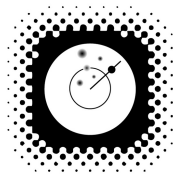


Asia



Overview

The dynamism and creativity driving the development of networked spheres in Asia showed no signs of abating through the early months of 2009. As more citizens began to utilize Internet tools for disseminating and producing information, online expression, activism, and networking have begun to permeate the national political and cultural fabric across the spectrum of Asian countries.

In 2008-2009, ONI conducted in-country testing in Bangladesh, China, India, Indonesia, Laos, South Korea, Malaysia, Burma, Nepal, Pakistan, the Philippines, Singapore, Vietnam, and Thailand. Testing results found filtering practices to be largely consistent with 2006 results.

China, Burma, and Vietnam continued to rely on pervasive filtering practices to shape public knowledge and expression by targeting primarily content specific to politically sensitive topics in their own countries, especially Web sites in local languages. China, Burma, and Vietnam also continued to block with the greatest breadth and depth, spanning human rights issues, reform and opposition activities, independent media and news, and discrimination against ethnic and religious minorities. On the opposite end of the spectrum, Singapore continued to block a nominal amount of adult content and pornographic Web sites.

South Korea increased its filtering across content categories to include a selective number of the Korean-language pornography Web sites, but otherwise



remained consistent with its 2006 filtering practices, specifically targeting Web sites containing North Korean propaganda or promoting the reunification of North and South Korea, as well as a handful of gambling Web sites. In contrast to 2006, ONI in 2007-2008 found no evidence of filtering of pornography and religious conversion sites in Pakistan. Otherwise, Pakistan continued to engage in security and conflict filtering as well as social filtering of Web sites containing “blasphemous” content.

ONI found no evidence of national filtering in Indonesia, Laos, Nepal, or the Philippines. During ONI testing periods, Bangladesh, Indonesia, and Malaysia were not filtering the Internet, but media reported that these countries also began blocking selectively for brief periods in 2007-2008.

Internet in Asia

Asia continues to be home to some of the most and least connected countries in the world, while a large middle tier of countries are witnessing rapid and steady

growth. In 2008, Thailand and Vietnam reached penetration rates of a quarter of their population.¹ China trailed at 22.6 percent, though in 2008 it became the country with the most Internet users in the world, at 298 million.² China, where the number of Internet users increased 42 percent from 2007,³ also saw remarkable growth in broadband usage. Over 90 percent of Internet users in China had broadband access by the end of 2008, a spike of over 100 million.⁴ In contrast, concerns about a saturated market were prominent in South Korea, which by early 2008 had become the most penetrated broadband market in the world at 90 percent of households.⁵ While Malaysia, with a penetration rate of 61 percent, trailed behind only Singapore in Southeast Asia and has strongly encouraged adoption of broadband Internet throughout the country,⁶ broadband penetration only surpassed 17 percent in the third quarter of 2008, from 7 percent in 2005.^{7,8}

On the opposite end of the spectrum, countries including India, Nepal, and the Philippines with less than 10 percent Internet penetration rate have been actively promoting and investing in infrastructure and access, particularly in rural areas that have been affected most profoundly by the digital divide. About 80 percent of Bangladesh's fixed line connections are installed in or around its four largest cities, yet about 80 percent of all Bangladeshis live outside these cities.⁹ In Nepal, with an Internet penetration rate of only 1.4 percent,¹⁰ the Nepal Wireless Project wirelessly connected twenty-two remote mountain villages to the Internet in five years, allowing villagers to exchange information about commodity prices, local goods and markets, and implemented telemedicine facilities.¹¹

The exception to the general embrace of ICT development has consistently been Burma. The country's largest ICT development at Yadanabon City, supported by foreign investment and set to serve as the national backbone connecting to China, India and Thailand, is currently under construction near Mandalay.¹² However, the military government under the State Peace and Development Council (SPDC) was responsible for one of most severe crackdowns on the Internet documented. On September 29, 2007, in order to cut off the stream of footage and images of its violent response to stopping protests led by monks and civilians, the SPDC made use of its complete control over the country's Internet gateways to completely shut down Internet access (with intermittent periods of connectivity) for approximately two weeks.¹³ The government also restricts upload speeds to half the download speeds for Internet subscribers and frequently implements slowdowns in Internet access speeds, which many critics claim are attempts to restrict Internet usage and enhance monitoring capabilities.¹⁴

The increasing popularity of interactive Web sites and social media platforms such as video sharing sites, Web portals, discussion forums, and blogs has enabled them to have a resounding impact in Asia. By facilitating the easy production and sharing of user-generated content, online social media have served as important vehicles for news dissemination and independent expression, especially in countries where mainstream media are state-controlled or closely aligned with ruling interests. For example, bloggers have been named the "fifth estate" in Asian countries such as Vietnam, Thailand, and China, whose governments maintain strict control over most news and

media outlets. In Malaysia, independent news sites and blogs were credited with providing opposition parties with a platform to mobilize during the March 2008 general elections, in which the ruling Barisan Nasional (BN) coalition had its worst showing ever and five bloggers were elected to seats for opposition parties.¹⁵ Though Internet penetration lags in rural areas (representing 15 percent of households with Internet access¹⁶), alternative messages and information available only online reached beyond young, middle class, and urban voters through SMS messages, VCDs made of online television programming, and printed fliers.¹⁷ The only media organization to provide live coverage of election results, Malaysiakini.com, has reportedly become the country's most popular alternative news source and was one of about ten of the first online news sites granted media accreditation in July 2008.¹⁸

In November 2007, President Pervez Musharraf of Pakistan declared a state of emergency and shut down the country's independent broadcast media, including news, sports and entertainment television stations.¹⁹ In response, these stations went online and offered free broadcasts on their Web sites, while YouTube became the vehicle for lawyers, journalists, and activists to post footage of protests and other news.²⁰

Perhaps the most dramatic demonstration of citizens utilizing online tools to circumvent their governments' control over information occurred during the so-called Saffron Revolution in Burma. On August 19, 2007, leaders of the 88 Generation student movement organized a rally to protest a sudden sharp increase in fuel prices in Rangoon,²¹ and over the next month, leadership of the protests passed to Buddhist monks, with

participation swelling to an estimated crowd of 150,000 protesters on September 23.²² Throughout these extraordinary demonstrations and the first days of the junta's violent crackdown on monks, students, and others, citizen video journalists and bloggers fed raw, graphic footage and eyewitness accounts to the outside world via the Internet and through trusted networks. This vital information was posted by overseas Burmese news organizations and international media, and fed back into the country via satellite television and radio, thus achieving a bi-directional flow of information only fully cut off when the government implemented a complete shutdown of the Internet beginning on September 29.²³ Despite the Burmese government's continuous efforts to restrict Internet access and online expression, the use of blogs and social media sites for the independent gathering and dissemination of information appears to have taken hold: in the aftermath of Cyclone Nargis in May 2008, which devastated much of the Irrawaddy river delta and left more than 138,000 dead or missing and millions in need of food, water, shelter, and medical care,²⁴ citizens nevertheless set out to record the damage as well as the government's response.²⁵

In Asia, citizens' application of the array of Internet tools available to them has often tested societal and cultural boundaries for acceptable behavior. In 2005, a girl in South Korea who allowed her dog to defecate on the subway was filmed, tracked down, publicly exposed, and ultimately quit her university in humiliation.²⁶ As "dog poop girl," she became emblematic of an online vigilantism that would drive the implementation of real-name registration requirements in South Korea. Known in China as "human flesh search engines,"

this phenomenon can thrive across borders. For example, in April 2008, as groups around the world organized actions around the crackdown on unrest in Tibet, a Chinese student was filmed attempting to referee between two opposing groups of protesters at Duke University.²⁷ After the video was posted on YouTube and other Web sites, the online reaction was swift: she was lambasted in Chinese-language discussion forums and portals, and her parents living in China went into hiding after threats were painted on their apartment.²⁸

Since 2006, many Asian governments have quickly realized the potential benefits of exploiting opportunities for conducting propaganda or public relations strategies over the Internet, even while cracking down on independent and critical voices thriving in these online spaces – an example of the evolution towards third generation controls. The Chinese government has carefully orchestrated symbolic engagements with its online citizens as well as mass strategies to boost public relations. On June 20, 2008, President Hu Jintao participated in his first online chat on the People's Daily Online's "Strong China" (*qiangguo*) discussion forum,²⁹ while the so-called Fifty Cent Party, in reference to an estimated 280,000 Web commentators nationwide who zealously support the Chinese Communist Party and were initially rumored to net 50 cents per post, are directly organized by the government to "guide" online public opinion.³⁰ In South Korea, with its credibility badly damaged by protests over the decision to end the ban on imports of American beef that were largely fueled by Internet debate, President Lee Myung-bak's administration ordered government ministries and organizations to begin blogging in order to inform the public of news and events.³¹ It

took these steps amid attempts to legislate further restrictions on what it saw to be a proliferation of slanderous and malicious commentary online. After Malaysia's general election in March 2008,³² Prime Minister Abdullah Ahmad Badawi said that the BN's "biggest mistake" in the elections was in believing that the "cyberwar" was unimportant.³³ Even the Burmese government, which has taken the most draconian measures to keep its citizens offline, reportedly launched its Web portal www.khitlunge.com.mm, run by the government-aligned Union Solidarity and Development Association, to "spread government propaganda and counter media attacks by exiled Burmese media groups."³⁴

Legal and regulatory frameworks

In 2007-2008, the leadership of many Asian governments facing political threats or crises took measures to further restrict certain forms of expression on the Internet. These measures, which especially targeted acts of cyber-defamation and independent news reporting and criticism on social media platforms such as YouTube, reflected the growing relevance and impact of the Internet as a source of information from independent and diverse sources.

In Thailand, ongoing political turmoil between "red-shirt" and "yellow-shirt" factions, organized around their support of or opposition to former prime minister Thaksin Shinawatra and the constituencies he championed, led Thai prime minister Samak Sundaravej to declare a state of emergency on September 2, 2008. Upon his declaration, the Ministry of Information and Communications Technology ordered ISPs to immediately shut down around 400 Web sites and block 1,200 more, all alleged to disturb social order or endanger

national security.³⁵ Although these Web sites were reportedly detected between March and August 2008, the blocking order and simultaneous requests for court orders required by law were instituted as the Thai government faced challenges by protesters occupying government buildings and accusations that it committed electoral fraud by buying votes in the December 2007 election.³⁶

Providing an indication of the types of activities that will be targeted under the Computer Crimes Act, in March 2009 police arrested the director and moderator of the political news site Prachathai.com for reportedly allowing a comment referencing the royal family to remain on the site for twenty days.³⁷ Chiranuch Premchaiporn was arrested under Section 15 of the Computer Crimes Act, which extends the liability for illegal activities to service providers that intentionally support or consent to them.³⁸ Illegal activities defined in the framework for regulating Internet content include inputting obscene data, forged or false data likely to cause injury to another person, the public or national security; and data which constitutes a criminal offense relating to national security or terrorism.³⁹ Individuals who either input these illegal data, which includes online messages and information, into computer systems or publish or forward it with the knowledge of these offenses, are subject to a maximum sentence of five years imprisonment and a 100,000 baht fine.⁴⁰

In the race to curb the “harmful” effects of social media, user generated content, and the unabated growth of online commentary, Asian governments have enacted cybercrimes laws that purport to deter acts of online defamation and vigilantism, but could also potentially be applied to stifle citizen journalism. The Thai cybercrimes law creates civil and

criminal liability for individuals who publicly post photographs of others that are “likely to” impair their reputation or expose them to shame, public hatred or contempt.⁴¹ In Pakistan, a cybercrimes ordinance taking effect September 2008 made “cyber stalking”—which requires “intent to coerce, intimidate, or harass any person” using computers or networks — a crime punishable by up to seven years’ imprisonment.⁴²

In April 2008, South Korean President Lee Myung Bak’s administration agreed to resume imports of American beef after a five-year ban,⁴³ sparking about one hundred days of candlelight vigils and some of the largest street protests in twenty years.⁴⁴ A television program that aired on April 29 claiming that, “Koreans are 94 percent more likely to contract a human form of mad cow disease,” also contributed to stoking online debate, especially on the Agora forum of Korea’s second-largest portal Daum (which saw its daily page view count spike from forty million to 200 million).⁴⁵ These demonstrations also went interactive: protesters uploaded images to the Internet, sent messages on protest meet-ups and warnings on arrests via SMS, and threw themselves into online debate.⁴⁶ Ultimately, his entire cabinet resigned and President Lee was forced to call for a “new beginning” for his government.⁴⁷

In the following months, President Lee’s administration introduced legislation that would attempt to address the increase in reported online defamation, “false rumors” and “malicious postings.” The regulatory body for policing online content, the Korean Communications Standards Commission, would be authorized to force Internet portals and P2P Web sites to delete content or suspend publishing for a minimum of thirty days upon receiving a complaint of articles accused of being

“fraudulent” or “slanderous,” during which the Commission would determine whether disputed articles should be removed permanently.⁴⁸ Internet portals that fail to temporarily block online postings containing defamatory information would be subject to a fine of up to thirty million won or could be forced to shut down,⁴⁹ while portals or individuals involved in improperly manipulating Internet search results should be subject to imprisonment of up to one year and a fine up to ten million won.⁵⁰ The proposed addition of the crime of “cyber-defamation” would punish those who openly insult others through the Internet with up to two years’ imprisonment or a ten million won fine.⁵¹

The South Korean government also pursued an approach similar to its regulation of other emergent forms of harmful or illegal content—by deputizing private actors such as portals, bulletin boards, and other ICPs to actively police slanderous content. While legislation would compel them to set up constant in-house monitoring functions,⁵² many of Korea’s Internet portals also implemented their own measures to curb postings considered to violate privacy. For example, Naver created a simplified process for users to immediately block “groundless rumors or postings.”⁵³

In China, where it is common for dissidents and activists to be charged with subversion and other crimes involving national security for criticizing government officials online,⁵⁴ authorities have also begun levying criminal defamation charges against those who accuse them of corruption. A few cases of alleged online defamation publicized in spring 2009 not only implicated the freedom of expression, but also people’s right to criticize and make suggestions to any state organ, rights both guaranteed in the constitution.⁵⁵ After petitions and other

attempts to protect concerned farmers’ legal rights had failed, Wu Baoquan and Wang Shuai were detained for their online criticism of land seizures for commercial development pushed through by local government officials, in which farmers were inadequately compensated after being forced off their land.⁵⁶ Wu Baoquan was tried twice for criminal defamation and ultimately had his sentence increased to two years, although the same court that affirmed his conviction decided to review his case in April 2009.⁵⁷ Wang Shuai was detained on March 6, 2009, and released on bail only after signing a written confession.⁵⁸

Since 2007, when its bloggers (now over a million strong) reportedly began discussing sensitive topics ranging from government corruption and foreign relations to HIV/AIDS,⁵⁹ Vietnam has steadily been refining its legal framework for online activity to bring social media firmly under control.

Article 12 of the *Law on Information Technology* defines illegal content by proxy, by prohibiting the use of digital information for the purposes of: opposing the state or undermining the “all-peoples unity bloc”; inciting violence, propagating wars of aggression, sowing hatred among nations and peoples or obscenity, depravation, crime, social evils or superstition; undermining the nation’s fine traditions and customs; revealing state secrets or other secrets provided for by law; distorting, slandering, or offending the prestige of organizations or the honor, dignity or prestige of citizens; and advertising for or propagating goods or services banned by law.⁶⁰ Implementing regulations added “sowing hatred and conflict between ethnic [sic] groups and nations” to the list of prohibited acts.⁶¹

Internet users and organizations involved

in Internet activity in Vietnam are legally responsible for the content they create, upload, store, and transmit on the Internet.⁶² Bloggers are additionally responsible for ensuring that even hyperlinks do not contain illegal content.⁶³ However, Vietnam does offer a “safe harbor” of sorts for organizations and individuals who transmit or temporarily or automatically store information created by others. Third party hosts and providers are generally not responsible for this content unless they initiate the transmission, choose recipients for the information, or select or modify the contents of transmitted information.⁶⁴ However, they are expressly responsible for taking “necessary measures” to stop the illegal access to or illegal deletion of information upon government request.⁶⁵ All online social services providers, including blog service providers, must be prepared to give *ad hoc* as well as formal, biannual reports on their services, including data on blogs that violate terms of service rules.⁶⁶

Singapore, whose political elite have a long history of pursuing their opponents and critics with costly and frequent defamation suits, strengthened its penal code with amendments (effective in 2008) to include crimes committed by electronic means.⁶⁷ For example, abetting a crime now includes acts done outside of Singapore, as long as the crime was committed in Singapore.⁶⁸ In May 2008, blogger Gopalan Nair, a US citizen living in Fremont, California, had returned to Singapore to support Dr. Chee Soon Juan in defamation proceedings.⁶⁹ On May 29, Nair posted his observations of the trial and called High Court judge Belinda Ang a “stooge” who was “prostituting herself” as an employee of Prime Minister Lee Hsien Loong and his father, Mentor Minister Prime Minister Lee Kuan Yew.⁷⁰ Nair was also accused of insulting another judge in

an e-mail from 2006, and ultimately convicted of “intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding”⁷¹ and sentenced to three months’ imprisonment on September 17, 2008.⁷²

Critics of Malaysia’s ruling party also continued to be targeted through the use of existing punitive legal mechanisms, as reflected in the bevy of sedition, defamation, and even national security charges levied against the blogger Raja Petra Kamarudin for his online writings. On April 25, 2008, Kamarudin had published an article on his influential political Web site, Malaysia Today, linking then-Deputy Prime Minister Najib Razak (sworn in as Prime Minister in April 2009) and his wife to the October 2006 murder of a Mongolian translator.⁷³ Kamarudin was charged with sedition in May 2008⁷⁴ and faces three criminal defamation charges in a related case.⁷⁵ From September 12 to November 7, 2008, Kamarudin, who been released on bail in May, was detained under Malaysia’s notorious Internal Security Act of 1960 (ISA), which authorizes the preventive detention of individuals for up to two years (and renewable indefinitely) without trial or any judicial review.⁷⁶ Kamarudin was accused of creating a national security threat by causing potential tension in Malaysia’s multi-racial and multi-faith society through his online activities.⁷⁷

In Pakistan, President Musharraf’s crackdown on the broadcast media after declaring a state of emergency in November 2007 resulted in an actual increase in online dissemination of news and synchronicity between online and offline citizen activism. The Pakistan Electronic Media Regulatory Authority (PEMRA) was established when Musharraf allowed for the creation of privately-owned, independent broadcast media in

2002. As conditions for obtaining a broadcast license, media outlets were required to prevent content containing violence, terrorism, discrimination, extremism, sectarianism, pornography and obscenity from coverage in programming and advertising.⁷⁸ Media were also directly prohibited from broadcasting any content that is obscene, disturbs public order, endangers national security, or is “against the ideology of Pakistan.”⁷⁹

Upon declaring the state of emergency in 2007 Musharraf further amended PEMRA’s charter to prohibit programming that “defames or brings into ridicule the head of state, or members of the armed forces, or executive, legislative or judicial organ of the state.”⁸⁰ Video footage of suicide bombers, other terrorists, and their victims was banned,⁸¹ and PEMRA was empowered to close any broadcast service in a “situation of emergency” and seize equipment or seal the premises of licensees “in the public interest.”⁸² All privately-owned radio and television stations were shut down, some by force,⁸³ and cable operators were banned from broadcasting any national or international news channels.⁸⁴ Because Musharraf did not take such an assiduous approach towards restricting online content during the emergency, privately owned television stations taken off the air took advantage of the relative openness of the Internet and sent text messages announcing the live streaming of their programming online.⁸⁵

Since 2007, offended citizens and groups in India have demanded that social networking Web sites be scrubbed of what they believe to be defamatory or obscene content online. Google’s Orkut is the most popular social networking Web site in India and the second most visited portal nationally. As a result of citizens filing complaints with the police, several

individuals have been arrested for violating Article 67 of the IT Act, which punishes the online publication or transmission of obscene content.⁸⁶ In February, Chandigarh IT professional Jatinder Singh Marok was alleged to have created an obscene profile on Orkut of a girl, including her personal identification and photos.⁸⁷ In another high profile case, Rahul Krishnakumar Vaid, a twenty-two year old IT consultant, was accused of posting obscene and derogatory comments about Sonia Gandhi on an Orkut forum. According to an official account, police obtained Vaid’s identity by asking Google to disclose his IP address, as well as the identification information in his Gmail account.⁸⁸

With the enactment of its cybercrimes law in June 2007, Thailand became one of the only countries in Asia to require its government to obtain court authorization to block Internet content.⁸⁹ Vietnam and South Korea are also notable in Asia for expressly mandating filtering as a preventive mechanism against “harmful” content. Vietnam imposes a positive responsibility upon the state, society and schools to protect children from the negative impacts of information that is either obscene or incites violence, which includes authorizing state agencies to build and disseminate content filters.⁹⁰ All providers must refuse or suspend services to individuals engaged in prohibited online activities, implement a reporting regime, and submit to inspection and examination by competent state agencies. However, online social service providers must also “block and remove illegal content upon detection or at the request of competent state agencies.”⁹¹

South Korea authorizes regulation of Internet content through the Korean Communications Standards Commission (KCSC), whose authority extends to

ordering the blocking of Web sites, the deletion of a particular message identified as an improper communication, a Web site's closure, or the suspension of the particular user ID of the individual who posted the improper writing.⁹² The KCSC was originally empowered to develop general principles or codes of telecommunications ethics, conduct deliberation of and request the "correction" of information declared illegal by Presidential Decree, and operate reporting centers against unhealthy telecom activities.⁹³ Thus, its filtering mandate is part of its power to make determinations on information "harmful" to youth⁹⁴ as well as recommend action against Web sites containing illegal content, including pornography, information for cybercriminals, gambling services, and Web sites that express support for communism or for the government of North Korea.⁹⁵

Filtering in Asia

Asia, with its diversity, is home to several organically grown models for Internet filtering. Singapore, along with China, began experimenting with Internet filtering as early as 1996. Beginning September 15, 1996, users were forced to access the Internet through proxy servers that filtered sites banned by the MDA (then called the Singapore Broadcasting Authority (SBA)).⁹⁶ These servers reportedly contained a database of frequently accessed "approved" material, and also refused access according to an SBA list of banned Web sites.⁹⁷ At the time, the SBA targeted primarily pornography, with plans to also restrict "unacceptable political and religious discussion, defamation, and racist writings."⁹⁸ However, by 2002, these ambitions had been scaled back to the "ceremonial" filtering of a modest number of Web sites, a policy the government reaffirmed in March 2007.⁹⁹

Singapore has refined a "dual regulation approach"¹⁰⁰ to content regulation, where mainstream media are state-controlled or heavily regulated while alternative media such as independent Web sites and blogs are relatively free to publish. At the core of this "light touch" regulatory framework for online content is a class license scheme that requires all ISPs and those ICPs determined to be political parties or persons "engaged in the propagation, promotion or discussion of political or religious issues relating to Singapore" to register with the Media Development Authority.¹⁰¹ Thus, individuals, groups, and other organizations engaged solely in the discussion of these issues online must register for a license.¹⁰² However, the class license scheme has been rarely enforced, achieving greater efficacy in cultivating what its critics call a "culture of silence" through self-censorship.¹⁰³ In April 2007, the Singaporean government created an advisory council to study and make recommendations on its regulatory regime for "interactive digital media."¹⁰⁴ The Advisory Council on the Impact of New Media (AIMS) report, issued on December 8, 2008, praised the longstanding "light touch" approach to regulation of new media, while proposing some incremental changes. For example, AIMS recommended that the registration requirement for political parties be eliminated, but also argued that the Class License Scheme be preserved.¹⁰⁵

Like Singapore, China promoted the development of Internet infrastructure and services while strictly regulating media outlets and other forms of speech. While China has never formalized its filtering policy, it diverged from Singapore in developing aggressive filtering practices in concert with a robust internal market for Internet services and content, resulting in the emergence of public-private localized

filtering.¹⁰⁶ In addition to the broad range of content filtered at the international gateways and through the blocking of keywords, domestic providers wishing to remain in regulatory compliance are required to install internal filtering mechanisms and devote staff resources to monitor content on their Web sites or face civil and criminal liability. For example, in April 2009 an employee of China's leading search engine, Baidu.com, leaked a folder containing the tools of internal censorship.¹⁰⁷ These included lists of topics, keywords, and URLs to be blocked, lists of banned forums, employee guidelines for monitoring work, censorship guidelines for the popular Baidu discussion forums called "post bars," and guidelines for how to search for information that needs to be banned.¹⁰⁸ As a result, China has cultivated a model that buttresses a broad filtering regime with strict regulation of its own content providers, allowing it to maintain more optimal levels of control over its expansive domestic market.

For governments, the surge in user-generated content and multimedia files through online social media sites has made the implementation of filtering policies more complex.¹⁰⁹ In February 2008, Pakistan provided one of the most severe examples of a clumsy technical approach to restricting social media, when the government's attempt to block YouTube in Pakistan made the entire Web site inaccessible to most Internet users around the world for up to two hours.¹¹⁰ On February 22, the Pakistan Telecommunication Authority (PTA) issued an order to block access to a single video on YouTube—a film called "Fitna" by the Dutch parliamentarian Geert Wilders that purportedly mocked the Prophet Muhammed—while listing three IP addresses.¹¹¹ In response, the Pakistan

Telecommunications Company Limited, the telecom that implements blocking orders, redirected requests for YouTube videos to its own network. This rerouting was advertised to the Internet at large and was picked up by the Hong Kong based ISP PCCW, which then broadcast the redirect to ISPs around the world.¹¹² YouTube staff worked with PCCW to restore access within two hours.¹¹³ Access to YouTube was restored in Pakistan after the video listed in the PTA blocking order was removed. Indonesia followed suit, ordering ISPs to block YouTube in April 2008 over the same film after Google reportedly did not respond to the government's request to remove the video from the Web site.¹¹⁴

Authorities in Bangladesh, a country with an Internet penetration rate of less than 1 percent,¹¹⁵ nevertheless chose to block YouTube for a few days in March 2009 in order to protect the "national interest." The disputed video covered a partial audio recording of a meeting between the prime minister and military officials, who were angry at the government's handling of a mutiny by border guards in Dhaka that left more than seventy people dead.¹¹⁶ The Bangla blogging platform Sachalayatan was also reported to be inaccessible beginning on July 15, 2008, and was forced to migrate to a new IP address.¹¹⁷ Although its blocking was not officially confirmed, Sachalayatan was likely Bangladesh's inaugural filtering event.

Even China, which has developed domestic content control mechanisms for its Internet market that help to shield it from the difficult choices facing other countries, can be vulnerable to the reverberations of social media. Google confirmed that YouTube was blocked in China beginning on March 23, 2009,¹¹⁸ which media reported could have been prompted by a graphic video released by

Tibetan exiles in which Chinese troops beat a group of Tibetans.¹¹⁹ Multiple users also reported that YouTube was blocked in China around March 4, 2009, coinciding with the one-year anniversary of the crackdown on protests in Tibetan regions as well as the fiftieth anniversary of the Tibetan uprising of 1959.¹²⁰

As the proliferation of borderless social media reduces the effectiveness of the blacklist-and-block model, governments are increasingly looking to technology companies to act as gatekeepers for facilitating transnational public-private filtering.¹²¹ In Asia, Thailand may present an example of an alternative to the approaches taken by China and Singapore. Thailand also blocked YouTube in April 2007 for hosting a number of videos that insulted King Bhumibol Adulyadej or his family, which constitutes a crime of *lèse majesté*, punishable under Thai law by up to fifteen years' imprisonment.¹²² By May 2007, YouTube agreed to remove a number of the specified videos for violating its terms of service, and the block on the YouTube domain was lifted in August 2007 upon Google's creation of a program of geolocational filtering for blocking access to specified videos for users in Thailand.¹²³ In 2008, investigations by a project of the MIT Free Culture group appeared to have uncovered the code for a technical mechanism that YouTube uses to allow certain videos to be seen everywhere except in those locations specified in a media restriction tag.¹²⁴ Although Thailand's filtering of the Internet has been ramped up in recent years, Thai law also requires court authorization to block a Web site. Thus, Thailand has secured the cooperation of the world's dominant video aggregator site in implementing selective geolocational filtering on its behalf, without having to

resort to a formal or transparent legal process. Its experience could also signal further public-private transnational cooperation between governments and private technology companies that result in selective filtering: a Vietnamese information ministry official stated in 2008 that the government would ask transnational gatekeepers such as Google and Yahoo to help regulate the Vietnamese blogosphere.¹²⁵

Ultimately, there continues to be no single or uniform approach to filtering in Asia. In August 2008, in contravention of its own policy, Malaysia joined the growing collection of countries that filter the Internet. On August 27, media reported Malaysia Today blocked by order of the Malaysian Communications and Multimedia Commission (MCMC) for violating Articles 211 and 233(1) of the Communications and Multimedia Act of 1998 (CMA).¹²⁶ Malaysia Today was alleged to have published offensive, false and indecent content, especially "comments relating to Islam and how Muslims practice it."¹²⁷ The blocking order was labeled a preventative action under Section 263 of the CMA, requiring the cooperation of licensees such as ISPs to cooperate in enforcing the laws of Malaysia.¹²⁸ Former Prime Minister Mahathir Mohamad criticized this "reneging of a promise" not to censor the Internet as loss of credibility and the public's respect.¹²⁹ Although a government official later clarified that MCMC did not receive a direct order to block Malaysia Today but had exercised its discretion under the CMA, Communications Minister Datuk Shaziman Abu Mansor disclosed that over one hundred Web sites and blogs, including Malaysia Today, were blocked for violating various sections of the CMA.¹³⁰ On September 11, the Malaysian cabinet

ordered the MCMC to unblock all Web sites, stating that existing laws would be used to prosecute blogs and Web sites in violation of the CMA, which would be monitored by a MCMC committee comprising police officials, officials from the Attorney-General's Chambers and the Home Ministry.¹³¹

Conclusion

Filtering conducted by Asian governments followed the same broad trajectories in 2007-2008, with some incremental changes, and continues to be most clearly demarcated along national lines and local language and content rather than any regional or categorical formula. Increased scrutiny of filtering practices worldwide has contributed to greater awareness about escalated filtering taking place around political events like elections and political emergencies, with at least six Asian countries reported to have blocked YouTube between 2007 and early 2009. Most of the governments in Asia where ONI conducted in-country testing are expanding their legal mandate and authority to filter and regulate content, especially in targeting online defamation. As social media platforms such as video aggregator Web sites, Web portals, and online discussion forums gain in size and relevance, legal regulation of the Internet is also converging around data retention requirements, delegated liability for ISPs and ICPs, increased criminal penalties for content producers, and other mechanisms that could create a sufficient dragnet around the individuals operating in these increasingly networked public spheres. These measures fall in line with emerging second-generation controls.

NOTES

- ¹ Paul Budde Communication Pty Ltd., Thailand- Key Statistics, Telecom Market Overview & Forecasts, February 11, 2009. Paul Budde Communication Pty Ltd., Vietnam- Key Statistics, Telecom Market Overview & Forecasts, April 11, 2009.
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¹³¹ Sim Leoi Leoi and Florence A. Sam, "MCMC told to unblock Malaysia Today (Update 2)," The Star Online, September 11, 2008, <http://thestar.com.my/news/story.asp?file=/2008/9/11/nation/20080911145128&sec=nation>.