹

⁵⁴ Theresa Kim Hwa-young, “Christmas Mass for Yongsan Tragedy Victims,” *Asia News*, <http://www.asianews.it/news-en/Christmas-Mass-for-Yongsan-tragedy-victims-17222.html>.

⁵⁵ *Ibid.*

⁵⁶ They were acquitted in January 2010, but the prosecutor’s office has appealed to the Supreme Court.

⁵⁷ Shin-who Kang, “Is Making Private Emails Public Justified?” *Korea Times*, June 19, 2009, http://www.koreatimes.co.kr/www/news/nation/2009/06/116_47139.html.

⁵⁸ John M. Glionna and Ju-min Park, “Agency Spied on South Korean Blogger Critical of President,” *Los Angeles Times*, July 24, 2010, <http://articles.latimes.com/2010/jul/24/world/la-fg-south-korea-probe-20100725>.

⁵⁹ Sang-hun Choe, “South Korea Links Web Slander to Celebrity Suicides,” *New York Times*, October 12, 2008, <http://www.nytimes.com/2008/10/12/technology/12iht-kstar.3.16877845.html>; John M. Glionna, “Cyber Bullies Reign in South Korea,” *Los Angeles Times*, January 1st, 2010, <http://articles.latimes.com/2010/jan/01/world/la-fg-korea-cyberthugs2-2010jan02>.