A New Frontier, An Old Landscape

A report for the Ford Foundation about the impact of digital communications on media and communications, and on human rights.

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1. Introduction and Overview

The purpose of this paper is to provide an overview of the main policy challenges and opportunities at the global, regional and national levels for shaping a public interest serving media and communications environment. It was commissioned by the Ford Foundation with the support of Vice Presidents Darren Walker and Maya Harris, as well as the lead programme officer Jenny Toomey and other programme officers in the Foundation. We have drawn upon the skills and experience of a number of consultants in the generation of this report. This has been throughout a collaborative exercise – appropriately since the internet itself is a collaborative phenomenon.

The vision that informs our analysis is of a global, citizen-centred communications environment in which all people have equal ability to use communications platforms to enjoy all three dimensions of freedom of expression:

- To seek and find information and ideas that they want and need
- To receive diverse information and ideas that will enhance their lives
- To impart information and ideas to other citizens, and make themselves heard by decision makers and power holders.

The report adopts two separate (but overlapping) angles from which to analyse the shifting landscape: firstly, to examine how the media and communications environment is changing particularly with regards to the production and dissemination of public interest media; and secondly, to examine the opportunities and challenges digital communications bring to human rights activists and those working to advance social and economic justice and democracy.

The report examines global issues through a focus on eight countries: Argentina, Brazil, Egypt, Kenya, India, Indonesia, South Africa and the United States of America. For each country chapter, a specialist has produced an overview examining the shifting environment on a national level and exploring the main opportunities and challenges for progressively influencing the environment at that level. Different countries are at different points along their respective digital development trajectories, and are transforming in different ways as technology interacts with unique economic, political and social dynamics. Thus, national level understanding and responses remain crucial.

However, in a globalised world (globalisation itself being to a certain extent driven by the advent of easy global communication), action at the regional and global spheres are just as important. The report begins with three global chapters: the first adopts the “media and communications” perspective and the second adopts the “human rights” perspective to examining the fluctuating environment on a global scale. It becomes clear in these chapters that investing in a free, open and accessible internet environment is a shared goal and that doing so will not only involve activities on a national level, but also at the regional and global levels. The internet is a trans-boundary space, and so a third global chapter examines the emerging global internet environment and identifies priority policy challenges.
1.1. Key Ideas from the Report

What are digital communications and what do they offer?
Modern digital communications are a combination of networks (the internet itself is a network of networks), services (including the World Wide Web and social platforms), and devices (from the mobile phone to the PC and tablet). Together they create a global decentralised digital communication environment that has the potential to transform the way we communicate with each other and therefore our abilities to create, inform, and shape events.

Previous forms of communication which went beyond face-to-face communications operated using a one-to-many model where power is concentrated at the source of the information, such as a journalist, editor or publisher, and their content is then distributed to a wide audience. Digital communications have changed this model dramatically – now more and more services users are creating, producing, sharing, editing and moderating content directly with other users using formats which can be accessed via a range of devices (mobile phones, computers, televisions). This model of communication is called “peer-to-peer”. Digital communications combine interpersonal communications and mass media communication on one and the same platform. While this report refers mainly to the internet and mobile phones, it should be noted that the move from analogue to digital information covers a whole range of information capture, transmission and storage from cameras, to music and new televisions.

What opportunities does this medium offer? In a sentence, it has the potential to democratise freedom of expression.

- It allows peer to peer collaboration, creation and curation;
- It can give voice to marginal or excluded communities;
- It creates new potential for political mobilisation;
- It creates – and requires – a new political dynamic one that is interactive and viral rather than centrally controlled and directed
- Unlike other communication media it is shaped and reshaped by users themselves, by their needs, wants and interactions.

The threat of public and private power
The internet was born in a libertarian dream. Its early creators and advocates imagined it as a stateless space, outside of government control. Consequently many felt there was no need to consider its’ governance, or what policies should shape its development. Indeed many saw any kind of governance as destroying its very character. In the early phase of the internet’s development, the engineers, technicians, companies and users who drove it were content to create a communicative capacity without concern for how that capacity would be used. The ‘first amendment’ culture of the United States, which fosters free speech and limits the liabilities of carriers, was crucial to its development. Many of the early innovators and creators of the digital world came from the USA and could experiment without concern for future liabilities. As an English language medium that was only available to elites in most parts of the world, it passed under the radar of those governments inclined to censor and control communications. Moreover we had the advantage that the skills and capacities to use the new digital
technologies were predominantly vested in the hands of those who were most convinced of the need to keep the network free and open.

This era has passed. Governments throughout the world are alert to the potential disruption caused by access to digital communications, whether from text messaging using mobile phones, the creative use of social platforms like Facebook or Twitter, the streaming of video direct to the web or the use of the internet to bypass censorship. Governments are increasingly finding new ways of controlling and monitoring the online space. At the same time demands are growing at the global scale calling for this unregulated environment to be brought under government control, supported by democratic states fearful of crime and terrorism, as much as by undemocratic governments. The capacity of states and non state actors to use the technologies to disrupt and control communications has grown immensely. Criminal networks exploit the capabilities and are corroding trust in the environment. Some sell their services to repressive regimes to disrupt prodemocracy and human rights groups. Alongside this trend, the power of new communication companies is growing. As Timothy Wu has documented\(^1\), all of the new media of the twentieth century whether radio, television, film or telephony came into existence in an open and free environment. All had the potential for unrestricted use but all fell under the control of major monopolies in time. A similar pattern is beginning to emerge in the digital world. The internet therefore faces a challenge from both public power and private power and sometimes a deadly combination of the two\(^2\).

Tools and spaces
If digital communications are to remain open, to retain their capacity to support human rights and democracy, to permit the flourishing of creativity and expression and to enhance the democratic communication potential for everyone, then action needs to be taken. We can conceive the environment as being made up of both tools and spaces: we need to act at both levels. By “tools” we mean the products that allow citizens to exercise capabilities – such as mobile phones which allow users to take digital photos or access the internet; search engines which allow users to more easily access content; and social networking sites which allow users to interact with one another in new ways. By “spaces” we mean the overall nature of the environment as shaped by government and corporate policies, what technology make possible, and how citizens engage with technology.

Building capacity and skills
There is a need to ensure that those actors seeking to promote democracy, human rights, media pluralism and media freedom are equipped and enabled to harness the possibilities offered by these new technologies. Part of this is about the acquisition of new skills, but it also about understanding the way that communication itself is changing and the demands this places upon traditional hierarchical organisations used to operating in a Web 1.0 world. There is also a need to bring together democracy and human rights campaigners with those at the forefront of campaigning for open communications.

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The former tend to see digital communications as just another technology, the latter tend to be opposed to overarching policy and sceptical of human rights because of their acceptance of limitations to freedoms in some circumstances in pursuit of legitimate aims.

**Developing positive policies**

In considering digital communications as constituting a space in which others can act, we will need to develop a much more proactive policy agenda to shape an enabling digital environment. This agenda will have to respond to the growing encroachment of public power (in the shape of governments and states) and private power (in the emergence of colossal global communication companies who seek to shape and control – and monetise – our experience of the online world). The challenge is how to make policy for a globalised, decentralised network in a way that does not inhibit innovation and enterprise. This can best be done by the creation of norms and values that shape how digital communications develop, fostering the development of an international agenda that seeks to create and sustain globally open digital environments. An interesting parallel might be the struggle to achieve freedom to trade on the open seas in the nineteenth century, where a web of bilateral and multilateral agreements (rather than global regulation) led to the emergence of an accepted code of conduct\(^3\). Such a development in the modern era requires not just lobbying of governments, who were the main actors in the nineteenth century, but also the co-operation and engagement by major global communication companies, civil society and users themselves. In other words, what is needed is a multi-stakeholder approach.

**Unpredictable outcomes**

Much energy has been spent making claims about how digital communications can change the world. Many of these are over-instrumental, assuming that a particular input will produce a particular output. But part of the energy and opportunity of the digital environment is the unexpected outcomes and unpredictable events. An application developed to help students at Harvard University to socialise with each other has become a global platform that has been used to mobilise successful mass protests in Egypt and Tunisia. A corporate idea to allow individuals to communicate with a small group of people using an SMS service became the global phenomenon of Twitter. No-one could have predicted that SMS would be a key tool in toppling a president in the Philippines, or that attacks on Burmese monks by the police would one day be seen live by streaming film to the web. This underlines what for us is a key finding. As Clay Shirky has argued that rather than focusing on the instrumental value of digital communications, “the more promising way to think about social media is as long-term tools that can strengthen civil society and the public sphere.”\(^4\) What is crucial is to invest in building communication capacity – building infrastructure so that it is accessible and affordable; analysing and then lobbying for the policy approaches which will keep digital communications open; and understanding the evolving nature of the communication model so that we can utilise its viral peer to peer capacities effectively.


\(^4\) Shirky, C. 2011. *The political power of social media*. Foreign Affairs [online]  
A new wave of activism

What is exciting in modern times is how digital communications have enabled and empowered a new wave of activism. These activists - whether focused upon campaigning for democratic renewal in Egypt, for human rights in Burma or for social justice in North America and Europe - are young, new to political activity, and separate from both traditional political parties and established NGOs. In fact the main finding of a recent study by Civicus, a global network of civil society organisations, is that there is a disconnect between established civil society organisations and the increasing number of citizens involved in both new and traditional forms of activism. Thanks to digital communications the potential for giving voice, mobilising and empowering people is more potent than ever. But traditional civil society organisations are not taking advantage of this potential, are struggling for funds (and even legitimacy in many parts of the world) and are failing to tap into youth movements mobilising for change. If the movements for change are to succeed in the long term they will need to progress beyond inevitably transitory moments of mass protest organised using digital tools to genuinely sustainable projects. Traditional civil society groups have a lot to offer here if the necessary synergies can be made.

1.2. A Conceptual Framework for addressing these Issues: The Layer Model

In order to understand the world of digital communications it can be conceptualised as consisting of a series of layers:

- **Physical layer**: the physical infrastructure consisting of cables, wireless towers, hardware etc.
- **Connectivity and code layer**: the codes and protocols that allow material to be transported across networks and for different devices to connect to each other.
- **Applications layer**: the platforms and tools that run on the networks and increase its usability
- **Content layer**: the content itself, what we see, hear and watch.

These layers are illustrated in Figure 1 below. Traditional human rights activists and policy actors were less concerned about the tools used to produce, disseminate and access content, but rather tended to focus on the content itself. Is it available and free of censorship? However, in a digital world communications are influenced by underlying technology, in a way which is often hidden and unaccountable. For example, search engines can use algorithms which inhibit access to certain types of material, ISPs can block access to certain domain names or IP addresses, mobile phones can be used to monitor and track citizens. Thus, in a digital world it is necessary to reflect upon all four layers. The illustration shows that these layers are not only shaped by traditional policy makers (and what they seek to achieve through policy and regulation, albeit with unintended consequences). They are also shaped constantly by what technology makes possible, what businesses do to secure customers and revenue, and – most radically – by the ways in which users interact with the environment as a whole. It is a

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5 CIVICUS, 2011. *Bridging the gaps: Citizens, organisations and dissociation* [online]
rapidly evolving ecosystem and it is necessary to consider the totality of the environment and develop policy frameworks for each of the four dimensions of the environment.

*Figure 1: A layer model of the digital communications environment*

### 1.3. Evolving Access to Media

The ways in which people access media content of all kinds are evolving in all parts of the world, understanding these trends is a necessary starting point for analysing the impact of digital communications. Publicly available data is limited and often out of date, in this field as in so many
others the best data is collected commercially and is very expensive. However some top level conclusions can be drawn.

The patterns are not uniform and variation exists in both the type of communication platforms that citizens make use of and how they access those platforms. Internet access is expanding rapidly across most of the world. Statistics from the ITU, Figure 2, show that between 2005 and 2010 alone, the number of internet users doubled. In 1995 only 0.4% of the world’s population had access to the internet, by March 2011 that percentage had erupted to 30.2%\(^6\). This corresponds to more than two billion internet users, 1.2 billion of whom are in developed countries. The rise in usage of mobile phones has been even more extraordinary. Figure 3 shows the number of mobile subscriptions between 1998 and 2009. Today there are 5.3 billion mobile cellular subscriptions worldwide. Access to mobile networks is available to 90% of the world’s population, and some commentators believe that universal availability may be achieved within the next 5 years\(^7\). In developed countries there are more mobile subscriptions than there are people (113.6 subscriptions per 100 inhabitants), and while the number is much lower in developing countries, it is still very high, with 56.8 subscriptions per 100 inhabitants\(^8\).

**Figure 2: Internet users in different regions**\(^9\)


In large swathes of the developing world, Africa in particular, internet access is still the prerogative of the wealthy few. Shared access points, such as cyber cafes, are helping to spread internet use in emerging markets by eliminating the need for costly monthly subscriptions. But while internet usage is precluded in many parts of the world by unaffordable access costs, mobiles are much more affordable and penetration rates are correspondingly much higher. Only 4% of people in India own a computer, whereas 41% own a mobile phone. In Brazil 32% have a computer and 86% a mobile phone, and Indonesia the statistics are 5% and 66% respectively. And the percentage of people who actually have access to the mobile phones is often higher than penetration rates suggest, as communal phones are common in poor communities.

An important trend is the rise of mobility. While the majority of mobile phone subscriptions are for 2G services, the use of 3G services is beginning to grow. This increase is occurring mainly in developed countries although the availability of 3G services is expanding rapidly – in 2010, 3G services were available in 143 countries compared to just 95 countries in 2007\textsuperscript{11}. Evidence shows that in some of the poorest countries users are beginning to opt for internet access over mobile devices as opposed to using computers or laptops. For instance, a recent study found that in six of the seven African countries examined: mobile broadband subscriptions had significantly overtaken fixed broadband subscriptions\textsuperscript{12}.

\textsuperscript{10} ITU World Telecommunication, 2010. Pg16.
\textsuperscript{11} ITU World Telecommunication, 2010a. Pg1.
\textsuperscript{12} Sarrazin, T., 2011.
To date, the internet and mobile phones are complementing, rather than replacing, offline media. South Korea, where online news is more popular than offline news, is still in the minority. Television continues to be the dominant medium for mass media. In developed countries 98% of households have a television. Television ownership is becoming a priority even among the relatively poor – the ITU reports that in developing countries, 72.4% of households have a television. This number seems remarkably high. Television ownership has been growing steadily in developing countries over the last ten years, particularly among the most populous emerging countries (Brazil, China and India). In India, for instance, the percentage of households with televisions grew from less than a third to almost half between 2001 and 2010 (rising to 96% in urban areas).

Radio also continues to be popular in all countries, and is particularly important in developing countries where it remains the most widely used medium among the very poor and marginalised. This is largely because it is cheap to produce and access (through battery-powered or clockwork radios for example), and because it is an oral medium so can reach people with limited abilities to read or write. Community radio continues to be a focus for development practitioners as a relatively cheap tool for bringing underrepresented voices and perspectives into the mass media and increasing diversity.

Newspaper, however, is the medium facing the most disparate fortunes. In most developing countries newspaper circulations have been declining steadily for years; most dramatically in the USA where newspaper titles have been closing, others are downgrading their services, and there is widespread debate about whether the country is experiencing the “death of the newspaper”. However, the world aggregate of newspaper titles has nearly doubled in the last decade (and circulation the same) and this is thanks to strong development in other countries, particularly those with growing middle classes such as India, Brazil and China.

The continuing importance of offline media does not invalidate the importance of online spaces. All media are potentially new media. Across the world newspapers are increasingly online; in developed countries radio programmes are being listened to as podcasts and watching television is becoming a catch up activity. In developing countries too existing content producers are using digital communications to research and write stories, to disperse stories to a wider audience, and to introduce audience participation into the news process – for example by combining radio with mobile telephony. It no longer makes sense to think about old media and new media as separate. All media co-exist and feed off, and into, one another in a multi-dimensional media conversation.

1.4. Overview of Country Chapters of this Report

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The phenomenon of changing patterns of media creation, distribution and usage is experienced differently in different countries. This report includes eight country chapters which explore the role and shape of digital communications in Argentina, Brazil, Egypt, Kenya, India, Indonesia, South Africa and the United States of America. Below is a summary of some of the unique findings in each country. What is apparent is that there are many common trends, in particular: internet and mobile phone access are growing but key sectors of society continue to be excluded from the communications revolution; new laws and regulations are being considered, or have been introduced; and while there are dispersed examples of civil society harnessing new media to effect social change, in all of the countries examined it is clear that there is much potential yet to be exploited.

**Argentina:** In Argentina the media environment is dominated by the private sector, and the few emerging players have strong links to the government. This is seriously undermining freedom of expression and information in the public sphere. As internet penetration exceeds 50% of the population, the potential for the internet and mobile phones to break down the historical alliance between media and political power is an important opportunity. However, the story outlined in the Argentine chapter is one of missed opportunities. There are some isolated examples of new alternative political media emerging online (such as Lapoliticaonline.com), of civil society using social media to raise awareness or mobilise (such as the 2011 successful campaign against the digital cannon law), and of the authorities using digital means to enhance public life (in recent elections, for instance voters could use SMS to find their nearest polling station). But these do not add up to a coherent changing landscape. Instead existing major newspapers, including Clarín and La Nación, are dominating online news content, and using digital communications to disseminate information, rather than to interact with, and give voice to, the wider public. And the government has not integrated the internet concerns into its understanding of the media – Argentina is one of the few countries in the world to have separate regulations for broadcasting and telecommunications. Today however changing communications is becoming an increasingly important political issue in the public mind. The role of media, the potential of digital communications and the role of government in this key area of public policy are now the subject of extensive political and social public debate.

**Brazil:** The Brazilian chapter is in many ways a showcase for the potential of digital communications. Brazil is a country that is growing both economically and in confidence. And, excitingly, the Brazilian government appears to be genuinely promoting a positive agenda for the internet both nationally, and internationally. A multi-stakeholder steering committee has been assembled to guide legislation and policy relating to the internet, and this is being widely studied across the world as an example of best practice. Furthermore there is a growing collection of examples of civil society using online social networks to push a democratic and progressive agenda. For example, a mass movement successfully demanded a new law preventing political candidates with previous criminal records from standing for elections. However, the Brazilian media and communications landscape is extremely unequal and this fundamentally undermines its ability to empower marginalised people. There is a well developed broadcasting system, but it lacks plurality and diversity. Access to the internet reaches just 27% of households across the countries, regional disparities being particularly apparent with internet access in the north and northeast regions 35% lower than in the south east. The media is dominated by a small
number of companies which are horizontally, vertically and cross-concentrated. And whilst information flows are becoming multidirectional as more and more of the populace engage in public debate using digital communications – the majority of online content continues to originate from mainstream media. However, there is now a real opportunity to tackle these persistent underlying concerns as the regulatory underpinnings of the media and communications environment is being fundamentally revised.

**Egypt:** A dominant discussion in international media since the 25 January revolutions in Egypt has been about the role of online media as a democratising force. The Egypt chapter argues that the media as a whole is playing a crucial role in the political, social and cultural changes that are currently taking place in the country. The Egyptian media landscape has traditionally been dominated by state-owned organisations, but since 2000 a number of private outlets have emerged following the adoption of policies promoting economic openness. While this is widely celebrated as the emancipation of media from state control – most of the private media which is emerging is owned by a small group of businessmen who have invested in the media as a tool for influencing public opinion in line with their political and economic interests. Alongside these developments, the use of digital communications has been growing, particularly mobile telephones which now have a penetration rate of more than 91%, and the internet which is accessed by 30% of the population. The online space is increasingly an important space for shaping public opinion about current events. There were many online elements to the 25 January revolution: the “We are All Khaled Said” Facebook group, criticisms of Mubarak (which were impossible using mainstream media channels) emerged online, and the development of alternative political movements using online spaces such as the 6 April Youth Movement. Nonetheless, the chapter argues that while digital communications are valuable, the hype currently surrounding the internet is dangerous – in a country where access rates remain low we must not focus on online campaigns to the detriment of engaging with all citizens.

*Picture 1: “On the net on a mat on the ground”*

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16 Coghlan, M. 2011. *On the net on a mat on the ground*, June 21, 2011 via Flickr, Creative Commons License
Kenya: The Kenyan chapter describes how the last two decades have been pivotal for the media landscape in the country: liberalisation policies have contributed to a surge in the number of media outlets, and a corresponding increase in the quality and variety of available content has been widely reported. The more recent arrival of widespread digital technologies is transforming the landscape still further. Mobile phone use is exploding – with, for example, penetration rates growing by 12% over just 3 months in 2010. Media outlets have begun to embrace social media tools to interact with their audiences, and the range of civil society blogs is also growing. Grassroots communities are also beginning to make use of digital communications to mobilise the public, such as the ‘Unga’ protests which protested against the rise in flour costs. Nonetheless, some dangers in the new environment are already beginning to emerge - the lack of enforced ethical and quality parameters on information shared online was reportedly a factor in the post-election violence of 2008. As a fundamental challenge across Africa, unsurprisingly access is also a key challenge in Kenya. The undersea fibre optic cables did not reduce prices as much as was expected, and liberalising spectrum access is proving to be a slow process without adequate opportunities for independent scrutiny.

India: Since the 1990s the media in India has developed a new liberalised face. The media market is growing across all sectors – but the fastest growing sectors are internet, television and mobile telephone. There are now more than 800 million mobile telephone subscribers in India making it one of the fastest growing markets in the world. However access, particularly to the internet, is a hugely important and extremely complex issue, with neglected areas in the northeast and central India and many marginalised communities unable to access new platforms due to price barriers. There are infrastructural barriers, with some areas lacking a consistent supply; content issues, with 27 official languages in India but the internet dominated by English-language content; and policy issues with a debate about whether access is a market issue or if governments should intervene. Another important issue is digitisation – the government has set 2015 as the sunset year for digitisation of the broadcasting sector. Undoubtedly, this offers many opportunities for industry, as well as for consumers. Spectrum, an increasingly scarce resource, will also be optimised through the digital switchover. With free-to-air television still a vital medium for some of the poorest communities it is crucial that digitisation is handled sensitively to ensure that digital address systems are accessible and affordable for all. The use of digital communications by citizens and human rights activists is active and dynamic, but still nascent. The most exciting examples so far come from socially excluded social groups, whose plight is often ignored in mainstream media. Digital communications have contributed significantly to building a strong and organised community calling for sexual rights in India. While freedom of expression has a strong legislative basis in the Indian Constitution at present there are some worrying developments, such as the proposed IT (Amendment) Act 2008 which would expand online surveillance and impose intermediary liability making, for example, bloggers responsible for comments made by readers on their site. There is an urgent need to invest in policy advocacy to build an enabling environment, rather than a restrictive one.

Indonesia: Since the reformasi (or reformation) in May 1998 the media environment in Indonesia has undergone profound change. The two main elements of this change are the return of freedom of
expression, and the introduction of the market economy into media development. The rapid expansion of the media landscape has given birth to increasing corporatisation with a small number of large companies dominating the environment – some of which have obvious political connections. Television is the most popular medium by a considerable margin, followed by radio, then newspapers and the online sources. However, while radio and newspaper audiences are falling, internet audiences are growing. But access is still relatively low, and faces unique geographical barriers in Indonesia, an archipelago of some 17000 islands. In this landscape, community radio is a particularly important tool. Digital technologies do offer tremendous opportunities to reshape the landscape. There has been an explosion of user-generated content with an estimated five million Indonesian blogs in 2011. However, the Indonesia chapter makes clear that despite the vast amount of content, there is a staggering degree of concentration with even the number one blogger site receiving less than 1.5 per cent of the daily and monthly visitors of Detik.com (the largest local online content provider). And while the viewpoints of marginalised group are noticeably absent from mainstream media, they are also absent from online content which tends to focus on middle class culture, lifestyle and problems. Digital communications contributed to the civil society movements that led to the collapse of Suharto’s authoritarian regime – however the success of current Web 2.0 mobilisation efforts often depend crucially on the type of narrative. For example, the assault against Ahmadiyya members by a militant Islamist group in January 2011 became public knowledge after amateur videos were shared through social media, nonetheless as a socially unpopular group no further action has yet come out of this footage.

South Africa: A recurring theme in the South Africa chapter is the permeation of inequality into the country’s media and communications landscape: access to digital communications is low and there is an apparent lack of skills to use them. While nearly all South Africans have access to some form of offline media, access to the internet remains the privilege of the wealthy minority. Also, despite South Africa having the highest GDP on the continent, it ranks fourteenth in its internet penetration rate, behind several North African countries and Uganda. Many of the poorest South Africans, who were denied a voice under Apartheid, are still excluded from the public conversation and genuine political participation. What is very exciting, however, is the boom in mobile phone penetration. Infrastructure now reaches even remote areas of the country and nearly 77% of South Africans have access to the mobile phone, whether it belongs to them or not. If properly developed this trend could be used to empower citizens – although the potential is undermined by factors such as the costs of mobile services and the size and functionality of mobile handsets. Perhaps South African’s most promising asset is its national innovation drive. There is a striking level of technological development, and new technologies are also being adopted and adapted at the local level to meet local needs. One example in Freedom Toaster, a sort of vending machine that allows users to burn open source software on to CDs and DVDs. As in other countries in this report, digital communications have a particular potential for socially marginalised communities – especially sexual minorities and women. There are significant challenges to this potential being realised, however. One is the lack of a political culture of engagement at both citizen and government levels. In fact many officials interpret engagement with citizens as undermining of authority as opposed to as a way to strengthen democracy and accountability. While improving service delivery is important, the chapter argues that more must be done to promote interactive and collaborative political dialogue.
United States of America: Patterns of accessing information are changing dramatically in the United States. Newspaper circulation has fallen by an estimated 30 per cent between 2001 and 2011, and there has been a dramatic increase in the use of digital communications as a source of news. The internet has grown from being the least used news medium in 2001, to the second most popular source (after television) in 2010. Sophisticated mobile platforms such as smart phones and tablets are also growing in popularity. The primary issue for public interest advocates in the US is the rampant commercialisation of the media and communications ecosystem. A small number of media companies, telecommunications providers and online service providers dominate the environment. This is damaging the public interest in a number of ways including: the rise of “infotainment” and sensational and partisan news; high internet access costs; and the pursuit of harmful policies in the copyright and network neutrality domains. The combination of changing forms of access and the influence of commercial interests is also undermining investigative journalism – most obviously through the loss of 13,400 newspaper newsroom jobs in just the past four years. On the other hand, online alternative media is blossoming with thousands of new community news sites. However, it is unclear whether at present these alternatives can adequately match the power of commercial media and communications. In a political environment where economic resources dictate, to a large extent, influence over policy and media distribution, public interest concerns are often overpowered by the commercial interests of big business. The US chapter argues that there is an urgent need to reframe media policy debates - over issues such as access, network neutrality and copyright protection – in terms of human rights. Given the influence that the US has on the international stage – there is also a need to better understand the impacts of domestic policy on the global internet ecosystem. By engaging the broader human rights movement in these battles, civil society will be in a stronger position to reconceptualise the debates from commercial interests, to the public interest.

1.5. Conclusion

The internet and mobile phones have opened up new horizons for communications – providing new opportunities to promote a vibrant public interest media environment and new ways to more fully realise our human rights. The potential for humanity is colossal, as communicative power moves from the few to the masses; we have the opportunity to democratise freedom of expression. Digital communications are still young and constantly developing, and thus still the subject of much debate and uncertainty. However, given the movements to restrict and manipulate the environment, we must act now to understand and shape the evolving landscape to serve the public interest. The policy environment is shifting, it was more open five years ago than it is now, and if we don’t act speedily and effectively, it is likely to be even less open five years from now. We need to engage with the existing dynamics to establish and embed the norms and standards that will keep the digital communications space open and citizen-centred.

Different countries are following different trajectories, and local and national level understanding and action remain essential. However, at the heart of the emerging media and communications environment is the internet: an environment which is trans-boundary. Thus, more than ever, we must
seek to collaborate regionally and internationally to align domestic advocacy with global advocacy; to understand the implications of national policies on the international scale and international policies on the national scale; and to engage with the international institutions that shape the dominant legal and regulatory discourse – too often with little appreciation of the implications these policies have on citizens and civil society communities.

Each country chapter has flagged up policy issues and recommendations relevant to that country. Globally we urgently need to:

- **Invest in high-quality research to build up an evidence-based body of knowledge to support high quality advocacy for an open, free and accessible environment.**
- **Build an effective global policy advocacy community rooted in specific regional and national expertise, that is capable to providing effective civil society voice in the various international forums as well as supporting each other in key fights at the national level. This will require both global and local resources. We need to break down the barriers between different civil society groups, and build networks to ensure strong co-ordinated and collaborative advocacy efforts.**
- **This is a fast-moving and complex set of issues and it poses unique challenges. Levels of understanding and debate are often low so it will be necessary to work with relevant players to build up their capacity and understanding of the environment. This includes decision makers (parliamentarians and the judiciary), those that must defend and promote the public interest (civil society advocates) and the wider public who have a much more active role in the emerging environment.**
- **Invest in the open technologies and networks that design in democratic principles, and are owned, and driven, by citizens.**
- **Build a community of philanthropic donors that is both knowledgeable and willing to support programmes in this field.**
2. The Impact of Digital Communications on Media and Communications

The media and communications landscape is undergoing rapid, and profound, transformation. Over the 20th century successive media technologies were developed, from telephone to radio to television and film. All evolved in an open and enterprising environment. Each, in turn, became dominated by large conglomerates which assumed a near monopoly over the mass media17. The advent of the internet has the potential to change this pattern. No longer need the power to communicate on a mass scale rest solely in the hands of elites, with the costs of setting up and operating a newspaper, radio station, or television show acting as natural barriers to participation from the wider public. The explosion in digital communications – mobile phones, internet access, and digital cameras – is allowing citizens to engage in the public domain on a level unparalleled in history. With every citizen a possible mass communicator we are potentially on the horizon of a more diverse and vibrant media environment then could ever be achieved using old media tools alone. Peer-to-peer communication empowers users to act as participants in the public sphere – creating, editing and disseminating information and ideas with a global audience. At the same time a number of powerful digital communication companies are increasingly dominating the global market, including Apple, Microsoft, IBM, AT&T, Oracle, Google and Vodafone.

It would be wrong to think of these developments as being antithetical to older media forms. While there are those who see internet media simply as an alternative to traditional media, in fact traditional media itself is changing in order to utilise new technologies. The internet and mobile telephony make communications universal and connected for journalists as much as for the general public. This is creating a world where media is both personal and everywhere, where information and ideas arrive immediately as events unfold. As Charlie Beckett has written the “almost endless networks of communications are now characterised by increased speed and volume of information that is hyperlinked and interactive”18.

But this new media and communications environment, where old and new technologies interact, is still in its infancy. Traditional media companies remain powerful and in many parts of the world are increasing their wealth and influence. Many fear for the future of journalism but we still need the profession to curate information, provide analysis, and conduct investigations. Journalism must adapt, and this means identifying new ways of engaging in a multi-dimensional media conversation, while developing new and sustainable business models. At the same time the freer, open online space must be protected. New monopolies are already emerging in the online space, with attempts to limit access to their own products and services. A new range of intermediaries has emerged, operating at every layer of the digital communications environment, and they play a vital role in shaping the environment.

As these platforms become commercialised and government seek to extend their control through agreements with companies, new opaque or even hidden forms of gate keeping are emerging.

Governments have woken up to the danger of allowing their citizens new possibilities to exercise freedom of expression and information. For reasons both legitimate and illegitimate, governments are introducing new measures to control new media: increasing intermediary liability, introducing filtering and blocking mechanisms, and criminalising expression. These tactics show a lack of insight (or concern) about appropriate regulatory and technological approaches for the digital age. Our ability to confront these challenges will shape the way that the media landscape develops.

### 2.1. Media Consumption Overview

The global media and communications landscape presents a varied and complex picture. There is a popular assumption that traditional media such as newspapers are in permanent decline. The true picture is more variable. For example, in the years prior to 2010, paid for daily newspaper circulation rose by 5.7 percent globally though this was a pattern that concealed significant regional differences. In the same period newspaper circulation rose by 30 percent in Africa, 3 percent in Asia, 5 percent in South America, but went down by 10.6 percent in North America, 7.9 percent in Europe, and 5.6 percent in Australia and Oceania. The revenue picture for newspapers is bleaker. Over the same period, global advertising revenues fell by 17.9 percent. The decline was most marked in North America where revenues were down by one third. There were also large falls of 15 percent in Western Europe and 5.4 percent in Asia. However newspaper advertising revenue rose by 46.5 percent in Latin America (which is emerging as one of the wealthiest traditional media markets in the world), by 1.1 percent in central and Eastern Europe, and was stable in the Middle East and Africa. Overall, television remains the most popular medium and has the largest share of global advertising at 39 percent share, followed by newspapers with 24 percent and the internet with 12 percent.

### 2.2. Citizen Journalism and Public Participation in Media

The introduction of “peer to peer” models of communication alongside “one to many models” has finally given citizens a new enhanced role in content production on a significant scale. There have always been “vox pop” interviews of course. What is new is the speed, scale and leverage of popular participation. Anyone with access to the right technology and appropriate media and digital literacy can become a creator, a publisher, an author, and reach an audience that is potentially global. Indeed “mass media” has the potential to become a “media of the masses”.

Citizen journalism is a broad label and the reality varies widely. At one end of the scale we have the dramatic, global, front page stories which go viral and spread across the internet and into traditional media, and at the other end we have the purely local or national stories that are shared among community networks and social media sites.

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20 Ibid

21 Ibid
mass media. Monks from Burma beamed out images of attacks and street fires during the 2007 crackdown, subverting the government’s attempts to control media coverage. A video caught on a mobile phone of a young female protester, Neda, being killed by a sniper in Tehran, circulated on the internet and becoming a rallying point for opposition to the regime. Breaking news increasingly relies upon digital technology - the first photo of the Hudson River rescue came from Twitter. At the other end of the scale there are hyper local networks of people, deeply rooted in their communities, sharing information about community activities, local government meetings or school board meetings. Once citizens are engaged in peer to peer collaboration the medium itself changes – local groups generate content that would never reach the more traditional media but interact with it in new ways. This redefines what media communication is about – just as the move from pamphlets in the 17th century to town newspapers in the 19th to radio and television in the 20th century, changed our understanding of how audiences were defined, information and opinions shaped, how communication itself functioned.

There are now estimated to be more than 173 million blogs on the internet covering a huge array of topics. On an even larger scale, a growing range of social networking tools are providing new opportunities for broad-based participation. There are now more than 600 million people on Facebook, the average user creating 90 pieces of content per month. There were 175 million people on Twitter as of September 2010, producing 200 million Tweets per day. Over 3000 photos per minute are uploaded on to Flickr. Over 48 hours of video are uploaded to Youtube every minute and 2 billion video views take place every day. Of course not all, probably not even the majority, of this content is of public interest. But through small actions - sharing a photo, liking a group, tweeting a link – an individual can contribute to a larger discussion. Snippets of information can publicise issues, push them up the agenda and contribute to creating new narratives. A growing number of news websites allow users to interact through, for example, comment forums, sending in videos and images, and crowdsourcing activities.

There are many different levels of citizen participation – from the citizen who seeks to act as a journalist and create finished products, to the “accidental” journalist who witnesses and relays an event, to the person who by sharing or commenting on a story may not even realise they are contributing to a broader public conversation. We should be aiming for and cultivating the most meaningful forms of citizen engagement.

And it’s not just the privileged with internet access that are able to participate in the emerging media environment, the mobile phone is being used to engage even the most marginalised elements of society. In the USA, for instance, VozMob helps labourers in Los Angeles to share stories and reports within their community using mobile phones to write stories, take photos and record audio. Frontline SMS is a platform which allows users to send out group text messages and receive replies from subscribers, and does not require an internet connection. It is used by human rights activists and community radio stations, among others. Innovations by online social media platforms allow access by those without internet connections. Twitter has joined forces with local mobile phone operators in some of the poorest countries in the world which allow users to follow others by subscribing to automatic

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SMS updates. The popularity, and potency, of this service can be inferred by the reactions of power holders – in Cameroon, for instance, the government forced the relevant partnership to end in order to pre-empt popular uprisings in the run up to the 2011 presidential election.

2.3. The Opportunities of Widespread Participation in Media

Widespread participation in the media environment brings many opportunities. The opportunity to bring more, and more diverse, voices into the public sphere. In Saudi Arabia, for example, approximately half of all bloggers are female\(^\text{24}\), a presence which is difficult or impossible in other areas of public life within the country. A growing number of initiatives in all regions are working to balance out traditionally dominant perspectives and voices by boosting participation of the underrepresented. Global Voices, for instance, is a community of more than 300 bloggers and translators from across the world which aims to redress some of the inequalities in mainstream reporting. Another important feature is the possibility of ubiquitous coverage – after the 2009 Iranian elections, foreign correspondents were ejected from the country to prevent them covering the ensuing protests. The regime even cut internet access in an attempt to inhibit information from spreading. But citizens on the ground were able to document, with mobile phone cameras and text messages, the violence which took place and communicate it to each other, and to the wider world. It is now much harder to cover up corruption or brutality.

Online communications offer opportunities for citizens to interact publicly with a degree of safety and privacy not possible using traditional mass media platforms. As a result debate and discussion can be more open and free. In Egypt, for example, research found that young people “were seizing the virtual space to better express themselves away from the ‘restrictions’ they face in reality, of ‘offline’, especially in terms of politics and opposite-sex relationships”\(^\text{25}\). In Mexico, blogs are springing up to document the drugs war, which traditional media organisations are reluctant to do for fear of reprisals\(^\text{26}\). And in Sudan people are reportedly turning to the internet as newspapers are heavily censored\(^\text{27}\).

New forms of collaboration are enabled, providing huge opportunities for gathering data. Wikipedia, a colossal free online encyclopaedia of more than 19,000,000 articles in more than 270 languages\(^\text{28}\), is written and updated collaboratively by unpaid volunteers. Wordpress, the largest self-hosted blogging tool, is an open source project developed by volunteers all over the world. Ushahidi is another open source tool which maps information sent in by citizens using mobile phones, computers or any other device with a digital connection. It was used, for example, in Kenya after the 2008 riots to share...

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\(^{26}\) See, for example, El Blog De Narco [online] http://www.blogdelnarco.com/ [Accessed 14/10/2011]

\(^{27}\) Horner, L. 2011.

information about incidents of violence. And mobilisation in itself is a collaborative effort facilitated through digital communications. This is discussed further in the Human Rights Chapter.

Another dimension of increased freedom of expression is increased access to information. Access to the internet brings with it access to an unimaginable volume of information, including information from across borders. News websites report an increase in readers from abroad, and migrant populations have access to news from their hometowns and countries. The more information people have, the more they demand – creating a virtual circle which is suggested by the trend of governments passing freedom of information acts. 90 countries have now implemented freedom of information laws of some kind, the majority in the past 20 years. 50 more are considering new laws. In a small, but growing, number of countries public data is being made even more accessible through the introduction of open data systems. This is where public information is digitalised and shared online in an open format. This trend is occurring mainly in developed countries, but earlier this year the first open data system in Africa was launched in Kenya.

2.4. Mass Media Organisations

The rise in citizen participation does not mean the end for mass media organisations. Indeed, the national chapters demonstrate clearly the continuing domination of large media corporations. In fact the last decade has seen the deregulation of media markets in many parts of the world and with that the emergence of a tier of large media conglomerates operating on a global scale across different media platforms, overlaying a second tier of regional and national media giants. Intense competition between these large corporations has led to downward pressure on costs and the search for mass audiences. Unsurprisingly many of the country reports note the “depoliticisation” of commercial media content, the lowering of journalistic quality and the emergence of ‘infotainment’. The traditional notion of a media providing a disinterested public sphere through which citizens communicate with each other and are kept informed is fading fast (if it ever was a reality).

Traditional media giants are increasingly moving onto and dominating the online space. The internet is often described as a “long tail world” where, despite a countless array of websites and a huge user base, the vast majority of the audience is shared between a small number of top sites. Evidence from

Kikuyumoja, 2011. Ushahidi Community Deployments, March 3, 2011 via Flickr, Creative Commons License
Indonesia and the United States shows that the top sites accessed in those countries are predominately either the websites of offline media giants, or the new communication giants, including Facebook, Google (which owns Youtube, Orkut and Blogger), and Twitter.

Citizen-originated media can offer an alternative to this commercial landscape, sitting alongside existing alternative media such as community radio, but on a significantly larger scale. Where citizen media interacts with traditional media – the pattern we saw in the Middle East with Al-Jazeera and online activities, that combination can be even more powerful. But media companies must adapt to the new environment, learning to take advantage of the benefits widespread communications brings. Many have developed sophisticated and popular tools for allowing users to engage with them. The Guardian website is one of the leaders in this respect, its website combining professional with non-professional journal blogs, a huge user comment section, and it has made ground-breaking use of crowdsourcing to process large volumes of data. For example, when the MP expenses scandal broke in the UK, the Guardian made the nearly half million documents available to download in a public widget that about 23,000 citizens across the country helped to dissect, flagging up potentially interesting survey for analysis by journalists.

Media organisations generally have proven less successful at using tools to locate and listen to those citizens with important things to say. A fascinating piece of research reported on the World Bank CommGAP blog and described in Figure 4 found that traditional media groups had very few connections to influential on-the-ground players during the Arab spring. On the other hand the Huffington Post, an online blog which relies on third party contributions, was found to have

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Figure 4: Visualising the networks of influential tweeters from the Middle East with their connections to USA media professionals.

A fascinating piece of research reported on the World Bank CommGAP blog mapped the most influential tweeters tweeting about the Middle East unrest (shown in blue in both images).

In the top hand image these are visualised against the networks of a number of mainstream US media companies including CNN, ABC News and US News and World Reports (shown in red).

In the bottom hand image the influential Middle East tweeters are visualised against the networks of contributors to Huffington Post (shown in red). The Huffington Post had much stronger links to primary sources based in the Middle East.

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30 ibid
much stronger connections to primary sources based in the Middle East, “its Web 2.0 architecture has created and continually strengthens a symbiotic relationship with its worldwide followers who can also participate as contributors”\textsuperscript{31}. The disengagement of large traditional media companies with the information sharing element of social media was furthered evidenced by that fact that @cnn, for instance, has 2,801,124 followers, but only follows 537 users as of October 6, 2011\textsuperscript{32}. Traditional media organisations use digital communications to promote themselves they are not yet using them to gather information on events on the ground. It is still predominately one way traffic rather than creating a genuine interactive platform.

Another challenge brought about by digital communications that causes real concern for journalism is the impact upon traditional editorial standards of objectivity. With the increasing volume of interaction and citizen content, how are journalistic standards maintained? How can we ensure that the content being uploaded from mobile phones or other sources is genuine rather than simply propaganda – how can sources be checked, claims verified or interrogated and bias avoided? These are difficult questions and while professional journalists can curate and organise material up to a point and provide background context and analysis, they do not ultimately control stories they do not write. Traditional journalism had one set of solutions to these problems – it controlled the means of production and could ensure a certain set of standards but in turn transmitted its own set of biases, its own definition of objectivity and its own framing of the world. There needs to be developed a greater range of frameworks to choose from for online journalism, more variety in the bias on offer, a larger range of human interest stories and perspectives. Traditional media organisations also need to adapt to meet the demand for explanation, context and curation which will grow as we move from a world of relative information scarcity to information abundance where citizens will need to identify what is trusted, reliable and meaningful.

Given the rapid evolution of digital communications, traditional media companies are trying to identify sustainable business models – particularly in North America and Europe where the challenge is the greatest. In these developed countries, new media is undermining traditional media revenue raising activities – newspaper circulations are falling as more people consume media online (often for free); the resulting loss in advertising revenue is not being reproduced online where the supply of advertising space is much larger and viral campaigns are increasingly the marketing method of choice; and classifieds are moving to free websites designed for that purpose. The revenue loss has been accelerated by the economic crisis, most dramatically in the USA where 13,400 newspaper journalist jobs have been lost in the last four years. In other countries covered in this report the problem has been alleviated by growing middle classes and media markets. But, it is likely that as these markets develop, and migrate increasingly to online platforms, the same challenges will emerge.


\textsuperscript{32} See, for example, @CNN [online] http://twitter.com/#!/search/%40cnn [Accessed 14/10/2011]
There is undoubtedly a significant challenge for media in the global north to find a sustainable economic model which is not reliant upon public subsidy (like the BBC) or unpaid contributions’ (like the Huffington Post). There are many experiments with online revenue raising. Some involve collecting users’ personal data to construct profiles for so-called behavioural advertising for which they can charge a higher price. However, the companies with access to this data tend to be intermediaries such as search engines rather than content providers, and this model raises privacy issues and may be curtailed by future privacy legislation. Other ideas range from taxing Google and other content carriers, to erecting pay barriers in various formats – these undermine the free flow of information and prevent such stories from going “viral” as users are less likely to disseminate these stories if their contacts will not be able to access them. Some premium brands are able to exist behind an online pay wall – the Financial Times and Economist being among the most successful. But to date no widely replicable sustainable business model has been found, which leaves a growing anxiety over how to fund quality journalism.

2.5. The Challenge of New Intermediaries

A large number of new types of business have emerged to operate the online media environment. Search engines allow users to navigate the vast reserves of online data. Hardware and software companies provide the tools and programmes which allow people to access the internet and communicate with one another. Social networking companies provide the platforms for user-generated content. While there is much less selection and editing of content online, each of these companies shapes the environment and, in some ways, acts as a gatekeeper imposing constraints, rules and standards on what can be said and who can have access to particular content.

Search engines, for instance, through the results that they display can either facilitate access, or impede access to content by the search results delivered. This can amount to censorship, for example, in China where the dominant search engine hides results for Falun Gong, Tiananmen Square and other topics displeasing to the authorities. There have been accusations that Google prioritises and deprioritises certain content for commercial reasons. And even where there is no intentional desire to facilitate or impede access, the algorithm used acts as editor and these are usually trade secrets and so entirely non-transparent. The dangers of this were highlighted by Eli Pariser who described how search engines filter people’s results according to the profile of that user that has been amassed, which can result in so-called “echo-chambers” where users are only confronted with information which agrees with what they have read before.

Social networking companies set the parameters in which users can interact via their functionalities. Beyond that many social networking companies have terms and conditions which prohibit certain expression. For example, YouTube removes content which is accused of breaching content, many videos

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33 List is non-exhaustive.
have been removed which could be considered fair use under US copyright law. Facebook operates a real name policy (whereby users must sign up with their real names) and this has been criticized heavily by human rights activists in repressed societies who often use pseudonyms to protect their identities, and then government officials have been able to report them to Facebook for breaching the real name policy and have their profiles easily removed. Facebook has also been on the receiving end of a campaign against their policy of removing images of women breastfeeding, even when they have been uploaded by the woman in question.

Hardware and software companies can also shape online communications. Many companies use closed and proprietary standards, this reduces the scope for innovation and creativity, and prevents users from adapting software to meet their needs by, for example, adjusting the software to work in other languages. Another huge area of potential gatekeeping is demonstrated by the debate over network neutrality – the principles that network operators or internet access providers treat data packets equally, regardless of origin, content or destination, so that users “should have the greatest possible access to internet-based content.” Increasingly network providers are making deals with content providers and applications to prioritise their content or applications for a fee. For instance, in India it is increasingly common for mobile phone deals to include free access to Facebook. This can undermine the whole open nature of the environment making it increasingly commercial. One of the values of the internet is that users can access all content at the same speed whether it is created by an individual, or a huge multinational company (although there is some traffic discrimination to provide a good quality service, for example to prioritise video streaming over email as a few second delay will not affect the value of an email but it will affect the watchability of a video). If multinational companies are able to prioritise their content, it becomes increasingly difficult for citizens and smaller groups to compete.

Many of these issues could be solved by a truly competitive market, together with transparent policies and processes. If there are many social networking platforms to choose from, users can choose the one that will allow them to act as they want to act (using a pseudonym, for instance). If there are many search engines to choose from and their algorithms are accessible – in a clear and understandable form – people can choose to access those which will allow them to locate the content that they are looking for. If there are many ISPs to choose from users can choose the one which will not deprioritise their access to content they want to see (note, however if large media companies can subsidise prioritised access to their content – the negative effects are not felt on an individual level, but as negative externalities on the overall nature of the environment).

However, as mentioned the internet is a long tail world, and we have witnessed the emergence of new media giants. Google, Yahoo, and MSN effectively have a global oligopoly on online search. Facebook is not the most popular social network in all countries, see Figure 5. However, it is popular in most of the

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35 For a parody of this issue see: Hitler reacts to the Hitler parodies being removed from YouTube [online] http://www.youtube.com/watch?v=kBO5dh9qrIQ [Accessed 14/10/2011]

world, and as its value to a user is proportional to the number of friends and acquaintances who also use the site, in practice users have little choice (assuming of course that they want to use a social network to stay in touch). Furthermore, Facebook “locks-in” its users by making it very onerous to transfer content which users have amassed within the platform somewhere else, by using closed standards. The number of network providers varies from country to country as can be seen in the country chapters, but in many countries there is little competition between network providers and this has been identified as a contributing to high access charges, in the US and much of Africa, for example.

Figure 5: Global map of most popular online social networks by country, June 2011

2.6. Government Control

Government control of media and communications – whether through direct regulation, censorship or other forms of control, remains a strong factor in shaping the way digital communications are impacting upon media. Mechanisms for controlling the offline media are well established as are the internationally established standards of freedom of expression that protect independent media. It wasn’t until the advent of the World Wide Web, and the resulting explosion in internet access and use amongst the general population, that politicians and policy makers began to take an interest in the online world. Even then, in the early years they tended to leave it alone as they watched it develop and waited for its


38 These are usefully gathered by the international freedom of expression organisation, Article 19 [online] http://www.article19.org/ [Accessed 14/10/2011]
implications to begin to show themselves. An exception, of course, is China which began to implement its multi-layered framework of control very early on.

Over the past five years that position has been changing and all governments are beginning to introduce more and more legal and technical modes of control. The same techniques are being used in democratic and non-democratic countries, often inspired by different motivations, but with the same results – undermining the openness of the internet and curbing online freedom of expression. These issues are all examined in more detail in the Global Internet Policy chapter.

Over the past couple of years, a new and very dangerous method of control has been introduced in many countries across the world: imposing intermediary liability for user generated content. In India, for example, the new set of rules implemented in April 2011 under the IT (Amendment) Act 2008 obliges intermediaries to exercise “due diligence” to restrict user content which, for instance, impacts “the sovereignty and integrity of India, the security of the State, friendly relations with foreign states, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence”, and to remove content within 36 hours of obtaining notification that content which they host or publish contravenes the rules. This is a relatively extreme example, but it is by no means isolated. Even in the US, with its first amendment protections, intermediaries are required to remove content within a reasonable time of receiving an allegation that it infringes copyright, or risk exposure to liability for that content if a case is taken to court and it is indeed proven to violate copyright. Aside from the vague nature of the requirements under the new Indian rules, which invite self-censorship and abuse, the danger of imposing intermediary liability is that it privatises censorship (content can be removed without ever being assessed by a Court) and it chills freedom of expression. Intermediaries have very little incentive to resist removing content, and their incentive to host vast quantities of user generated content at all will be undermined, preventing further innovation and undermining platforms for citizen journalism.

In some less democratic societies widespread filtering and blocking regimes have been instituted, preventing access to content which is disapproved of by the authorities – for example, Facebook was blocked in Pakistan after a “Everybody Draw Muhammed Day” group was created on Facebook (the block has since been removed), Youtube was blocked in Turkey following the posting of a video which insulted Turkey’s founder Ataturk (the block is still in place). In open societies filtering and blocking is also becoming common to hide content relating to topics such as gambling, child abuse imagery and copyright infringing material. Filtering and blocking mechanisms are inexact and risk preventing access to legitimate speech, also blocking lists tend to be secret and not subjected to judicial control – this leaves those systems open to abuse.

Monitoring and surveillance of online, and mobile, communications is another tools being used. In some countries it is used widely against political dissidents, for example it was reportedly used extensively by the previous regimes in Egypt and Tunisia. In democratic countries surveillance powers are being extended and data retention acts introduced to facilitate surveillance. This can undermine the online
environment; people are less likely to speak openly if they do not know who is listening and if they could put themselves in danger.

Another worrying trend is the increase in total blocks on internet and mobile access, used in some countries particularly during times of unrest. For instance in Tunisia during election and in Belarus in the run up to the last elections. Fortunately, such examples are relatively rare, however they have become markedly more frequent in the past few years and even in the UK following the 2011 London riots, politicians spoke publicly about looking into enacting new laws which would enable them to limit SMSs and social media during times of unrest.

2.7. Conclusions

Digital communications are changing the media environment at a fundamental level. As Charlie Beckett has observed, “The first challenge of journalism will still be to tell us what is new – what has just happened. In the past it might have been enough for journalists to repeat that ‘news’ and duplicate it across a series of discrete platforms. The internet and convergence has broken that monopoly and forced the news media to seek value in networking. The idea and the practice of networked journalism raise as many questions and possibilities as it provide answers. This is good. Journalism is at its best when it is at its most reflexive and responsive.”

We are faced with a historic opportunity to shape a diverse and vibrant media environment for the future – the arrival of widespread access to digital communications is bringing many opportunities and has the potentially to radically transform existing media and communications environments for the better. But this will not happen on its own, public interest stakeholders need to act now to understand the environment and confront the challenges forcefully.

- Public interest advocates must invest in an enabling internet environment. The Global Internet Policy chapter explores what must be done in greater detail.
- As the media landscape continues to change rapidly, public interest advocates must continue to monitor it closely to identify new challenges and opportunities as they emerge. Extensive research is needed to enable advocates to develop strategies which are based on evidence rather than hype and conjecture (for example, with regards to editorial standards of digital media).
- Another huge debate on the horizon concerns how journalism is paid for. Public interest advocates should engage in this debate, exploring new models of journalism and researching their impact on citizen interests.
- Traditional media organisations, and the profession of journalism nurtured by them, are likely to retain their influence and power for many years to come, notwithstanding the emergence of new forms of interactive communication. The challenge for these organisations is to develop new forms of journalism that bring together traditional news journalism and the new participatory

interactive tools, and to provide analysis and context to a steady and instantaneous flow of information and pictures.

- **We must continue to invest in independent voices, and in new ways of using interactive citizen participation to revitalise news and media particularly at the local level. As the environment becomes more complex encompassing new intermediaries - including hardware and software companies - we must invest in enabling a vibrant and diverse environment at these layers too.**

- **However events develop, citizens will have a new and enlarged role in the emerging media. In order to exercise this role they need access to the technologies. They also require new skills and capacities in order to use the tools to create and share content, to protect themselves online and to evaluate the media that they see. We should be aiming for the most meaningful forms of citizen engagement. To achieve this, initiatives are needed which provide users with the training and support they need to, for example, use different types of media to tell a story, use and adapt different platforms, and basic reporting ethics and skills.**

- **Governments have a significant role in shaping media environments, not by regulating content – censorship is never the answer to the question – but by ensuring competition and regulating monopolies, an issue that remains an on-going priority and one where advocacy by consumer groups can be beneficial.**
3. The Impact of Digital Communications on Human Rights

The least expected region of the world provided us with one of the most dramatic examples of the importance of digital communications to democracy and human rights. In the Middle East - where all communications has long been under state control digital media enabled the Arab Spring, and delivered seismic change. True, this state control had been partially breached by the advent of satellite television at the end of the 1990s – and particularly Al-Jazeera, the Qatar owned satellite broadcaster. But the availability of the mobile phone, with built in cameras, combined with digital social platforms such as Facebook, supplying Arabic language content to media outlets like Al Jazeera, created a public voice that had not been heard before in the region. The content produced was shared locally, distributed globally to other Arab countries and to diasporas, and created coverage of events that was both intimate and wide ranging. This was the oxygen of the Arab spring, where the fuel was the protestors.

It was the interaction between online and offline communications that was so lethal to regimes in the region. Al Jazeera provided rolling 24 hour coverage, relentlessly building political momentum for the opposition. Rather than condemn protestors as the state owned media of Egypt and surrounding countries did, Al Jazeera assembled and curated locally produced content making it available to television viewers across the Arab world. Social media mobilised large groups of people and provided a platform for people to express their solidarity with protestors, both within the country and with others in the region and beyond.

It helped form new political identities. The intimacy of social media, combined with its geographic reach meant Egyptians heard about Tunisia from Tunisian citizens, or friends and family, not their own national news media. Details of Cairo protests were promoted on Facebook and other social media and printed out to be given to Egyptians without access to the internet. Unlike traditional media, digital media allowed for non-hierarchical, peer to peer communication and it enabled a new political constituency to emerge – not Islamists, communists, Nasserites or any other organised group, but young professionals new to political activity, seeing that people like them were prepared to demonstrate for freedom. Many protestors spoke about the impact of gathering together – as one Tunisian said “everyone shouted at once and then it was out there and you couldn't stop it”40. It was the peer to peer model of communication that gave unmediated access to the idea that freedom is possible.

The Arab spring highlighted the importance of digital communications for democracy and human rights in creating both new tools for mobilisation, and new spaces for communications. Democratic and human rights activists felt inspired by the sudden overthrow of the regimes. Authoritarian regimes – from Saudi Arabia to China expressed alarm and concern at the same developments. No-one, inside or outside the region predicted the speed and scale of change which showed the potential for democratic mobilisation that uses digital communications to democratically empower marginalised and excluded groups.

40 BBC programme “How Facebook changed the world” broadcast UK September 5th 2011
The chapter presents the complex intersections between human rights and digital communications, particularly the internet and mobile phones. Digital communications offer new opportunities to promote human rights (including freedom of expression, association and democratic participation, and through these the full range of human rights), but also new threats, particularly privacy violations and censorship. Human rights activists must engage with policies which have a direct impact on human rights, and they must also engage with those policies whose impact is less direct. As a single integrated space, all sorts of policies which do not on the face of them impact human rights shape ability of the new communication mediums to empower people and contribute to advancing human rights.

3.1. Digital Communications, Democratic Mobilisation and Human Rights

The value of digital communications to human rights activists has become apparent in recent years. They allow activists to document human rights activists; to share that information widely, easily and cheaply; and enable new advocacy, campaigning, communications and revenue-raising possibilities. What the Arab Spring demonstrated, however, is that providing a platform of public communications to citizens, allowing them to more easily connect with each other and to access and share information independently of authorities, contributes to the development of a huge empowering and democratising potential. The Arab spring was a dramatic example of the impact of digital communications. But over the past ten years there have been many other examples of these tools being used to mobilise democratic change.

In 2001 in the Philippines the Congress tried to block an attempt to impeach President Estrada. The people’s response was to send everyone in their contact list, a forwarded text message “Go to EDSA. Wear blk” (Edsa being a famous shrine in Manila). The resulting protests led to Estrada being removed from office. In Burma, films made on mobile phones were used to publicise repression by the regime, including the shooting of a Japanese journalist by the police. Following the contested elections in 2009, Iranian protestors used digital media extensively to mobilise “green” protests and the internet is still a major platform for protest (and even for Persian poetry and literature inaccessible in offline space).

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41 Frame Maker, 2011. Mubarak Steps Down, February 11, 2011 via Flickr, Creative Commons License
Social media such as Facebook and Twitter were used extensively to organise mass protests after the fraudulent elections in Moldova in 2009. The fact that the photos taken in the Abu Ghraib prison were digital photos that could be e-mailed and circulated easily led to the exposure of the ill treatment of Iraqi prisoners by US prison guards.

Egypt, Tunisia, the Philippines and Moldova show successful examples of democratic mobilisation. However the examples of Burma and Iran show that the technologies on their own cannot overcome the political weakness of a democratic opposition facing a ruthless organise regime that maintains its internal coherence. Powerful as they are digital communications are tools not solutions. We need to be careful not to over promise. Clay Shirky has argued that the dominant factor in the collapse of the Soviet Union was the “ability of [opposition] groups to create and disseminate literature and political documents, even with simple photocopiers...” ⁴² but many other factors contributed to the collapse of the Soviet system, from economic and environmental crisis, to military competition with the Reagan administration and defeat in Afghanistan.

3.2. Digital Communications and Socio-Economic Rights

As powerfully argued by Amartya Sen – freedom of expression is a precondition for social and economic development. The internet and mobile phones help citizens to hold governments accountable and mobilise for socio-economic change, in fact economic inequality is widely considered one of the key drivers behind the Arab Spring. By improving information flows, digital communications can facilitate trade and commerce. And they have an instrumental value as tools for individuals and the state to improve access to markets, income, goods and services.

The sheer economic power of the internet is huge and the capacity to drive growth and job creation is enormous. The World Bank has found that in low- and middle-income countries every 10 percentage point increase in broadband penetration accelerates economic growth by 1.38 percentage points—more than in high-income countries and more than for other telecommunications services⁴³. Other studies have found that investment in broadband can produce significant benefits even in poorer countries. McKinsey & Company estimates that “bringing broadband penetration levels in emerging markets to today’s Western European levels could potentially add US$300–420 billion in GDP and generate 10–14 million jobs”⁴⁴.

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Most of the economic value created by the internet falls outside of the technology sector, with 75 percent of the benefits favouring more traditional industries. The internet acts as a catalyst for job creation. Small and medium sized enterprises are the most important generators of jobs for the poor, and the internet helps them grow. A McKinsey survey suggests the internet created 2.6 jobs for each job lost.\footnote{Rauses et al., 2011. Internet matters: the nets sweeping impact on growth, jobs, and prosperity. McKinsey & Company [online] \url{http://www.mckinsey.com/features/sizing_the_internet_economy.aspx} [Accessed 28/10/2011]}

Macro economic growth of this kind is important because it not only provides jobs (the main asset of the poor); it also increases tax revenues and can build state capacity to provide social and economic rights for all citizens, although whether growth benefits the poor is dependent on the politics of the country concerned.

In developing economies there is some evidence that access to digital communications directly helps peoples break out of poverty. Research by Ovum suggests that the mobile phone industry in India has created around 3.6 million jobs\footnote{Ovum, 2006. The economic benefit of mobile services in India Paper prepared for the GSMA. [online] \url{http://www.coai.in/docs/COAI%20Report%20on%20Economic%20Benefits%20of%20Mobile%20Services%20In%20India.pdf} [Accessed 28/10/2011]}. In itself the sector represents an enormous source of investment. Between 1995 and 2002, the private sector invested $210 billion in telecommunication infrastructure in the developing world, dwarfing aid budgets, and constituted around 10% of all fixed capital formation in those countries\footnote{Bhatia et al. 2008. The role of mobile phones in sustainable rural poverty reduction. World Bank [online] \url{http://siteresources.worldbank.org/EXTINFORMATIONANDCOMMUNICATIONANDTECHNOLOGIES/Resources/The_Role_of_Mobile_Phones_in_Sustainable_Rural_Poverty_Reduction_June_2008.pdf} [Accessed 28/10/2011]}.

Digital communications can help to facilitate entrepreneurialism, putting small businesses into better contact with their suppliers and customers, provide tools for marketing and even platforms for e-commerce. The importance of the mobile phone to the poor is well documented - Digital Research suggests, for example, that mobile phones contribute to higher levels of productivity, and can boost GDP by over 5%\footnote{World Bank – check data Quoted in Kelly, T. (2009) A research agenda for applying Mobile 2.0 solutions for base-of-the-pyramid user communities. Lirne Asia Teleuse@BOP Working Paper [online] \url{http://lirneasia.net/wp-content/uploads/2008/05/Mobile2.0_EA_Ver_01092009.pdf} [Accessed 28/10/2011]}. There are many examples of mobile phones being used to help farmers check the prices available for their products, enabling them to trade at a place or time that gives them best advantage. In India mobile banking, e-governance services and open source initiatives contribute to social and economic rights by allowing people access to governmental services where none existed previously, or by applying pressure improve the quality of services and weed out corruption, which benefits the poor disproportionately\footnote{Bhat, R. 2011. On the cusp of change – The telecom-centric rise of media in India in Puddephatt, Hawtin et al. New frontiers, old landscape.}. Internet services can’t ask for a bribe and provide immediate and unmediated access to government information.

The relationship between digital communications and economic growth is fairly widely acknowledged and indeed underlies infrastructural projects taking place in many parts of the world. From the human
rights perspective the need is to shape debates and policy making in this area to ensure that they are actually meeting the socio-economic needs of the people (particularly the most vulnerable) rather than promoting economic progress solely amongst the middle classes, and which may in fact contribute to further marginalisation of the very poor. The evidence base regarding the relationship between ICTs and social economic development is still weak. Many projects in recent years have been over-ambitious with unrealistic expectations of what could be achieved, often designed with a lack of sensitivity to existing communications practices and other local factors. As a result, enthusiasm for such projects has waned. It is true that new communication capacities are not a silver bullet. Rather than avoiding this area however it is important to explore the lessons learned to understand how social and economic dynamics impact on the development opportunities provided by digital communications. Building the capacity of poor communities to empower themselves through technology is key. We should focus on building enabling environment that encourage locally owned needs-based innovation.

3.3. Impact upon Disadvantaged or Excluded Groups

Digital communications create opportunities for groups which find themselves marginalised in conventional spaces to both organise and promote their own interests. In many countries women find themselves denied the ability to express themselves or raise issues of concern – control of sexuality, reproductive rights, violence against women – because men control public space. Our country research has highlighted a number of examples where digital communications has enabled women to find a way around these barriers. For example women independent film makers in Indonesia are using film online to highlight women’s rights on taboo issues such as sexuality and reproductive rights. Social media has helped marginalised groups organise a hunger strike in Saudi Arabia in support of political dissidents, raised awareness about sexual harassment of women in public in Egypt, and exposed police corruption in Morocco.

For minority groups campaigning for human rights and social justice, digital media are the main tools used for advancing their interests in circumstances where interests close to the government or the majority community dominate the mainstream media. Many NGOs in these circumstances find that digital media can deal with politically sensitive issues normally censored in the offline media. One such example is West Papua Media Alerts, a non-profit initiative providing independent news from West Papua that responds to the constant threats experienced by journalists reporting on/from the area.

Lesbian and gay groups have also used digital communications platforms to access “public” space denied to them by prejudice to exchange information and ideas. In these cases it is the public nature of such exchanges that can pressurise government officials (and civil society) to address the social rights of LGBT


52 Lim, M. 2011.
people. In India for example, when mainstream media ignored the issues, online groups used Facebook, Twitter and blogging to challenge the illegality of homosexuality in India. Digital communications both built the community calling for legalisation and helped mobilise the human rights groups to support the call for legalisation. Online platforms continue to be crucial for collaboration and the organisation of events such as Gay Pride Marches across many cities in the country.\(^{53}\)

Digital communications can enable people with disabilities to engage more actively in social and public life with new ways to access content and express themselves. Accessibility and usability to and on the internet are improving dramatically for example with automated screen readers. However a number of significant barriers remain including the prohibitive cost of many accessibility technologies, and the lack of awareness or adherence to accessibility standards by website creators.

The internet and digital communications have an enhanced value when they enable groups who are traditionally neglected or underrepresented in traditional media, to have a public voice. However, digital communications are not apolitical spaces – the same power relationships and inequalities that pervade in the offline world also affect the internet and mobile phones. It is imperative to explore the role of new technologies in enabling marginalised groups to fight for their rights, but it is also imperative to understand their role in reflecting and reinforcing existing inequalities. For example, every country chapter in this report shows disparities in access along ethnicity, gender, geographic and economic lines. We can also see the dominance of more “powerful” sectors of society in designing and governing technology. Marginalised groups are under-represented and neglected in policy discussions, and where they are considered the debate tends to focus on using ICTs to achieve developmental goals (e.g. maternal health) rather than as a space for challenging societal norms and empowering disadvantaged groups to influence public discourse.\(^{55}\)

### 3.4. Digital Communications and Direct Impacts on Human Rights

Digital communications can strengthen human rights. They can enhance the realisation of freedom of expression, allowing those with access not only to receive information, but also to actively seek and

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\(^{53}\) Bhat, R. 2011.

\(^{54}\) Gates Foundation, 2010. *Mobile Phones + Savings: A Powerful Pair*. June 5, 2010 via Flickr, Creative Commons License

impart it. In turn this can enhance mobilisation, democratic participation, and empower people to demand their rights. Online communication is now the primary means of communication for many groups – with people using emails, social networking websites, web browsing, and newsgroups to communicate – the freedom and protection of online expression and communications is increasingly becoming a major human rights issue.

At the same time, the increase in importance of digital communications also poses new and direct challenges to human rights. Access is still restricted in many parts of the world to the urban and wealthy, excluding many people from the digital revolution. Furthermore, censorship capabilities are increasingly being built into the very software and hardware that makes up the internet. China uses a sophisticated system to block access to websites containing words such as “democracy” and “human rights” on an ongoing basis including attempts to insert censorship into every computer sold in China computers. In addition the Chinese launched a project called “Golden Shield” with the aim of establishing a national system of digital surveillance, including mobilising what has become known as the “50 cent army”, a party-organised network of over 250,000 web commentators who support the regime. This was followed by the emergence of state sponsored cyber armies in a number of countries including Iran and Syria, where the regimes organise their own supporters to attack democrats and human rights activists online.

A major weapon in the hands repressive governments is the deliberate denial-of-service (DDoS) attack where a target website is saturated with requests for information until it cannot respond to its regular traffic, or responds so slowly that it effectively ceases to function. Evidence suggests that repressive governments use Russian criminal networks against their opponents. This seems to have been the case in the attack on Georgian sites during the war of 2008, but there are many other instances, particularly directed against the websites of exiled groups such as those of the Burmese opposition. Most rights-based NGOs, particularly the less well funded and smaller NGOs in the global south are simply not equipped to withstand such pressure. They lack the resources to defend themselves, as well as the specialist support they need.

Another worrying threat to free expression is emerging. Governments are shutting down the internet in its entirety as happened in Burma in 2009 or Egypt in early 2011. Or they are seeking to remove whole application platforms, as happened with YouTube in Turkey or the attempts to ban Facebook in

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http://www.access-controlled.net/ [Accessed 21/12/11].

58 Keizer, G. 2010. Russian hacker 'militia' mobilizes to attack Georgia. Computerworld. [online]  

59 International Media Support, 2010. Stop cyber attacks against independent Burmese media. [online]  
Pakistan. In these cases, applications are either banned outright or—as with Research in Motion’s BlackBerry e-mail service in India—only allowed to operate if traffic is routed through local servers that are easy to intercept. The overall impact is to close down the human rights capacity of the internet.

What is striking about all of these threats is the evolving nature of the techniques employed to attack human rights online. Repressive governments are becoming more intelligent and better resourced in dealing with human rights on the internet; their controls are moving from the overt and technical, to techniques which are more complex or normative, using techniques such as denial-of-service attacks, targeted malware, increased surveillance of users at key points of the internet’s infrastructure, along with applying pressure upon companies to take down sites (thereby outsourcing controls to private parties).

The right to privacy too is a challenge in the digital space. Human rights activists often use online anonymity to escape persecution or harassment by repressive regimes for their legitimate activities. Whistleblowers too require anonymity to protect themselves from repercussions. But governments and businesses across the world are using technologies to monitor the behaviour of citizens in increasingly sophisticated and often hidden ways. Enhanced surveillance was introduced following the advent of the so-called “war on terror”. It is now easier for governments to collect information about citizens. With the advent of wide usage of mobile phones by protesters and activists, many governments are making use of geolocational tools to track their actual locations on the ground. Many online companies use business models which are based around data mining to create user profiles and thus maximise advertising revenue.

Disturbingly, the use of such methods by democratic governments, including champions of internet freedom internationally such as the USA and UK encourages the techniques to become more normative and established. Democratic governments have been willing to trade internet freedom for security or anti-terrorist measures. In many cases the techniques used by repressive states were originally developed by democratic governments in ill-thought out attempts to curb the libertarian nature of the online world such as the mobile phone tracking software developed by Nokia Siemens Network and later exported to Iran.61

60 Racoles, 2007. Monks Protesting in Burma. September 24, 2007 via Flickr, Creative Commons
3.5. Challenges for Human Rights Activists

Melvin Kranzberg’s first law of technology says that “technology is neither good nor bad, nor is it neutral.” 62 Digital communications can be tools of freedom or means of oppression; what they will never be is a neutral space. How digital communications are utilised will be vital in the ongoing struggle to promote democracy and human rights, and maintain a public interest communications environment in which all forms of media and creativity can flourish. It is important not to be naive, or despairing about the possibilities. We can be excited about the potential of digital media and platforms to give new stimulus to democracy, provide the oxygen of debate and information exchange, refresh and energise civil society and citizens. But we should also be aware that “they can equally serve to refresh and mobilise consumerist propaganda, nationalist xenophobia, a culture of individualistic striving, reactionary religiosity, militarism, and much more besides”.63

The internet and web were once hailed as offering a new global, boundless space able to evade traditional censorship. John Gilmore, a libertarian activist and founder of the Electronic Frontier Foundation, was quoted in Time magazine as saying “The Net interprets censorship as damage and routes around it”.64 The libertarian champions of the early internet did not see a need for a policy driven approach to the development of the internet confident that that engineers who were building the technology would create the open boundless free space they craved. They were equally confident that governments could not control the space they were creating. Policy meant regulation and human rights meant laws and rules and both were inimical to freedom.

Today the internet has become a more contested, enclosed and nationalised space, and new forms of domination and control are posing new challenges to human rights on the internet. These threats are not always direct, as well as those policies and principles which directly violate human rights, there are also those that undermine the ability of the internet environment to uphold and promote human rights to the greatest extent possible. There is a need for human rights actors – NGOs, governments and philanthropists to support an open and accessible internet – to make this goal visible in their thinking, and to act decisively when it is threatened. This in turn requires understanding how policy is made in the digital world, which is not always easy to grasp.

While the internet was overwhelmingly an English language medium accessed by small numbers of elites, most governments were indifferent to its effect. Now that its transformative impact is clear, many governments (both democratic and non-democratic) are stepping up their attempts to control the whole range of digital communications. This underlines the importance of seeing human rights as a frame for the way in which we think about digital communications issues and as a way of analysing the

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obstacles. Threats to human rights online are growing. The balance of forces is shifting – some argue forcefully that repressive governments already have the upper hand in the digital world. Human rights activists (and citizens generally) need to respond to the widespread changes brought about by the advent of digital communications. The importance of investing in an open, accessible and empowering digital communications environment is clear; the Global Internet Policy chapter explores what this means and what can be done, in greater detail. The pressing concerns are that human rights activists must have access to digital communications, and be empowered to use them safely and effectively if they are to be a force for democracy and human rights in the world. The technology itself can be used for good or ill, and effectively or inefficiently. What is important therefore is to build the capacity of civil society to use the technology for human rights purposes. This will mean strengthening their ability to use the tools effectively and shape the policy space. In this respect, human rights activists must in particular participate: because human rights must form the basis of media policy and internet governance.

A human rights basis for media policy and internet governance.

The internet is not governed in a conventional sense – there is no treaty for the internet and no ruling body. Governance is functional – problems are fixed by groups of engineers and technologists working together. The analogy is with car mechanics – they are only concerned with whether the car works, not where or how it is driven. Those international policy forums that consider the internet – including the UN Internet Governance Forum, the Council of Europe and the Organisation of for Economic Cooperation are not rule making in this environment; they drive and shape standards, values and guidance on best practice. This is built upon a new model of global governance - the growth of multi-stakeholder working, bringing together government, business and civil society to collaborate, share information and exchange best practice. Human rights groups have played some part in this multi-stakeholder working but civil society activists from different disciplines such as education, health, digital activists are more common.

It is possible to promote good policies in the digital environment. This has been done in recent years by developing sets of principles which act as normative values designed to shape behaviour and expectations on the internet. Many examples are discussed in the Global Internet Policy chapter. Principles such as these are better suited than hard law to the internet because they are more flexible and can allow for different national and cultural approaches to regulation as well as being adaptable to rapidly evolving technologies. They can be used to define what human rights mean in the context of the internet. This is vital as to preserve the openness of the public space in the digital world we need to base its development upon universally agreed human rights standards and principles. The aim should not be to invent new human rights or assume that the internet creates new rights norms; rather they seek to apply existing internationally accepted human rights norms and values to the online world.

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There are already example of civil society groups adopting their own approach to standard setting, most notably the Internet Rights and Principles’ *Charter of Human Rights and Principles for the Internet*[^67] - which was endorsed by some businesses and governments. This applies existing human rights norms and standards to the internet. It has since been distilled into *Ten Internet Rights and Principles* including universality and equality, accessibility, rights to free expression and association, to privacy and data protection, to diversity and network neutrality and to transparent and multi stakeholder governance. Other examples of NGO initiatives include the Association for Progressive Communications Internet Charter, the Global Network Initiative Principles which have support from three large application companies and some NGOs and the forthcoming statement of principles developed by the Aspen Initiative’s collaboration with companies NGOs and governments. However, traditional human rights advocacy groups have not been heavily involved in these initiatives and their expertise and strength in much needed. Furthermore, now that many other institutions (often with more economic and political power) are beginning to create their own sets of principles. These are more likely to be taken up, and thus civil society must be more externally facing - engaging with the external initiatives and dynamics that are actually shaping internet governance.

**Policy work to protect digital communications for human rights**

Besides supporting a human rights framework for digital communications, it is essential for the human rights movement to clearly oppose attempts to impose heavy-handed regulation of the internet and be wary of moves by governments to control the net. These moves will not be presented overtly as an attempt to shackle the net – governments will talk about the need to ensure the right kind of development, or the need to ensure a stable and secure internet, or the need to tackle criminality. One foreign ministry official presented the default position clearly when he said “we have a treaty for telecommunications, shipping and other global concerns, why not the internet?”[^68] The desire to avoid global regulation is interpreted by many in the global south as an attempt to maintain the global hegemony of the US communications companies who are remarkably dominant in this market, or as further evidence of Anglo-Saxon pragmatism and laissez-faire. This places a premium on an explicit human rights endorsement of such a position.

At the same time we need to promote a rights based approach to principle and standards setting, to create a human rights discourse around approach to internet that can thicken over time. This involves persuading those – in the corporate and technical world who see human rights as alien or even a backdoor to regulatory control that in fact it can provide the values based underpinning of a digital communications environment. It means persuading them that the libertarian dream that the internet could remain a stateless land, an open frontier, has gone, that those wishing to repress and control this place are active, mobilised and increasing powerful. To do nothing in the face of this threat is no longer an option. If we are to thicken the discourse around human rights it will require us to understand what

[^68]: Private conversation with the author at the Council of Europe
a rights based approach to a range of issues might be. What are the rights based approach to arguments about access to communications, accessibility, openness, filtering and blocking, intermediary liability, to digital literacy, privacy and data protection? To criminalisation of speech, copyright, availability of quality content, digital literacy? How can the human rights movement engage in these discussions and contribute to the resolution of these debates?

A sustained policy intervention also means understanding how to make multi stakeholder systems work effectively. Governments have the means to negotiate internationally through well-established processes and procedures. Companies can identify ways of ensuring their own points of view are inserted into debates. Human rights NGOs also need to find ways of operationalising participation in international forums. How can they act as representatives for a wider public interest constituency – to whom and how are they accountable; what level of compromise are they able to make to secure cross party agreement around difficult or contentious propositions. Multi stakeholder approaches to standard setting at the international level are new and untried but the need to develop them is widely recognised. As Reed Hundt has written recently - “As a result of its revealed potential, the internet makes clear that business and society leaders both have a stake in inventing the right governance structure for its propagation globally. We know it cannot be run by the United Nations, because its processes are cumbersome and overly subject to political agendas that run counter to the innovative, flexible and open culture of the internet. We know it cannot be run by a few firms, because literally millions of firms have, and always should have, a role in the internet. And we know civil society must be a pillar of support. What we do not know is, however, what the governance should look like.”

Developing that model of governance is an urgent human rights task.

In policy terms the most neglected part of human rights advocacy is the question of access and infrastructure. Access has been raised internationally, driven predominately by a desire to encourage economic and social development and it is an issue that unites democratic governments north and south. How the next 5bn people will access the internet is one of the most challenging development goals of our age. There is increasing evidence that if the poor are connected they can begin to trade and work their own way out of poverty. Part of the solution to the access gap lies in encouraging the private sector to invest in infrastructure and in innovative low cost technologies. However, to do this, governments in the developing world need effective national plans to ensure that the internet is accessible and affordable to all segments of the population, and not only the economically powerful in their own society. On the international level this can be facilitated through promotion of effective standards, and facilitation for technology transfer to developing states. There are a range of development, regulatory and investment issues that need to be highlighted by human rights actors going forward.

Creating new skills and capacities, technical and political

The human rights movement has a vital role to play. But is it equipped to deliver? Without an assessment of current capacities in the human rights movement to engage in policy work in the sector,

69 Hundt, R. 2011. Article for Aspen Italy
and in their ability to utilise digital communications it is hard to tell. But an initial assessment would suggest that most human rights groups do not understand the positive potential of digital technologies or the potential threats they face. Most traditional human rights groups grew up in the era of “Web 1.0” communications – with controlled, centrally determined messages and campaigns implemented from the top down. This does not sit well with the “peer to peer” model and with the viral nature of modern digital communications. In a peer-to-peer world human rights groups must move from just content creation, to content curation; they should use different types of content (including videos); and they need to engage and interact with their “audience”. There is also a significant challenge which remains – as human rights groups become more skilled at growing large online communities of followers, much more work is needed to harness this attention and target it towards effective action. There is a noticeable divide between traditional human rights groups and digital communication campaigners and little effective co-operation despite the objective overlap of interests.

Many civil society groups have emerged to try and harness new tools towards promoting human rights and social justice – Witness, MobileActive, Tactical Technology, Access Now, are just a handful. And there are a growing number of applications of technology to help with humanitarian aims, to deliver aid, healthcare, etc. Ushahidi is an interactive crowd-sourcing tool whereby citizens send in information by mobile phone and this is then mapped. It was instrumental in gathering, processing and distributing information in the aftermath of the Haitian earthquake, assisting aid agencies to make decisions about what assistance was needed and where.

*Picture 6: “Gay Parade 2010”*  

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But what is now required is effective collaboration between human rights activists and digital technologists to enable more focused development of tools and capacities that can be utilised effectively, along with sustained investment by private and public donors and innovators. If Clay Shirky is right in his recent argument that “the more promising way to think about social media is as long-term tools that can strengthen civil society and the public sphere” the overall impact of digital communications in this area is likely to be measured over decades, rather than months or years and requires sustained investment over time. The internet is shifting the balance of power between the state and civil society, and it is important to ensure that the environment remains open and capable of supporting collective action. For human rights activists this must become an enduring project.

We also need to develop new skills in collaborative working, developing a better understanding of the digital environment so that we can exploit the possibilities for viral networking and campaigning. This is a challenge to traditional campaign models in the human rights NGO world which likes to control and shape initiatives from the centre. In the online world, people like to take material and reshape it to reflect their own interests and creativity rather than simply reproduce someone else’s work. The key to the mobilisation seen in Egypt for example was not central direction from an organised political group - easily intercepted and controlled – but a decentralised sharing of information and ideas by fluid constituencies of people. This is the new dynamic of online campaigning that the human rights movement has to embody.

3.6. Conclusion

We started in Egypt with the promise of freedom. Six months later, in London this summer, the riots gave rise to much speculation about the impact of social media. The security of BlackBerry communications, routed through Canadian based servers belonging to the parent company RIM, were exploited by those organising the attacks on shops and premises. Technologies that were being hailed as sources of democratic strength in the Arab world were regarded with suspicion and calls for control. Yet it was also social networking platforms such as twitter and Facebook that provided the base to mobilise cleanup crews to sweep the streets after the looting, or to raise money to support uninsured shopkeepers, often from London’s minority communities. Digital technologies helped facilitate the riots. But they also helped to facilitate the impressive response.

All of this illustrates what this analysis has shown when examining the impact of digital communications. We have created a set of tools which can be deployed for good or bad purposes. They do not carry within themselves a default democracy button. What they do create is the capacity for “peer to peer” mobilisation without the need for central co-ordination. It makes them powerful and threatening to authority of all kinds because they cannot be controlled by isolating out taking out individual leaders. Global Partners has also argued that the outcomes of “peer to peer” mobilisation are shaped by the normative values that shape the spaces and the people using those spaces, rather than by any central control or direction. That is why we believe it is crucial to foster values that support democracy and human rights in online spaces. The tools, both platforms and devices, are what grab the attention,
because they are shiny and new and exciting. But it is the underlying values and policy frameworks that will, in the end decide whether these digital technologies serve good or bad ends.

The internet has transformed the scope of and potential for human rights work. Even in the most repressive regimes which prevent conventional media are prevented from carrying news which challenges authority it is now possible to find information about human rights concerns. The globalised nature of the internet means there is now a global information environment. One hundred years ago, most horizons were local. Now access to information exists on a scale unparalleled in history and with it the potential for global mobilisation. We are reaching a world where governments cannot commit human rights abuses on a significant scale in secret.

The internet facilitates new kinds of connections. People can create, edit, and share information and ideas with each other and with a wider audience. People can have low cost instantaneous communications with individuals all over the world who they may never meet in person, and these communications are much more resistant to government and private surveillance. In the past, freedom of expression lay in the hands of elites – governments, publishers, editors, journalists. Now anyone can express themselves in the public domain. This is truly the democratisation of freedom of expression, wrenching it from the hands of elites and placing it at the service of ordinary people.

In its own way this helps create the potential for a global public opinion for the first time, capable of global mobilisation and fed by global information or by global rumours. The personalisation of global communications means that trusted sources of information – family and friends - can become more important than formal news media outlets even if they are far less reliable. Truly a lie can be half way round the world and have incited a billion people to action before the truth, rarely pure and never simple, has got its boots on.

The onus therefore is on the human rights movement to fully embrace this technology to both shape the way it develops and take advantage of the potential it offers. But it is not enough to take a passive view – to believe optimistically that everything will work out in the end. It will be shaped by those with the will and knowledge to achieve their ends. Kranzenberg’s fourth law of technology states that “Although technology might be a prime element in many public issues, nontechnical factors take precedence in technology-policy decisions.” In the end the outcome of the digital transformation of the ways in which we communicate will shaped by political – in the broadest sense - decisions and actions. What will the answer be from those of us in the human rights world? Will we have taken real practical steps to ensure that this medium serves the wider public interest as it develops and truly becomes a tool that promotes democracy and human rights? Or will we allow it to become yet another arm of the repressive state? The choice is ours to make.

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• There is need to develop a strong human rights framing for these debate and to pursue and promote it boldly. Human rights should be used as a common framework, the connectivity tissue, on which to build understanding and collaborative action among different civil society groups.

• In a multi-stakeholder policy environment, civil society is being invited to the negotiating table alongside governments and companies. However, these groups tend to be mission/principle-driven, and less focused upon effective advocacy. The lack of capacity at both policy and advocacy levels, risks undermining the effectiveness of multi-stakeholder processes. Developing more professional negotiation skills and capacities will be necessary.

• There is a lack of a solid research base on which civil society can base their advocacy. Much of the evidence that NGOs rely upon internationally is sketchy or anecdotal and while there are examples of positive policy – the Finnish right to broadband or the Chilean law on net neutrality – they are little understood or badly documented. This makes it harder to extract the exact relevance of the models and apply them effectively in international debate. More systematic research and policy work is required.

• A significant challenge for funders is finding grantees given that much of the activism is not located in traditional NGOs. New activists who use these technologies effectively are often not organised into conventional NGOs – not are they attracted to creating such vehicles. There's a big donor challenge in reaching out to the new “disorganised “ communities of activists and find ways to support them, perhaps indirectly by creating hubs, resources, and networks that can be accessible to individuals. Some of these areas will be risk funding and it may be easier to undertake such grant making in collaboration with others.

• Human rights groups need support to utilise technologies that further their advocacy – supporting skills and capacity building.
4. Policy Challenges in the Global Internet Environment

The country chapters make clear that a range of communications platforms remain widely used and hugely influential, we must not neglect these media. However, our focus should be on the internet. Whilst billions of people remain unconnected, this is rapidly changing as more and more people come online each year. Offline media also increasingly rely on internet communications for content production and for reaching new audiences. The internet is the centre of a converging global media environment, and, together with mobile phones, is enabling citizens to access information and participate in both public and private discussions and debate on a level unparalleled in history. In doing so, digital communications are enriching the media environment through a plethora of new voices and perspectives. At the same time these tools are proving invaluable tools for civil society: facilitating the building of mass communities of interest, enabling information gathering and sharing even where there is repression, and potentially upsetting existing balances of power.

On the other hand, digital technologies are too often held up as a panacea, and unfortunately this is not the case. Across the world there remain important struggles to be overcome – the digital divide endures threatening to further marginalise the digital have-nots. Huge media giants continue to grow and to expand their influence over the new platforms. And as the destabilising qualities of new communications become ever more evident, the politically powerful are developing new tools and strategies for controlling digital activity. The democratising potential of the internet could be lost if inappropriate forms of regulation and control are introduced, restricting openness and creativity.

Thus it is vital that we invest in shaping the internet environment to allow it to serve the public interest. Before the advent of the internet, the media and communications environment was largely shaped by battles at the national level. However, the internet is a trans-boundary environment. Actions in one country can have an impact on the rights of citizens in another. For example when content is removed from a server, no one has access to that content. Company policies play a huge role in shaping the ecosystem – many of these are transnational, so their policies have a global impact. International policy forums, including the Internet Governance Forum, the Council of Europe and the Organisation of for Economic Cooperation, are driving and shaping standards. Many internet policies are made at the national level – however as a relatively new policy area, there is a great deal of policy laundering taking place and issues that may appear to be national often have a wider impact. Finally, the intersection of public interest issues on an international level is an opportunity for collaboration, information sharing and increasing civil society influence. For these reasons it is important to analyse the internet from a global perspective. This chapter seeks to do so.

4.1. Background

The internet and the web initially developed as a global, interconnected information commons that was governed in a dispersed and participatory manner by its users. The internet has evolved over time to become increasingly powerful due to a number of features. The use of common and interoperable
standards, coupled with the end-to-end principle, allow anyone to interconnect via different platforms and to design new applications. The common use of open software standards has promoted citizen-driven innovation to meet different needs and to spur competition from the private, proprietary sector. It’s dispersed governance and the continued participation of non-state actors in governance has helped to push back against stifling regulation and geopolitical manipulative control. Its horizontally layered structure helps push back against ownership concentration, making it difficult for single entities to control both the means of content production and dissemination. Certain regulatory principles have helped to spur the development of the internet and innovation in applications. These include common carriage and limiting the liability of intermediaries for third party content. Limited intermediary liability, in particular, means that once people are connected, they can publish and share content directly with other users, without having to rely on media corporation gatekeepers. And the more people who are connected through the medium, the more valuable it has become, allowing access to more content, services and other users.

The power of the internet is threatening established corporate and political settlements, and is rendering old regulatory approaches ineffective: governments are fearful that they can no longer control or regulate communication, in democratic and non-democratic states alike. On the internet it is difficult to enforce laws and regulatory approaches to social issues (copyright law, privacy and defamation laws, press injunctions, age restrictions on content, restrictions on illegal content and activities online). Over the past ten years, power holders have recognised these challenges and begun to respond through national and international policy. However, many approaches that are being pursued either directly violate human rights, or threaten the very architecture of the internet that makes it such a powerful medium for freedom of expression.

At the same time powerful businesses who have a stake in the internet wield significant power over policy makers, as do new transnational internet businesses. The internet is increasingly viewed as a corporate space, in which citizens primarily benefit from services offered by private companies, rather than one that is owned and driven by and for citizens. Citizens are increasingly being marginalised in policy making, assumed to be served by the interests of big businesses rather than being given opportunities to directly govern and shape the internet other than through consumer choices. They are also increasingly relying on platforms that are owned by large, private corporations to communicate with each other, effectively replacing media corporation gatekeepers from the offline age with internet corporation gatekeepers.

- The era of the internet space developing without a policy-driven approach is over.
- Governments and businesses are increasingly ramping up their efforts to shape the environment to meet their interests. These efforts often have direct, or indirect, negative impacts on the public interest dimensions of the internet.
- Thus, it is vital that public interest advocates make a huge investment now in shaping an enabling policy environment for the internet. We must engage with internet policy making.
4.2. An Overview of the Internet Governance Regime

The definition of internet governance, which came out of the World Summit on the Information Society (WSIS) process, is “the development and application by Governments, the private sector and civil society, in their respective roles, of shared principles, norms, rules, decision-making procedures, and programmes that shape the evolution and use of the internet”\textsuperscript{72}. The international internet governance regime is typically divided into two broad classifications. “Narrow” internet governance institutions are those which are directly concerned with critical internet resources. These include the Internet Corporation for Assigned Names and Numbers (ICANN); regional, national and generic top level domain registries; and standard-setting organisations such as the World Wide Web Consortium (W3C); the International Telecommunications Union (ITU); the Internet Engineering Task Force (IETF); and the International Organisation for Standardisation (ISO).

“Broad” internet governance include all of the institutions which shape the environment, even if indirectly, and even incorporates non-institutional initiatives such as non-binding industry norms. Examples include the WSIS process which lead to the Internet Governance Forum (IGF) and not regional and national IGFs; Intergovernmental organisations such as the European Union (EU), Organisation of American States (OAS), the Council of Europe (CoE), the Organisation for Economic Cooperation and Development (OECD), Asia-Pacific Economic Cooperation (APEC), the African Union (AU), the Association of Southeast Asian Nations (ASEAN), the G77, G20, and the G8; Issue specific organisations including the World Trade Organisation (WTO) and the World Intellectual Property Organisation (WIPO); Human rights mechanisms including the Office of the High Commissioner for Human Rights (OHCHR), the European Court of Human Rights (ECHR), the African Commission on Human and Peoples Rights (ACHPR) and the Inter-American Commission on Human Rights (IACHR); and non-institutional international initiatives including the Anti-Counterfeiting Trade Agreement (ACTA) and the India, Brazil and South Africa dialogue (IBSA); and much else besides.

When states came together during the WSIS process to discuss, amongst other things, internet governance, the model which emerged – the IGF – embodied certain values. Namely that governance would be global, bottom up and multi-stakeholder. However, since then the field has become more complex with, as demonstrated above, many institutions and initiatives beginning to make decisions and policies which impact on the environment. Different levels of civil participation are provided for in different forums. Many of the narrow internet governance institutions have formal mechanism for civil society participation (such as ICANN), and the IGF itself is notable for allowing civil society participation on an equal footing with other stakeholders. The concept is beginning to be embraced by other institutions, for example at the OECD the Civil Society Information Society Advisory Council (CSISAC) was created to contribute to policy making in this area, and the Council of Europe and European Union both regularly consult with civil society (and other stakeholder groups) when making policies in this area. Nonetheless, at many of these institutions multi-stakeholder participation is undeveloped and lacks

adequate influence on the decision-making processes. In some forums, such as the ITU and ATCA, there are very limited opportunities for formal civil society participation.

As more institutions engage in this area, power is devolving to those areas which are economically and/or politically more powerful. So, for example, attendance at the IGF is becoming more and more dominated by civil society and academia, as power-holders focus their efforts on actual decision making arenas such as the OECD. As a result, the institutions which are becoming more powerful tend to be those which are based in and dominated by developed countries and large corporations. As the centre of power moves towards developed countries, it is doubly difficult for global south society groups to participate, both due to logistical reasons and also because such groups have limited influence over the governments of developed countries. At the same time only a small number of civil society groups are even trying to influence internet policy at the international level. Most groups are more interested in using and developing digital tools (also an important goal), rather than shaping the policy and regulatory environment. As increasingly restrictive laws are passed at the national level, and these are being traced back to decisions in international forums, this is changing and more civil society groups are getting involved. Nonetheless much more work remains to be done to grow the field of public interest advocates (particularly those who are most underrepresented – global south civil society groups and notable absent voices, such as indigenous peoples groups); develop the skills and capacities to engage; advocate and work with institutions to develop effective models of multi-stakeholder working; and to promote solutions to internet governance issues which are genuinely global.

- Internet governance decisions and processes are spread out across a disparate array number of institutions covering different topics, regions, impacts, processes and outcomes.
- Public interest advocates needs to map and analyse the policy environment urgently. This will allow civil society groups to coordinate and collaborate in their advocacy efforts across different forums (both national and international).
- In order to achieve this we must invest in creating a common front amongst public interest advocates and building coherent shared messages.
- We must also invest in improving civil society participation in these forums, ensuring voices which are currently absent or underrepresented are present, in particular participation from the developing countries.

Battles to “take over” internet governance
A trend which emerges in the discussion of the internet governance regime (above) is a movement from a governance regime dominated by loose, bottom up, multi-stakeholder organisations – to one where international governmental organisations and other State-dominated mechanisms play a much larger role. This trend is driven by the increased importance of the internet to all areas of life, especially the economy, which means that governments want more influence over the ecosystem. Also, by governmental concerns about the difficult of controlling the internet (for both legitimate and illegitimate aims) and the perception that existing mechanisms, and the IGF in particular, are ineffectual.
This trend has become increasingly dominant over the past couple of years. Most recently, China, Russia, Tajikistan and Uzbekistan submitted a draft proposal to the UN General Assembly for a “International Code of Conduct for Information Security” containing no references to multi-stakeholderism or the role of civil society. In May 2011 the internet’s role in society and the economy was formally on the G8 agenda for the very first time. It is notable that the governments involved thought that this was an appropriate forum to discuss these matters despite it being extremely exclusive. Furthermore, an "e-G8 Forum" was held immediately before the governmental summit to shape the agenda – contrary to best practice participation was limited primarily to government representatives and corporate leaders. In December 2010, IBSA issued a joint statement during the Open Consultations for Enhanced Cooperation calling for a formal intergovernmental platform for internet governance to be set up under the auspices of the United Nations, over the past year the three countries have been continuing to meet and discuss proposals for a body to “coordinate and evolve coherent and integrated global public policies pertaining to the internet”. Other governments have made statements that have sought to minimise and undermine the role of multi-stakeholder participation – for example the European Union has released a number of statements criticising ICANN for the decision to allow .xxx top level domains despite the lack of support from the Governmental Advisory Committee; the decision was made following a multi-stakeholder process where other stakeholder supported the proposal. Another example, the CoE has begun to take the initial steps towards a global treaty to govern the internet, an idea which it tested in a conference titled “Internet Freedom - From Principles to Global Treaty Law?” in April 2011.

There is considerable debate within civil society as to the best model. Some groups argue that current “loose” models of internet governance mask inequalities of power between different stakeholders and facilitate policy making by the Global North and by businesses. Other groups argue that a “loose” model offers the best opportunities for civil society to participate; that it is necessary (for example because technological change happens rapidly and governmental models cannot keep pace); and that is the best way to ensure that environment remains open. Both arguments identify genuine concerns. The

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75 Ocean.Flynn, 2006. Digitage Web 2.0. December 5, 2006 via Flickr, Creative Commons
concerns about “loose” models of internet governance tend to be groups from the global South, driven in particular by the concern that decisions are made in forums where they (and their representatives) have little or no influence. However, there is a real danger that if governance is focussed in one decision-making institution, the governance exercised will be antithetical to an open, rights-upholding internet. Particularly given balances of power with regards to human rights at the UN, and prevailing governmental attitudes towards internet governance. Civil society is less likely to be allowed to participate equally in a decision-making forum, and governance will be more intergovernmental. Of course there is also the argument that governments will be unable to exercise power through such a forum given the speed at which technology is changing and the role of the private sector in day-to-day operations. Thus, a suitable (and potentially collaborative goal for different civil society groups) is to strengthen existing governance mechanisms to enhance their abilities to deal with genuine governance issues. There is currently a CSTD working group looking at improving the IGF – this is an important opportunity to allow the IGF to more concretely contribute to internet governance processes, for example if the forum was empowered to make non-binding recommendations which would have the moral authority of having been generated through an open and multi-stakeholder process.

We are facing a crisis of multi-stakeholderism. While multi-stakeholder participation was identified as an important value for governing the internet by the WSIS principles, there are now growing moves to establish a new, more intergovernmental, body to decide internet policy. This could be very dangerous for internet freedom. It is important to push back against these trends by investing in effective multi-stakeholder models. This includes both working to improve the models, and investing in the capacities of different stakeholders to use these forums usefully. The success of these efforts will partly rest on the ability of civil society to build strong shared positions, and to coordinate activity across separate forums. There are, of course, many areas of disagreement but civil society groups need support to identify those areas (however limited) where their concerns overlap and to develop coherent strategies to act collaboratively where possible.

Proliferation of principles
A parallel, and related, trend in recent years has been the proliferation of sets of principles as an internet governance tool. Given that the internet environment is decentralised, global and evolving rapidly it is not well suited to traditional forms of governance such as legislation. Some sets of principles have developed as an alternative to ex-ante legislation and regulation, such as Norway’s Guidelines for Internet Neutrality and Brazil’s Principles for the Governance and Use of the Internet. At the international level sets of principles are being developed to provide a framework to harmonise, but allow for flexibility, in national approaches. The most prominent example of this is the OECD’s Communiqué on Principles for Internet Policy-Making released in June 2011. Similarly, many are aimed at businesses which are difficult to control through legislation due to the reasons outlined above, and more generally because of imbalances of power in a globalised world where companies can switch between jurisdictions easily and use this to limit governmental control. Examples include the Global Network Initiative, and the Aspen Institute’s International Digital Economy Accords. Finally, civil society groups are developing their own sets of principles to articulate and campaign for progressive approaches towards internet governance. Examples of the latter include the Internet Rights and
Principles Coalition’s 10 Internet Rights and Principles, and the Association for Progressive Communication’s Internet Rights Charter.

The principles approach has been very useful – it allows different stakeholder groups to engage in discussion and build consensus about the best ways to approach internet policy issues. In forming a normative framework, this approach allows different countries and forums to coordinate their policy efforts whilst avoiding the rigidity of more formal governance tools and so protecting flexibility and innovation. Processes for developing normative standards tend to be less formal than legislation and treaty processes allowing greater involvement of civil society. And the initiatives originating from civil society have has a particular value in promoting a positive agenda, build shared advocacy goals and as campaigning tools.

However, the approach also carries risks. Some of the principles contained language which could undermine internet freedoms, for example, OECD’s Communiqué contains provisions that would encourage intermediaries to police and enforce laws on their networks. The proliferation of principles also allows government and private actors to policy shop for those principles which best fit their interests. Another issue is that all the principles initiative lack effective accountability mechanisms. This allows stakeholders leeway in how they interpret and apply the principles. Of course, to some extent this is an opportunity, allowing flexibility, but it also undermines the effectiveness of this approach to internet policy making, also pointing out the important of harmonising different policy initiatives.

There are moves afoot to try and harmonise approaches across different principles, perhaps by bringing together those who have worked on all of the different initiatives to build a set of shared super-principles. At the recent 2011 IGF in Kenya, some stakeholders called for the IGF to create a multi-stakeholder set of principles for internet governance, as a key priority between now and 2015. It remains to be seen whether this appeal will be picked up, or whether and how it could achieved. It is likely to depend to some extent on the results of the CSTD working group on IGF improvement. Nevertheless, harmonising principles and building a solid normative framework is an important goal which can offset calls for more rigid forms of internet policy making.

- Public interest advocates should invest in building a positive normative framework for internet governance as the best way of addressing genuine issues whilst protecting openness, innovation and freedom.
- Work is needed to ensure that there is policy coherence across the different initiatives and to ensure that they protect and advance human rights and openness to the maximum extent possible.
- Different stakeholders have now developed their positions in these areas – meaning that now there is an opportunity to bring together the different initiatives to develop a shared set of overarching principles. The IGF might prove a viable avenue for achieving this aim as it has the broadest global legitimacy. However it is likely to need much support, for example in lobbying
different stakeholder groups to support such an initiative and through parallel discussion and consensus building events.

- It is also necessary to hold policy makers and actors to account in their implementation of rights-based principles.

4.3. Infrastructure

Access

Whilst digital communications are fast becoming ubiquitous, digital divides are a significant issue to be tackled. On a global scale the divide is between more and less economically developed countries. While 71% of the population in Global North are online, only 21% of the population in the Global South are online. There is also significant inequality within the Global South with Africa in particular lagging behind – at the end of 2010 the average internet user penetration in Africa was just 9.6%.

Digital divides also occur within all countries, including the most developed. In the countries examined in this report the communities without access to the infrastructure are predominately the rural and/or poor. Two of the main factors which undermine internet and mobile use are: limitations in access to infrastructure and connectivity in remote and poor areas; and prices, which prevent many people from adopting the technologies even where they are accessible. Access is further complicated by the fact that not all internet access is equal. In developed countries speeds are generally much faster and people are more likely to have internet access at home (rather than using public access points). Internet access is best understood as a spectrum, ranging from those who have never had access, to those who have sporadic or sub-optimal access – through mobile phones or dial-up connections, to those who have broadband access at home, work or other location.

Increasing internet access is both powering, and being powered by, advances in technology. The past fifteen years have seen vastly improved processing power, and new and more useful tools (such as 3G phones and wireless networks) and applications (such as social networking). At the other end of the spectrum the launch of affordable, basic handsets is making mobile phone ownership to some of the world’s poorest communities. Technology improvements are projected to continue driving further increases in internet and mobile phone penetration. Even in Africa the introduction of submarine fibre optic links and the proliferation of mobile communication are expected to improve access in coming years. By 2015 it is estimated that nearly 3 billion people, more than 40% of the world’s projected population, will be using the internet. That said enabling policy and regulatory environments on both the national and international levels are crucial to address issues such as competition and infrastructure provision in areas of low market interest.

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Access is high up on the agenda on the International level, driven predominately by a desire to encourage economic and social development. Access emerged as a major International issue during the WSIS process, and it was identified as one of six main action lines (action line C2). There are many examples of plans at the international level which seek to reduce digital divides. For example, eASEAN plan encourages Universal Service Obligations and particularly provisions to increase broadband penetration; APEC’s Telecommunications and Information Working Group aims to achieve universal access to broadband by 2015; and the EU Digital Agenda aims to guarantee fast broadband to every EU citizen by 2013.

The dominant arguments in access debates see infrastructure development as an issue to be solved predominately by market forces. Proponents see service providers and investors as key, with governments frequently lacking capacity or strategies in this area. Similarly international institutions tend to approach the issue from a narrow and technocratic perspective. Lacking from the debate is consideration of the broader value of promoting access and thus the necessity of meeting the needs of the most vulnerable who are unlikely to be served by the market alone. Broader debate and more nuanced debate and research about how to achieve universal access is needed. Concrete and effective national plans are necessary to ensure that the internet is accessible and affordable to all segments of the population, and not only the economically powerful. And it needs to be recognised that collaboration with government may be needed to reach certain communities (particularly those which are rural and isolated). In the short term there is also a very specific challenge as governments digitalise communications to free up the analogue spectrum. Many poorer communities only have access to analogue media – this enforced digitalisation threatens to either cut them off from communication possibilities or substantially increase the cost of access. The growing importance of digital communications could therefore exacerbate socioeconomic divides rather than overcome them.

Another global level access debate is on the responsibility of developed countries to provide assistance in achieving universal access. Millennium Development Goal 8 on developing a global partnership for development includes the need to facilitate technology transfers to developing States and to integrate policies to facilitate universal access into development and assistance policies. At WSIS a Digital Solidarity Fund was established to direct international resources towards improving access in developing countries, particularly in Africa. However, so far these initiatives have not been successful in translating responsibilities into action. Commentators argue that more pressure is needed to encourage developed country governments to honour their obligations, and greater investment in research, monitoring and evaluation to ensure such initiatives are effective.

- How or indeed whether the next five billion citizens come online is a major challenge for public interest advocates and a crucial policy question. It cannot be left to market forces alone – it is vital

that human rights based approaches are used to ensure that infrastructure regulatory strategies are meeting the needs of the most marginalised.

- Civil society must play a key role in provoking and shaping these debates, campaigning for national strategies and monitoring strategies which do exist to ensure that they are successful.
- This is an area where much would be gained from international knowledge sharing, particularly south-south learning to share best practice.

**Box 1: A “right” to access the internet?**

A “right” to access the internet? There is a growing debate over whether access to the internet should, in itself, be a human right. More and more countries are incorporating access to broadband into universal service obligations, or making access into a legal right (for example in Estonia, Finland and Spain). A 2010 BBC World Service poll involving 27,000 adults across 26 countries found that “almost four in five people around the world believe that access to the internet is a fundamental right”.

Another approach holds that access is not a right in itself, but it is a fundamental element of freedom of expression, and in an increasingly connected society, the fulfilment of many rights (including freedom of association and assembly, and the right to education) will require internet access. The UN Special Rapporteur, Frank La Rue, in his report to the UN Human Rights Council in May 2011 stated that “Given that the internet has become an indispensible tool to realise a range of human right, combat inequality, and accelerate development and human progress, ensuring universal access to the internet should be a priority for all States.”¹ Both the APC and IRP Charters find ensuring universal access a key element of ensuring the internet environment respects human rights.

These initiatives provide a strong basis for civil society to engage in access debates. It provides new tools for applying pressure – for example human rights groups should tackle access to the internet in alternative country reports to international human rights mechanisms. And it is a powerful way of framing the debate: a failure to design and implement a comprehensive universal access plan is increasingly considered a violation of human rights.

Focussing on promoting a new independent “right to the internet” at this stage is unlikely to succeed (and indeed could undermine existing standards) given the current balance of geopolitical power against human rights. A more constructive use of resources would be to focus on reframing and promoting freedom of expression to include access to the internet, building on the work of the Special Rapporteur and other human rights bodies and sympathetic governments.

**Attempts to block access to infrastructure**

There is a worrying trend of so-called “just in time” blocks on access to the internet and mobile communications, where access is restricted, or blocked entirely, during sensitive political periods. In the past few years internet and mobile phone blackouts have been reported during the 2009 ethnic riots in Xinjiang, China; during the 2010 Mozambique food riots and during the 2011 popular uprisings across
the Middle East. Blocking digital communications entered the agenda in the UK following the 2011 London riots, but so far has been staved off by public pressure, organised by groups such as the Open Rights Group.

Another growing trend in some countries is the introduction of legal measures whereby individual users can be disconnected from the internet on the basis of having infringed intellectual property laws. These are often referred as “three-strikes” or “graduated response” as they usually provide for cutting off access to the internet after the user has allegedly committed three intellectual property infringements and received two warnings. Aside from freedom of expression considerations, there are also concerns that such laws undermine public access points, and that a considerable amount of copyright infringements on the internet is committed by children and minors who are often not aware of the legal implications of their action. This issue shall be discussed further below in the copyright section. The Special Rapporteur on Freedom of Expression “considers cutting off users from internet access, regardless of the justification provided, including on the grounds of violating intellectual property rights law, to be disproportionate and thus a violation of [freedom of expression]”.

The United States, through their “Internet Freedom” foreign policy agenda, are also investing in the development of tools which would allow citizens to communicate during digital communication blackouts, such as the “internet in a suitcase” initiative. This approach is controversial – it may further politicise the internet environment, and could trigger a technology “arms race”. Many commentators hold that it is better to invest in promoting positive policies.

- **Blocking access to the infrastructure is a dangerous trend and must be forcefully countered whenever, and in whatever format, it appears. Advocacy, campaigning and awareness building are vital.**
- **There are also opportunities to work with companies that have a role in the shut downs, for example Vodafone in Egypt, to encourage and support them to push back against government requests to close down access, and these should be explored.**

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### Accessibility - multilingualism

Access is not just about physical access. It is also about ensuring people can use the infrastructure and that it is useful to them. This section examines two separate issues: multilingualism and access by people with disabilities. A key factor which arose in several of the national chapters is language. Across the world, there are somewhere between 3000 and 7000 languages which are spoken today, however, while there is little definitive evidence of the spread of languages online, 82.2% of internet users use just 10 languages\(^8^3\). This is a barrier to access: many communities in the world find that their language is not supported by technology, and there is little incentive to use technologies if one will have access to insufficient or no information in their own language. Multilingualism on the internet is not, currently, a major issue on the internet governance agenda, but if universal access is to be achieved it must not be neglected.

There is a need to promote standards which enable the use of different languages in technical forums such as ICANN, the IETF and W3C. ICANN has successfully introduced internationalised country code top level domain names in languages of countries which do not use the Latin script. This process is now beginning, and support/encouragement to countries to request ccTLDs in non-Latin scripts in something being considered by UNESCO. India, for instance, has applied for ccTLDs in seven different scripts.

Similarly there is a need for the development of appropriate hard and software, for example local language keyboards. One key area requiring support is open source software. Open Source software is liberally licensed software which allows people to view the source code of the software and hence to use, study, change and improve its design. This can empower users to tailor the application to meet their specific needs, including to run in minority languages. The Free Software Foundation and Open Source Initiative are two examples of groups seeking to promote the use of open software.

- **Multilingualism is a much ignored issue in internet governance issues that has a significant impact on access and usability of the internet. Public interest advocates should raise this issue on a policy level which will include supporting open-source hardware and software.**

### Accessibility - people with disabilities

People with disabilities sometimes need assistive technologies to allow them to use technologies, such as screen readers, speech recognition software and alternative keyboards. International standards exist which promote access to technology for people with disabilities. However programme and hardware developers often neglect to consider the impact of design on usability. For example, use of digital management controls on e-books can prevent the use of a screen reader. The World Blind Union is leading an initiative at WIPO calling for a treaty promoting better access to reading material for visually impaired readers, including digitally accessible formats. The initiative has support from several countries.

including Brazil, Ecuador and Paraguay. Others, including the European Union and the United States, have resisted the initiative, instead proposing a joint recommendation without legally binding effects. This also relates to the copyright section below.

- **Work is needed at the international level to establish and promote international accessibility standards. Efforts are also needed to raise awareness about these standards, particularly with software and hardware developers.**

**Network neutrality**

“Network neutrality” is a term used to describe the principle that all internet data traffic should be treated equally based on an “end-to-end” principle. In practice, this means that network operators or internet access providers treat data packets equally, regardless of origin, content or destination, so that users “should have the greatest possible access to internet-based content.” While the term is heavily debated – the concept is very important. This architectural feature is also considered by many to have been a key driver of the growth of the internet to date, by facilitating high levels of innovation in online applications, content and services networks. One of the main examples of traffic discrimination is the blocking of VoIP services, especially where internet access is provided by incumbents who generate revenue through phone services. This is exacerbated in some countries where there is a lack of competition and where there is either continued state ownership of telecommunications or government ministers have close relations with telecommunications companies. VoIP is particularly valuable in areas where there are high rates of illiteracy. Furthermore, if companies begin to prioritise certain types of content for purely economic reasons this would place citizen journalists and bloggers at a disadvantage compared with large media companies who could afford to pay for their content to travel across networks faster.

There are growing debates at national and international levels about whether, and to what extent, traffic management should be subject to regulation. To date, Chile is the only country which has enacted a network neutrality provision in to law. Other countries have experimented with non-binding standards such as Norway’s Guidelines for Internet Neutrality and the CoE’s 2010 Declaration of the Committee of Ministers on Network Neutrality.

On the one hand groups have argues that net neutrality legislation is unnecessary if there is sufficient competition, and transparency about what is being prioritised/deprioritised so that consumers can make informed decisions about what services to buy. On the other hand many civil society groups are concerned that in most parts of the world there is not sufficient competition or transparency, and that it may be very difficult for consumers to exercise choice. They also argue that where services which prioritise traffic are cheaper (because big companies like Google and Facebook can subsidise access in return for greater speed) more users will opt for access which is not neutral, despite this not being in the

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greater public interest. Protecting network neutrality is vital if the internet is to remain a platform where all users can access and distribute information equally. The standards for protecting may vary from country to country depending on national circumstances but it is vital that the concept is upheld.

- **Network neutrality is a highly important principle, and the ability of public interest advocates to protect it will shape the value and potential of the internet for public interest ends. Public interest advocates need to work to promote protections for network neutrality at national, and global, levels as a matter of priority.**

Filtering and blocking

Initially used by authoritarian governments including China, Iran, and Belarus, filtering and blocking are increasingly also being used by democratic governments to block access to content including child pornography, adult pornography, gambling, and hate speech. The number of countries engaging in some form of internet blocking or filtering has increased dramatically in recent years. Civil society groups such as the Opennet Initiative and Freedom House have been tracking this trend. In 2009 evidence of filtering and blocking was found in 90 countries, more than double the number in 2008. Blocking and filtering are mechanisms which essentially hide information; the information is still hosted on a server however it is more difficult for users to access. It is commonly used to prevent access to content which cannot be removed, for example because the government does not have jurisdiction over the server hosting the content.

Box 2: Mechanisms for filtering and blocking

<table>
<thead>
<tr>
<th>Mechanism</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>DNS blocking</td>
<td>The DNS system matches the domain name with its IP number (for example, <a href="http://www.google.com">www.google.com</a> takes you to one of Google’s IP numbers, such as 216.239.51.99). Internet Service Providers can configure their DNS resolver to return false results for a blocked site – either directing the user to an alternative site or to a page informing them that the site has been blocked or that it does not exist.</td>
</tr>
<tr>
<td>Web proxy blocking</td>
<td>This mechanism forces all web traffic through a proxy server which intercepts certain requests and returns false results.</td>
</tr>
<tr>
<td>IP address blocking</td>
<td>Internet Service Providers configure their routers to discard traffic destined for a specific IP address. IP address blocking blocks entire domains therefore this can be very broad if, for example when multiple hosting customers share one IP address.</td>
</tr>
<tr>
<td>Hybrid blocking</td>
<td>Selected traffic is sent through a web proxy that then blocks specific traffic.</td>
</tr>
<tr>
<td>Network level filtering</td>
<td>ISPs monitor and filter the network traffic, intercepting transmission midway and discarding certain requests. This can involve deep packet inspection (analysing the content of the packets, such as the contents of an email).</td>
</tr>
<tr>
<td>End-user filtering</td>
<td>Software can be installed on computers to block and filter traffic.</td>
</tr>
</tbody>
</table>

Filtering and blocking are used to target many different types of content, for example in the United States domain name blocking is increasingly being used to target websites which host content which
infringes on copyright. In Egypt, during the 2010 election, many websites hosting political content were blocked. A newer trend is the increasing use of denial of service attacks. These are not strictly filtering and blocking but the end result is the same. For more information see Box 3.

There are many concerns about blocking and filtering. Fundamentally, filtering and blocking undermine the openness of the internet environment, undermining the end-to-end principle. It is often used to tackle legitimate expression, such as political debate. In many countries it appears to take place arbitrarily with few established guidelines about what should or should not be blocked. Block lists are generally kept secret so there is little opportunity to assess whether restrictions are legitimate under human rights law, indeed there is little to no judicial oversight of blocking and filtering in any of the countries examined. There are also concerns that filtering and blocking is an inexact science and can be very broad, thus rendering a wide range of content inaccessible. For example, blocking to target pornographic material often also filters out material relating to sexuality or sexual health. Furthermore, filtering and blocking is ineffective – content can be accessed using circumvention tools, websites can appear in different places, and they do not address peer-to-peer content sharing which is how content like child abuse imagery is generally shared.

Box 3: Denial of Service Attacks

Denial of Service Attacks involve overloading a server with requests for a certain website making it inaccessible to others, usually for a brief period – the effect is the same as with blocking and filtering. DDoS attacks have become more widespread in recent years, for example as a digital form of protest by groups like Anonymous and Lulzsec. A recent report by the Berkman Centre for Internet and Society documents the increased use of this tool against independent media and human rights organisations. The report finds that there were more than 140 attacks against more than 280 different sites from September 2009 to August 2010. It is usually unclear who is behind these attacks and they found no clear examples of a government claiming responsibility. An example is Twitter.com which was attacked in December 2009. For two hours users were redirected to a page containing, amongst other things, the statement: “This site has been hacked by the Iranian army on the internet”. Some groups, such as International Media Support, offer technical support to human rights groups’ websites while they are being attacked. Other groups also use “mirroring” where the same content is made available in many different places on the internet so it is much more difficult for attackers to prevent all access. This was the technique used by online activists to ensure that Wikileaks material was still accessible after hosts (including Amazon) stopped hosting the site.

This is an area where much copying of legislation and practices across jurisdictions. Many civil society groups feel that filtering and blocking is not appropriate unless it is end-user controlled – in order to preserve openness of the internet and to protect freedom of expression. They argue for governments to

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focus on finding and identifying perpetrators of “illegal” speech such as child pornography. However, some argue that it may be acceptable under some circumstances providing the guidelines are clear, processes are transparent and subject to judicial oversight, and definitions about what content is illegal are less ambiguous. In the UN Special Rapporteur on Freedom of Expression’s report he notes that as with offline content, restrictions must be provided by law which is clear and accessible to everyone, must be for a legitimate aim and necessary and proportionate to that aim. “In addition, any legislation restricting the right to freedom of expression must be applied by a body which is independent of any political, commercial, or other unwarranted influences in a manner that is neither arbitrary nor discriminatory. There should also be adequate safeguards against abuse, including the possibility of challenge and remedy against its abusive application.”

The one area where he finds blocking and filtering may be legitimate is with regards to child pornography “provided that the national law is sufficiently precise and there are sufficient safeguards against abuse or misuse to prevent any “mission creep”, including oversight and review by an independent and impartial tribunal or regulatory body. However, the Special Rapporteur calls upon States to focus their efforts on prosecuting those responsible for the production and dissemination of child pornography, rather than on blocking measures alone.” Blocking child abuse imagery is a growing trend, for example in the UK the Internet Watch Foundation works with ISPs to maintain a voluntary block list, and the CoE’s Cybercrime Convention 2001 calls for blocking to be used to tackle child abuse imagery in Article 9.

Box 4: Filtering and blocking as a trade issue

Filtering and blocking as a trade issue: Numerous academics have looked at how WTO trade rules impact on disputes about filtering and blocking. The fundamental question is – to what extent is blocking and filtering legitimate under WTO rules, and when does it become a barrier to trade and a breach of the rules. This is an important discussion because the WTO can enforce compliance to agreements using trade sanctions– thus if, and to the extent that, filtering and blocking are considered illegitimate barriers to trade, there may be an effective opportunity to challenge the practice through the WTO. At the moment this discussion is purely academic, but it is thought that the WTO will face this issue over the next decade.

Blocking and filtering is a slippery slope – while there may be hypothetical situations where it is justified, the practice is growing and so far no example can be pointed to which fully respects the guidelines outlined above. On the other hand, many examples exist which show blocking and filtering being misused and abused to censor legitimate speech and violate freedom of expression. There is a need to promote good practice. In Europe, for example, preventing children from accessing adult pornography is achieved through end user filtering, education to increase awareness of this tool amongst teachers and parents, and the development of spaces on the internet which are safe for children. Such examples protect the open nature of the internet, empower users, and are less susceptible to abuse, unlike filtering and blocking. It is also possible to encourage


88 Ibid, para 71.
companies to take implement policies which will minimise the negative impact of filtering and blocking, for example by informing users when their access to certain content is being denied. One initiative which seeks to do this is the Global Network Initiative.

- **Civil society must challenge those filtering and blocking mechanisms which do not conform to human rights standards – this includes building understanding about what standards blocking and filtering must conform to and why.**

**Intermediary liability**

Internet intermediaries are those companies “that bring together or facilitate transactions between third parties on the internet. They give access to, host, transmit and index content, products and services originated by third parties on the internet or provide internet-based services to third parties”[^89]. Examples include internet and service providers, web hosting providers, internet search engines and portals, e-commerce intermediaries and social networking platforms. These companies play a vital role in enabling widespread participation on the internet. Internet Service Providers and internet cafes enable citizens to access the internet; search engines enable users to navigate the vast world of online content; photo and video sharing sites enable people to share images; social networking sites allow people to connect with each other and share various types of information easily.

Traditionally these intermediaries have been protected from responsibilities and liability for third party content, particularly in the United States and Europe. However, as intermediaries play a central role in channelling information online, governments are increasingly attempting to turn intermediaries into internet chokepoints in an effort to monitor or control people’s online activities. In India, for example, the government has passed legislation requiring intermediaries to collect data about their users and surrender it to law enforcement agencies upon request. In Brazil, social networking intermediaries are increasingly facing lawsuits for allegedly libellous comments made on the networks by users. The most famous case was filed by two Brazilian teenagers against the Google-owned Orkut over jokes that they allege offended them[^90].

This trend has serious implications for freedom of expression online. Firstly it undermines the willingness of intermediaries to host and service user-generated content and it incentives them to exercise more control over such content to guard against prosecution. This is likely to have a chilling effect on online freedom of expression. The threat of legal proceedings may also undermine further innovation in online services. Secondly, it delegates legal duties (e.g. deciding what content is legal and what content is illegal) to private sector. The private sector does not have the authority under International human rights law to make these decisions. The legality of content is almost always complex requiring the balancing of competing interests such as privacy and freedom of expression. Private companies have neither the requisite skills nor the authority to make these decisions.


Furthermore they are likely to be overzealous in order to avoid breaking the law. This is particularly a risk when there is a power imbalance between competing parties – for example if a politician alleges that a citizen has defamed them, or a large media company alleges that an individual has infringed on their copyright. Finally, if users are aware that their data may be passed to law enforcement agencies, they are likely to exercise self-censorship, particularly in countries with poor human rights records.

This is another area where the issue should be tackled in a global way because there is much copying of legislation and practice across jurisdictions. There are also a number of international initiatives to promote the use of intermediaries to control content – particularly in the field of copyright protection. In Europe and the US copyright protection invokes a notice-based liability regime\(^\text{91}\) whereby intermediaries can be held liable where they have “knowledge and control” over the information. To protect themselves against liability they must act expeditiously “upon obtaining actual knowledge” of illegal activity or content “to remove or to disable access to the information concerned”. This regime is strongly criticized by civil society. It puts intermediaries under pressure to remove material from their servers without considering whether the allegations are true or whether the content is in the public interest, and can easily be abused by powerful actors. Some studies showed that ISPs based in Europe tend to remove and take down content without challenging the notices they receive. This scheme, together with even more restrictive measures (such as requiring intermediaries to monitor users online activities, and block access to certain websites) are being promoted heavily by the copyright-holding industries and developed country government across the world, through international forums (such as WIPO) and international agreements such as ACTA.

- **Intermediary liability is another internet governance principle which has a profound impact on how enabling of human rights the internet environment is. Public interest advocates need to work to promote protections from intermediary liability at national, and global, levels as a matter of priority**

**Privacy and data protection**

Privacy of correspondence is a human right, this is both because this is an element of human dignity, and also because it supports public debate on sensitive or controversial subjects. Privacy rights online are increasingly under threat from government surveillance and private sector use of user data. Government surveillance arose as an issue in several of the country reports. While surveillance can be legitimate under international human rights law, it often takes place for political, rather than security reasons in an arbitrary and covert manner. New laws to introduce or expand governmental powers to monitor communications have been introduced in the United States (the Communications Assistance to Law Enforcement Act) and India (the Information Technology Act). There are reports of information from blogs and social networking sites, as well as personal emails being used in interrogations and court cases. Both examples were seen in Egypt before the revolution. These laws often oblige intermediaries to collect information about users, for example internet cafes in India most keep a record of customers.

\(^{91}\) Under the EU Commerce Directive and the US Digital Millennium Copyright Act
Such laws are encouraged by international cybersecurity standards such as the Budapest Cybercrime Convention.

In the online world, collecting and using personal data is a key element of the business model of many internet companies. This information is used to make marketing and services more attractive to consumers. However, there are insufficient or inadequate data protection laws in many countries stipulating who is allowed to access personal data; what it can be used for; how it should be stored; and for how long.

Picture 9: “Surveillance”

Many civil society groups argue that privacy cannot be adequately protected without a global privacy framework, given that content travels around the world, and companies can easily store it in countries with less onerous privacy safeguards. At present there are a number of international privacy frameworks including the OECD Guidelines on the Protection of Privacy and Transborder Flows of Personal Data, the CoE Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, and the EU Data Protection Directive. All three of these frameworks are currently being reviewed. At the same time the United States government is considering a Privacy Rights Bill. This is an enormous opportunity for civil society to encourage a more globally consistent approach to protecting privacy. As well as expanding support for existing principles, there are other principles - such as privacy by default and privacy by design – which should be examined. It is also important that the frameworks which develop take adequate account of the enforceability of the principles.

With regards to government surveillance, it is important to push for respect for human rights, especially transparency over what and when surveillance takes place, and adequate safeguards against abuse. Another issue is the practice of western companies selling surveillance technology to authoritarian regimes. Most recently in Libya, Colonel Gaddafi was found to be monitoring SMS messages, emails and online social platforms with software obtained from technology companies from France, South Africa and other countries. Given that surveillance is acceptable under some circumstances, and once

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92 McIntosh, J., 2009. *Surveillance*. April 15, 2009 via Flickr, Creative Commons
capabilities exist it is very difficult to prevent them from being used for illegal purposes, this is a difficult issue to address. The aim must be to prevent the development of these capabilities in the first place, by encouraging tighter restrictions on the surveillance technologies sector. Furthermore, civil society groups and citizen groups more generally need training and tools to allow them to assess privacy risks, minimise their exposure to danger and to use privacy enhancing tools (such as Tor or Psiphon).

- **Digital communication technologies present significant and complex new challenges for protecting the right to privacy. There is an urgent need for public interest advocates to lobby states and internet companies to design and implement effective policies to better protect privacy online.**
- **Work is also needed to build the capacities of citizens and civil society groups to protect themselves as much as possible, to understand the risks and hence to make informed decisions.**

### 4.4. Content

**Criminalisation of speech**

The use of criminal law to clamp down on legitimate expression is a trend which impacts on both offline and online speech. However, it appears to be a trend that is growing in line with increased use of the internet, driven predominately by political considerations. In many countries old sedition laws are being revived to control online speech, for example there are many examples of professional and citizen journalists being tried under security laws for scrutinising governmental activity. Laws which make defamation a criminal offense are a particular concern in parts of Southeast Asia, East Asia, sub-Saharan Africa and Latin America. For example in Brazil the “desacato” laws grant special protections for public officials and are used to prevent criticism of public officials. Civil law is also being used to clamp down on online speech, for example in Egypt local courts have fined online commentators for impersonating journalists and “abusing the internet”. In Indonesia a woman faced high fines for an e-mail she sent to friends complaining about a local hospital.

An increasing number of countries are introducing new laws to specifically regulate online communication. These are often more restrictive than similar offline laws, or apply harsher penalties. For example in Indonesia the Electronic Transactions and Information law stipulates potential prison sentences of 6 years for those found guilty of defamation. By contrast, the offline law for defamation provides for jail services of 4 years. Another common problem is that laws used to arrest bloggers and online journalists are overly broad and ill-defined so can easily be manipulated and abused. In India, for instance, the difference between dissent and terrorism is not clearly outlined and this imprecision is used to stifle legitimate debate.

Silencing criticism through harassment and detention is an old phenomenon; it is used to silence legitimate expression and to promote self-censorship. These trends continue and civil society groups such as Reporters without Borders (RSF) have begun to document the use of these techniques against citizen, as well as professional, journalists. According to RSF in 2010 137 journalists and 102 online commentators were arrested across the world.
This is a dangerous, growing threat. Civil society must bring pressure against these practices, using, amongst other things, human rights mechanisms.

Copyright and access to knowledge

The internet revolutionises the sharing of content, facilitating access to information on a very exciting level – allowing people to exercise their right to culture and to access information for human and social advancement. However, some of that content is subject to copyright restrictions. There has always been a difficult balancing act needed between protecting the rights of individual creators to benefit from their creations; and public rights to access information, engage in cultural life and to benefit from progress. However, companies have developed who trade in these rights and whose business models depend on copyright enforcement (for instance in the media and biotechnology industries). Strong lobbies are pushing for increased copyright protection in international forums and advocating approaches which undermine free flow of information online. Because they are mainly from developed countries, they have the influence of developed country governments in forums such as WIPO.

Copyright is a recurring theme throughout this chapter. The scope of copyright is also being extended at WIPO in terms of protected materials, the rights of authors and the duration of those rights. Furthermore, developed countries are applying pressure on developing countries not to use fair use exceptions, and to adopt strict enforcement mechanisms, through bilateral and multilateral trade agreements (for example ACTA). As discussed, the technical measures being promoted include blocking and filtering, disconnecting users from the internet and imposing intermediary liability.

However, at the same time there are some very positive initiatives. At WIPO a “Development Agenda” was introduced in 2007 following a campaign spearheaded by Argentina and Brazil. The agenda aims to make WIPO framework more development friendly through, for example, recognising that each country has a unique situation and supporting the use of flexibilities. However, progress has been slow and more pressure is needed. In August 2011, at the Global Congress on Intellectual Property and the Public Interest, more than 170 policymakers and advocates from approximately 35 countries to discuss the need for constructing a positive policy and research agenda. The resulting Washington Declaration on Intellectual Property and the Public Interest recommends specific actions by the public interest community and covers three broad areas: “valuing openness and the public domain”, “strengthening limitations and exceptions”, and “setting public interest priorities for patent reform”.

Another attempt to frame the debate in a progressive manner is a campaign to amend the United Nations Guidelines for Consumer Protection to support access to knowledge. The Guidelines are a “soft law” statement of principles for consumer protection policy. Proposed amendments include: to set minimum standards for essential copyright limitations and exceptions for consumers; stop suppliers using technology to cripple digital products of unreasonably limit the ways in which consumers can use them; promote a permissive approach to copyright to facilitate non-commercial creativity by consumers. A more applied example is the development of liberal licences for content, most famously creative commons. These licences allow non-commercial copying and sharing of work provided that the author is given attribution.
• Copyright is one of the main internet freedom battlefields at the moment in many countries across the world and certainly at the international level. This is a serious challenge given the extremely strong copyright enforcement lobby. As well as fighting back against individual bad policies in this area. Public interest advocates should fight for a foundation level re-conception of the place of copyright in society. This should be achieved using the concept of balance between the public interest and the rights of creators as outlined in the International Bill of Human Rights. The buds of a united civil society position on copyright have appeared over the last year. Now is the time to seize this opportunity and grow them into a global movement.

Availability of diverse and good quality content
Concerns arise throughout the report about who is creating online content – where access and accessibility is limited, those empowered to communicate online are often the already influential, urban, wealthy elites. Another dimension to this issue is discussed in the US chapter – where existing models of funding content creation are undermined, the lack of professional journalists can lead to the lack of good quality reporting.

The internet presents an opportunity to tackle these issues by promoting diverse content creation. A recent report by the Internet Society, UNESCO and the OECD found that countries with more internet infrastructure (at all income levels) are also the countries producing more local digital content. However, as new users get online, fewer and fewer of them appear to be content creators. This shows the importance of stimulating and encouraging new content creators. In turn this will promote greater access as stated in article 53 of the WSIS Geneva plan of action: “The creation, dissemination and preservation of content in diverse languages and formats must be accorded high priority in building an inclusive Information Society, paying particular attention to the diversity of supply of creative work and due recognition of the rights of authors and artists. It is essential to promote the production of and accessibility to all content—educational, scientific, cultural or recreational—in diverse languages and formats. The development of local content suited to domestic or regional needs will encourage social and economic development and will stimulate participation of all stakeholders, including people living in rural, remote and marginal areas.”

• Promoting local and diverse content creation is an important goal - with close links to other areas such as access and accessibility. Improving digital and media literacy is a tool.

Digital and media literacy
Digital and media literacy have emerged as key needs due to the enhanced role and responsibilities of citizens in the online environment. Digital and media literacy programmes can assist users to use digital tools to create and share content, to access content that they want and need, to assess the content that they have access to, to protect themselves from government and cybercriminals, and to make informed decisions about what information to share and how. Digital and media literacy can also form a key

94 GISWatch 2008, Pg31.
element of strategies to combat some of the problems with digital communications without undermining the openness of the internet. For example, by supporting people to distinguish between true and untrue information.

Picture 10: “Digital natives”

The need for digital and media literacy is well established, contained, for example within the WSIS Geneva Plan of Action (Art 29), the Declaration on Media and Information Literacy and the Special Rapporteur on Freedom of expression’s Report on “Freedom of Expression on the Internet”. The Council of Europe has adopted media literacy as a key element of its New Media Initiative, and UNESCO produces many digital literacy resources.

Certain groups are in need of specialised capacity training. For example human rights activists need to know how to protect themselves and their networks from enhanced attacks – both in terms of privacy and to counter DDOS attacks. They also need to learn how to effectively use digital communications to mobilise people and effect change, and they need to learn more about the internet environment so they can engage in policy discussions and shape the ecosystem in a positive way.

- Digital and media literacy have emerged as key needs due to the enhanced role and responsibilities of citizens in the online environment.

4.5. Conclusions

The internet environment is critically important – for better or worse, the internet is increasingly central to the media and communications environment; and in turn is shaping all dimensions of social life. This presents an unforeseen opportunity to democratisate freedom of expression. However, this will not occur unless public interest communities invest in shaping, protecting and developing the environment.

There are a number of major challenges which need to be addressed. The communications environment is not governed democratically and transparently, with meaningful input from all stakeholders, limiting possibilities for shaping it so that it meets citizen needs. Enabling global access to the infrastructure is a priority aim, such access much be affordable, of sufficient quality and accessible to all communities. An environment which began very openly is increasingly being damaged and undermined by governmental

95 Cobo, Juan Christobal, 2009. Digital Natives. March 17, 2009 via Flickr, Creative Commons
attempts to control the environment through exercising greater control over internet governance, and implementing restrictive and short-sighted law, policy and practices. Businesses have a great deal of influence on the environment, and through consideration for profit rather than public interest, are damaging openness and access to information particularly in the areas of copyright and network neutrality. It is essential that these challenges are met robustly by prepared, coordinated, and collaborative civil society. We need to build a broader and more sustained internet freedom movement. This is a challenge very different to traditional media challenges – it requires a new knowledge set, and new strategies. Investment must be made now to assist civil society to meet this challenge effectively. All citizens will require new skills to engage fully and effectively in the emerging environment.

At the same time, there are a number of positive movements which must be supported and developed to have maximum impact. An opportunity to rethink privacy on a global level is coming as reviews of different frameworks coincide. A growing community of public interest voices have decided that the current imbalances in the intellectual property regime have gone too far, and a real momentum is building around a public interest approach. Momentum is building around the idea of business responsibilities too. Both these areas are wider than just the internet – but both offer great opportunities for shaping the environment. And, evermore human rights actors are realising that value of the internet, and the precarious nature of that value, and are investing time and energy into understanding and shaping the environment. The report by the Special Rapporteur on “Freedom of Expression and the Internet” was a symptom of that growing awareness; it is also a catalyst for deepening and widening involvement.
Argentina returned to democracy in 1983, after seven years of a bloody military dictatorship. However, its highly commercial, concentrated, non-transparent and transnational media system has remained almost unchanged. In 2009, after more than 25 years of democracy, Congress passed a new law on audiovisual media services, which seeks to democratise communications in Argentina. The law is particularly unusual: it does not regulate digital communication nor any other aspect associated with the internet, social networks and mobile telephony, the three items that have most expanded in recent years within the Argentine info-communicational industry. This law is not convergent: it forbids phone enterprises from offering cable television services and it only mentions the word internet, the most important medium for the future, in a footnote. The internet, social networks and mobile telephony seem to have the highest potential to, at the lowest cost, multiply the players who can access content, production, share and distribution. When developed properly, the internet and mobile phones can eventually break historical alliances between non-independent media and political power, which prevents the development of human rights in certain areas of Argentine society. These alliances hinder the exercise, not only of freedom of expression and information, but also other human rights, since pro-government media generally only report on what benefits those in power.

Still, it is no exaggeration to say that Argentina is experiencing a revolution in the rights to information and freedom of expression, which could trigger the fulfillment of other rights. But the path to democratisation is long and sinuous. As never before in its history, today Argentina is actively discussing - politically and socially - the role of the media, the potential of digital communications and the position of government in this key area of public policy.

In 2008, Cristina Fernández de Kirchner’s government decided, after a confrontation between it and the agricultural sector (that led her party to lose the parliamentary elections a year later), to raise the cause of democratisation of the media. Her administration openly confronted Clarín Group, the major Argentine media group and the only one owned by domestic investors. Since then, the government and Clarín have been engaged in a battle that includes legal and public accusations against top government officials by the owners and some journalists from the media group. Another aspect of the new law on audiovisual media services passed by the government in 2009, seeks to reduce the group’s participation in the media market.

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Everyone’s right to information, from being a discussion point amongst a small group of experts, has become one of the country’s major political disputes. The battle between the government of President Fernández de Kirchner and Clarín Group - later extended to the newspaper La Nación and the publisher Perfil - is currently being publicly debated by leading sectors of the population. As a consequence of this fight, the working environment of journalists has become deeply complicated and almost all of them (by choice or need), have taken sides in the confrontation.

Three main initiatives demonstrate that we are not only facing a technological revolution, but also a political and social one:

- The new Law 26.522 on Audiovisual Communication Services passed in 2009 - which replaced Decree-Law 22.285 (enacted during the military dictatorship and only partially modified by successive democratic governments) – has not hampered a highly commercial, concentrated, non-transparent and transnational media system, because it has not yet been fully implemented. It will take time to change this panorama;

- With 27 million users out of a population of just over 40 million, more than half the country now uses the internet. This includes people who use the internet at home, at the workplace, or at public access points such as internet cafes. Argentina has the fastest rate of growth in mobile broadband connections of all countries in Latin America. Between December 2009 and December 2010, the number of subscriptions grew by 161 per cent to 1,709,242 subscriptions; this is in addition to the 4,609,434 fixed broadband connections. Another encouraging fact is that, in relative terms, even when faster and cheaper connections are concentrated in the metropolitan area of Buenos Aires, mobile connections have recently developed widely within the provinces and have grown proportionally more than in the main urban areas of the country. This implies a narrowing of the access gap;

- The launch of the Equal Connection Plan (Plan Conectar Igualdad) in 2010. This includes the free delivery of three million netbooks to high school students, teachers and public schools across the country. This plan reshapes and adapts the school curriculum to suit the digital agenda and fosters the qualifications needed to face the new model of a hyper-connected society. In its first year, the programme provided 1,149,112 computers and, most importantly, positioned

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98 “The hostile relationship between the Government and media has become an important obstacle to the practice of journalism in Argentina and to the public’s right to be duly informed about matters of social interest, warns the Freedom of Press Index 2010 published by Freedom House

education for the knowledge society high on the list of the government’s top priorities\textsuperscript{100}. This measure undoubtedly contributes to narrowing the digital divide because it delivers computers to students in disadvantaged sectors in Argentina who mostly attend public schools. Thus bringing a challenge to strengthen democratic debate. An example of this is that these computers include direct access solely to Télam, the official news agency, which is openly pro-government\textsuperscript{101}.

These measures have the potential to narrow the digital divide and democratise access, generation and distribution of content in Argentina. However, as discussed throughout this document, this does not guarantee a more solid public debate, nor does it necessarily contributes to social change and progress in human rights. For the time being, citizen’s use of new technologies is predominately for entertainment and social purposes (watching personal videos, sending messages to friends and relatives and chatting with acquaintances), rather than for the increased consumption and creation of public interest media.

5.1. Access and Accessibility

Argentina is increasingly atypical in having separate regulations for broadcasting and telecommunications. Even when the object of regulation is towards convergence, there are different laws and regulations. This does not facilitate the maximum development of the sector, since open competition between the operators involved in the industry is not allowed\textsuperscript{102}. The Argentine media and communications market has experienced steady growth in both audience and revenues over the last five years. However, the growth is uneven across the Metropolitan Area of Buenos Aires (AMBA) and other regions. Media consumption is rising, predominately driven by the mobile sector and internet. Nevertheless, as Mastrini and Becerra (2009) warn, "although some indicators of access to technology show significant growth (such as mobile phones) the possibility of diversified cultural consumption is limited to a minority of the population.” Anyway, access to digital communications does ensure greater access to diverse cultural assets at a lower cost. One of the biggest weaknesses of the Argentine context is that the country still lacks active policies to encourage diversity in content production and consumption.

Newspapers: emergence of new, pro-government media


\textsuperscript{101} When he was appointed head of Télam in November 2010, Martin García said he does not believe in journalistic objectivity and stated he was “firstly an activist and only later a journalist” [online] http://www.lanacion.com.ar/1326709-martin-garcia-el-cruzado-k-que-dirige-la-agencia-estatal-de-noticias [Accessed October 7, 2011].

\textsuperscript{102} Law 26.522 prevents phone companies from being public services licensees, and offering TV services. This was a demand of the opposition of center left parties in Congress to pass the law promoted by the Government.
There are currently over 150 journals and newspapers published in Argentina, all of which are privately owned. Despite the confrontation with the government, Clarín continues to dominate the daily newspaper market and is the country’s major multimedia group.\(^{103}\)

The main novelty in the print media is the emergence of various newspapers, periodicals and magazines, published by Grupo 23, which describes itself as pro-government, and is unsurprisingly benefitting from government advertising despite its poor sales. However, the populist tabloids Libre, owned by Perfil, and Muy, owned by Clarín, and released in 2011, are critical of the government.

In around two thirds of Argentina’s 24 provinces there is no independent press. Only about one third of the regional areas, including Santa Fe, Cordoba, Mendoza, Río Negro and Tucumán provinces, have independent newspapers. Most other provincial newspapers subsist on government advertising, which limits their independence. Their owners are, in many cases, legislators, public officers or relatives of those in power in the various branches of government. The national senator and candidate for vice-governor of Jujuy province, Guillermo Jenefes, owns the media group Radiovisión Jujuy which also owns the main television network in the province.\(^{104}\) Similar examples can be found throughout many Argentine provinces.

The development of digital communication (with free online sites likely to multiply to infinity and more than half of the population connected to the internet) could serve to break this vicious circle between the press and political power. With much lower costs, other players might participate in the media market.

Radio: concentrated ownership and new barriers for community radio

Radio access is widespread across Argentina. The radio industry is divided into AM and FM frequencies. The former provides information and the latter plays music. The private sector dominates the radio industry in Argentina and they provide no public or community radios stations.

Private media groups own the three most popular radio news stations in the country. Radio 10, owned by Hadad Group, has a 37.09 per cent share, Radio Mitre, owned by Clarín Group, has a 17.94 per cent share, and Radio Continental, which belonged to Telefónica Group and was later sold to Prisa Group (both Spanish capital groups), has a share of 10.04 per cent. The FM frequency is dominated by the stations Vale (Hadad Group), La 100 (Clarín Group) and Mega 98.3 (Hadad Group).

At the end of 2010, the head of the Federal Authority for Audiovisual Communication Services (AFSCA), Gabriel Mariotto, who is running for vice-governor of Buenos Aires province – the largest in the country


- revealed the results of the first mandatory media census. It found that the country had 15,000 broadcast media, a number several times higher than the radio spectrum supports\textsuperscript{105}. It is also estimated that 12,000 radio stations operate on temporary licenses or irregularly. Many of these are community radio stations that, along with operators of community television networks, have been struggling due to the high price of the bidding terms and conditions established by AFSCA\textsuperscript{106}. These terms and conditions prevent them from accessing broadcasting licenses and from regulating their operations; aims which the law had originally sought to encourage.

Free-to air television: two multimedia groups broadcasting from Buenos Aires to the rest of the country
As the radio - and with fewer than 50 networks in the country - television in Argentina is highly dominated by the private sector. The two networks with the highest ratings and revenues are Channel 13, owned by Clarín Group, and Telefé, owned by Telefónica Group –which has close ties to the government\textsuperscript{107}.

In November 2011, a public bid will be launched for 220 new television networks (half for commercial enterprises and half for non-profit organisations) under Law 26.522. These new networks will have to use Arsat\textsuperscript{108} - a state telecommunications company promoting satellite services in Argentina - exclusively to transmit media.

Pay television: a concentrated market and state initiatives to boost digital television
Argentina has one of Latin America’s largest pay television markets, both in absolute and relative terms. It has a penetration of over 60 per cent. Cable television services became massive in the 1980’s, when hundreds of operators appeared across the country. At that time, access to free-to-air television on reasonable terms implied subscribing to cable. With 47 per cent of the market, Clarín Group dominates the pay television market. There are about 700 cable operators; however, most of them are very small. Cablevisión, owned by Grupo Clarín, currently has 3,100,000 million subscribers and Direct TV, which also provides satellite television, has 1,400,000 subscribers.

This industry mostly produces national news, sport, ‘journalism magazines’, movies and other US shows. To decentralise this market, and expand access to more diverse content for all Argentineans, the

\textsuperscript{105} The data from this census has not been disclosed yet [online] http://corrientecnp.org.ar/web/?p=1011 [Accessed October 7, 2011].

\textsuperscript{106} “Broadcstasters in Buenos Aires Capital City must pay $ 200,000 to participate in the bidding, and $24,000 per month for airing with Arsat. We are not able to compete with the big networks that have appeared, such as 360TV, and have funds to buy 200 channels like ours”, said Alberto Martinez, president of the Argentina Association of Community Broadcasters, an entity that supported the enactment of the law. Martinez is also a member of the State Advisory Board of Digital TV [online] http://www.lanacion.com.ar/1402912-una-ley-en-senal-de-ajuste [Accessed October 7, 2011].

\textsuperscript{107} Telefé and Channel 13 have been alternating leading television ratings since the beginning of the 1990s. Both networks are followed by Channel 9, now owned by Mexican Remigio Ángel González González and the network most benefitted by government advertising, with a rating of 5.3per cent; Channel América, owned by Vila-Manzano-De Narvaez Group (a group owned by a former minister and a deputy), with a rating of 4.8 per cent; and Public TV (so-called even though it is a clearly governmental network) with a rating of 3 per cent.

government launched the Argentine System of Digital Terrestrial Television. This year saw the opening of several networks, which can only be seen on new television sets or decoders (the government claim to have delivered 600,000 free sets). CN23 and 360 television news are two of the new television channels, and are owned by executives with close ties to the Government. ConstruirTV. Another new station is the first television network owned by a trade union in Argentina - the Construction Workers Union (UOCRA).

**Fixed telephony**

Since the privatisation of Entel in 1989, the state telephone company created in 1948, the fixed telephony market is a duopoly operated by Telefónica and Telecom. For eight years, these were the only two operators in Argentina. The market has since been formally liberalised, however, without state intervention to ensure greater competition from other operators, the market has remained static. Telefónica and Telecom still share, nearly equally, the almost 8 million existing lines. This subsector stopped growing before the turn of the century because of the increasing role of mobile telephony. The average fixed telephone penetration rate in Argentina was 24 per cent in December 2005, just 3.7 per cent more than in 2001.\(^{109}\)

**Table 1: Number of cell phones in service (2000-2009)\(^{110}\)**

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of mobile phones</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000</td>
<td>6,380,897</td>
</tr>
<tr>
<td>2001</td>
<td>6,741,791</td>
</tr>
<tr>
<td>2002</td>
<td>6,566,740</td>
</tr>
<tr>
<td>2003</td>
<td>7,842,233</td>
</tr>
<tr>
<td>2004</td>
<td>10,197,811</td>
</tr>
<tr>
<td>2005</td>
<td>22,156,000</td>
</tr>
<tr>
<td>2006</td>
<td>31,950,000</td>
</tr>
<tr>
<td>2007</td>
<td>40,402,000</td>
</tr>
<tr>
<td>2008</td>
<td>46,508,800</td>
</tr>
<tr>
<td>2009</td>
<td>50,409,900</td>
</tr>
</tbody>
</table>

**Mobile telephony**

Following a trend across the Latin America region, in recent years, mobile cell phones have surpassed fixed telephony in popularity. In May 2011, the penetration of mobile telephony in Argentina was 144.3 per cent, amounting to 57.8605 million cell phones in service.\(^{111}\) The latest figures published in July 2009, show that 89 per cent of services are pre-paid and only 11 per cent are postpaid, thus implying that lower-income sectors pay a higher cost for the service.\(^{112}\) Popular sectors usually use pre-paid cards to access mobile phones, as they generally do not meet the requirements (an ID and a home address exclude illegal immigrants and people living in slums) to access a monthly billing mobile phone plan, which has a lower cost than pre-paid plans. In the area of mobile telephony, there are four operators: Telecom Personal; Telefónica Movistar; Claro, owned by Carlos Slim; and Nextel, a service that focuses primarily on the corporate market, owned by NII Holdings, Inc., a US company.

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112 ibid
Internet
While more than 50 per cent of the Argentine population has access to the internet, recently several state measures, together with the increase of private investment, widened internet access to broad and diverse segments of the population. But the variety of content available on the network is not accompanying the communication revolution mentioned at the beginning of this chapter. Access to technology is used mainly more for entertainment and to establish social links rather than to produce and share public interest content or to participate or to increase public engagement.

In 2010, there were 27 million internet users in Argentina, amounting to more than half of the population. Previously the main barrier to the internet in the country was economic. This began to be reversed with the Equal Connection Plan which prompted the provision of internet connections in all public secondary schools throughout the country. Also several provincial initiatives, of which the province of San Luis is a pioneer, include free wifi access in public areas, such as parks and public buildings.

Table 2: Evolution of internet users and customers

<table>
<thead>
<tr>
<th>Year</th>
<th>Customers</th>
<th>Broadband Customers</th>
<th>Users</th>
<th>B2C (in millions of $)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2001</td>
<td>1,350.000</td>
<td>97.000</td>
<td>3,650.000</td>
<td>78</td>
</tr>
<tr>
<td>2002</td>
<td>1,430.000</td>
<td>125.000</td>
<td>4,100.000</td>
<td>236</td>
</tr>
<tr>
<td>2003</td>
<td>1,600.000</td>
<td>240.000</td>
<td>5,700.000</td>
<td>510</td>
</tr>
<tr>
<td>2004</td>
<td>2,045.000</td>
<td>475.000</td>
<td>7,560.000</td>
<td>980</td>
</tr>
<tr>
<td>2005</td>
<td>2,300.000</td>
<td>865.000</td>
<td>10,000.000</td>
<td>1,380</td>
</tr>
<tr>
<td>2006</td>
<td>2,800.000</td>
<td>1,590.000</td>
<td>13,000.000</td>
<td>2,700</td>
</tr>
<tr>
<td>2007</td>
<td>3,100.000</td>
<td>2,750.000</td>
<td>16,000.000</td>
<td>2,900</td>
</tr>
<tr>
<td>2008</td>
<td>3,900.000</td>
<td>3,300.000</td>
<td>20,000.000</td>
<td>3,750.000</td>
</tr>
<tr>
<td>2009</td>
<td>4,400.000</td>
<td>3,900.000</td>
<td>23,000.000</td>
<td>--</td>
</tr>
<tr>
<td>2010</td>
<td>5,000.000</td>
<td>4,700.000</td>
<td>27,000.000</td>
<td>--</td>
</tr>
</tbody>
</table>

Figure 6: Market trends - thousands of broadband connections

Argentina has become the country with the third-highest usage rate in Latin America, after Brazil and Mexico. Argentina is also the country with the second highest broadband penetration in Latin America, with 11.71 per cent\textsuperscript{115}. The number of connections grew by 17.1 per cent from December 2009 to

\textsuperscript{113} Source: Price & Cooke.
\textsuperscript{114} Source: Cisco, 2010.
December 2010. There are now 4,609,434 broadband connections in the country\textsuperscript{116}. This includes internet-dedicated lines, dedicated IP, ADSL, cable modem, fixed wireless and other connections, such as satellite. However, there is quite unequal access, especially when it comes to the connections speed, between the Buenos Aires Metropolitan Area (AMBA) and some large cities, and most towns in the provinces. The fact that the wholesale price of one megabit of internet is US$ 45 in Buenos Aires Capital City and US$ 900 in other parts of the country illustrates this inequality.

\begin{figure}[!h]
\centering
\includegraphics[width=0.5\textwidth]{figure7.png}
\caption{Number of broadband connections and region penetration (December, 2010)\textsuperscript{117}}
\end{figure}

The major internet providers, which share 80 per cent of the market, are Fibertel, owned by Clarín Group; Speedy, owned by Telefónica; and Arnet, owned by Telecom. These fixed connections are in addition to the 1,709,242 mobile broadband connections. Mobile broadband connections reportedly grew by 161 per cent between December 2009 and December 2010.

## Ongoing policies to promote access

- The Digital Agenda, approved in 2009 by Decree 512\textsuperscript{118}. Digital Agenda can be defined as a route or national plan for inclusion and appropriation by the government, institutions and people of the benefits of the Knowledge Society, through an intensive and strategic use of Information and Communications Technologies.

- The National Telecommunications Argentina Connected Plan, approved in 2010 by Decree 1.552\textsuperscript{119}. Argentina Connected is a five-year strategic plan that defines the infrastructure and telecommunications services for the entire country. It seeks to reduce the cost of broadband internet, television and video, but mostly to expand them on equal terms to and for all Argentina’s inhabitants.

- Equal Connection Plan, approved in 2010 by Decree 459, explained at the introduction of this Chapter.

\textsuperscript{116} According to the latest Cisco Barometer.

\textsuperscript{117} Source: Cisco, 2010.


\textsuperscript{119} More information in English [online] \url{www.argentinadigital.com/docs/Documento_base_version_ingles.pdf} [Accessed October 7, 2011].
Universal service obligations have been in place since 2001 (as established by Decree 764/2000 and later replaced by Decree 558/2008). Universal service obligations require that services and programmes be of a certain quality, defined by the federal government. They are designed to provide the general population with internet access, regardless of their geographical location, social and economic conditions or physical disability. However, initiatives to turn these obligations into practice only began in November 2010 when the government established the Universal Service Trust Fund, using 1 per cent of the turnover of telecommunications companies. Companies have also presented an investment plan to federalise broadband and to narrow the inequalities in access throughout the provinces.

5.2. Media and Public Interest Communication

5.2.1. Media Ownership

Nearly two years after the new audiovisual communication services law was passed, there has been almost no progress towards democratising the spectrum: the same economic groups continue to dominate the media market and the few emerging players have strong links with the government. The main criticism made against this law is that the regulation is not convergent but analogical, and that it does not regulate, or encourage, internet activity.

Media ownership: the private sector rules

Until late 2009, when the Audiovisual Communication Services Act was passed, the private sector had been dominating the media and cultural industries in Argentina. The Act introduced a number of measures, including the allocation of one third of the spectrum to civil society organisations; it also set market quotas.

Argentina has always lacked state policies for public service in the communications sector, and also antitrust regulations. This has allowed two groups, Clarín and Telefónica, to dominate nearly every market in the information communication sector.\(^\text{120}\)

For decades, La Nación and Clarín have been associated with the national state in Papel Prensa SA, the leading and almost only producer of newsprint in the country. This matter is currently under legal dispute. At present, Clarín holds 49 per cent, La Nación holds 22.5 per cent of the company, and the state holds another 27.5 per cent and 1 per cent of shares are traded openly on the stock market.

Although there are no legal barriers to pluralism exist, political pressure prevails

The private sector dominates the Argentine media sector. The equal balance between public, private and community media that the new law on audiovisual communication services encourages is still a

\(^{120}\) Clarín Group has diversified into virtually all cultural markets, and has some telecommunications assets. Telefónica dominates the market for basic telephony and mobile telephony, and has a significant presence in free-to-air television with Telefé (Channel 11) and several radio stations in the argentine provinces.
fantasy. Public media is pro-government and has no published ratings while community media lacks state support and faces barriers to development, in a market that has been traditionally run by business logic. In the absence of a developed public service paradigm, the only content is whatever produces high ratings. This excludes a great deal of other key content promoting human rights. But we have recently witnessed the introduction of the channel Encuentro, focusing on documentaries, and Paka Paka, a children’s network, both examples of state intervention providing quality content. These two networks belong to the Ministry of Education.

Although now there are no direct legal barriers to the development of pluralistic media in radio, television or print, the lack of regulation on government advertising works in itself as a barrier. This allows the government to direct resources towards pro-government media, and away from media which is critical. In addition, the government confrontation with Clarín Group and other media considered ‘independent’, discourages journalists from conducting investigations or being very critical of official measures, out of fear of being labeled ‘escrachados’ by pro-government media. An ‘escrache’ is a demonstration in which a group of activists descend upon the home or work place of someone they wish to denounce publicly. These demonstrations are sometimes used as a form of intimidation and public accusation.\(^{121}\)

The stated aim in the first article of the Audiovisual Communication Services Act is the regulation of audiovisual media services and the development of mechanisms to promote, decentralise and encourage competition; also to bring down the cost, democratise and universalise the use of new information technologies and communication.

Article two of the law states that the activity undertaken by audiovisual media services is considered an activity of public interest, key for the cultural development of the population which is manifested in the human right to express, receive, disseminate and investigate information, ideas and opinions. In accordance with the law, audiovisual media services can be made by state-run providers, privately and ‘for-profit’ providers, and privately and ‘non-profit’ providers, all of which must be able to operate and provide equal access to all the transmission platforms available”. The law also stipulates that the state must safeguard the right to information, participation, preservation and the development of the rule of law, as well as the values of freedom of expression.

The internet is mainly used for social ties and communication, rather than for information on public affairs

While the major newspapers also lead the information consumption in the virtual world, digital communication enables, especially at the sub-national level, the emergence of small enterprises as an alternative to the majority in power. Not only can this improve freedom of expression and the right to

\(^{121}\) A survey conducted in September 2011 by the Argentine Journalism Forum (FOPEA) on working environment for journalism showed that 55per cent of almost 1,000 respondents consider the current relationship between the Government and the media to be ‘bad’ or ‘very bad’ [online] www.fopea.org [Accessed October 7, 2011].
information, but it also encourages the exercise of other human rights, such as a more informed vote, citizen participation and social rights, including the access to public services.

The two leading newspapers, Clarín and La Nación, produce most of the information circulating on the internet in Argentina. Infobae.com, a former print newspaper belonging to the Hadad Group, is also robust and has some importance online. The other website used by Argentines to find information is TN.com, Clarín Group’s cable news network. Other popular Argentine internet news sites with large numbers of visitors are Clarín, La Nación, Tipete, Olé, Grippo, Terra, Perfil, Yellow Pages and La Voz del Interior

Taking advantage of low costs, in recent years, some new political media has emerged exclusively online, including Lapoliticaonline.com (at a national level), Latecla.com (in Buenos Aires province) and El Intransigente (in Salta province), and they have had a large impact on the niche market they target. The increasing internet connectivity, the absence of regulatory barriers and the low costs have allowed almost all the provinces to have a website critical of the government in power. Unfortunately, there is little official or private data on how much online media there is in Argentina. FOPEA, an organisation of journalists, will launch a survey among its partners, to review online sites, and ADEPA, Asociación de Entidades Periodísticas Argentinas, recently opened a new online department. According to Comscore, an internet marketing research company, in 2011, the amount of news and information sites grew by 10 per cent in Argentina, while in the Latin America region the number decreased by 2 per cent, and globally grew by 3 per cent.

However, news and the national coverage are not the preferred content of Argentine internet users. In March 2011 the Argentine audience was visiting, in the following order: Facebook, MSN.com, Google.com.ar, Live.com, Google.com, Youtube.com, Blogger, MSN.com.ar, Yahoo.com.ar, Taringa.net, Wikipedia, Mercadolibre, Yahoo.es, Clarín.com and Megaupload.com. Lanacion.com only scored 26 in the ranking, and, Ole.com.ar, Clarín Group’s sports newspaper was ranked in the 34th place. Taringa, which allows users to download and share music, Mercadolibre, which links people who sell and buy things, and Clarín.com are the only Argentine sites in the 15 most-visited websites.

In 2011, 91 per cent of Argentine users participate in social networks, where they spend 30 per cent of their navigation time, compared to only four per cent spent consuming information and seven per cent in sending e-mails. Social networks and instant messaging consume 30 per cent and 18 per cent of the time respectively. Argentina is the fifth largest market on Facebook and the seventh on Twitter, by percentage range. At present, the consumption of multimedia content accounts for six per cent of time spent online. According to experts, the increase in broadband connections has led to an increase in the consumption of videos and multimedia content. However, this data confirms that so far in

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122 Internet Advertising Bureau (IAB) Ranking of January 2011.
123 Comscore.
124 Ibid.
Argentina, the internet is mainly used to establish social ties, to communicate and for entertainment, rather than to search for information or to participate in the public sphere.

5.2.2. Production and content

Notwithstanding the rise of the internet and digital media in Argentina, access to the press is still crucial because this industry continues to shape the news agenda that the rest of the media then reproduces and amplifies. The radio sector has a much lower turnover than other info-communication industries. This has a direct impact on programming, which usually reproduces the news published in newspapers with little or no original content. In addition, after the major economic and social crisis of 2001, local radio stations began to rebroadcast content produced by major stations located mostly in Buenos Aires. This occurs in almost all of the provinces, except for some large urban centres such as Córdoba, where Cadena 3 remains a strong media group. The six leading radio stations in the country don’t provide the space or the programmes aimed at disadvantaged groups of society such as poor, disabled, indigenous peoples, immigrants or women. The only exception is information on pensions for the elderly.

Figure 8: The origin of content broadcast in the AMBA-La Plata region of Argentina

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125 The manager of Digital Services in Clarín Global confirms this: "Let us quickly analyze online newspapers in Argentina: they cannibalize the original contents of the printed editions, they reproduce their scoops, ornament the websites with newswires they receive from news agencies, provincial and international newspapers. Only exceptionally newspaper websites publish articles specially produced for the online edition" (Macini, 2011).

126 Federal Authority of Audiovisual Communication Services (AFSCA).
News and content in Argentina is mainly produced in Buenos Aires. The 39 television networks (not including television re-broadcasters) which are located outside of the Buenos Aires Metropolitan Area (AMBA) and La Plata, rebroadcast, on average, 67 per cent of their total programming hours.

According to data from the Federal Authority for Audiovisual Communication Services (AFSCA) published by CELS, "Television production is concentrated...in the hands of a few companies, which in turn possess most of the internal networks of the country, which broadcast their own content. Two companies (Telefónica Internacional SA–Telefé, and Clarín Group) control 65 per cent of this market. Together with Vila-Manzano-De Narvaez Group, these companies control 78 per cent of the market. In addition, TISA and Clarín Group sell their content through their own firms (Tevéfé and Artear, respectively). Together with a third provider, Pramer, owned by US group Liberty, these companies share 70 per cent of the programmes sold in the country, for free-to-air television, pay television or subscription television”.

In addition there is the content produced for Public Television that, as mentioned, boasts about being a pro-government channel. Chapter IV of Law 26.55 concerns the promotion of diverse and regional contents, for example requiring that new radio and television networks, transmit a local news programme during prime time; and setting national production quotas for all types of licensees (private, non-state and state). Some experts say that, beyond the laudable goal of democratising the content, this part of the law will be unenforceable in the short term because most of the Argentine provinces do not have the enterprises or human capital needed to meet the quotas for local content production.

Argentina has no influential political or social blogs which help set the agenda, as in other countries, nor does it have benchmark websites. This might be explained by the fact that the country’s most influential journalists and activists are over 50 years old, and they only recently started using technology. They still don’t value digital communication as a way to build up agenda setting. Instead, social networks (particularly Facebook and Twitter) have become the amplifiers of news published in major online news media (Clarín, La Nación and Infobae) as well as the emerging tools for political communication. The most important politicians and public officers, including President Fernández de Kirchner, opened Twitter accounts which they increasingly use to communicate directly with their followers. The context of media bias probably favours this type of interaction, allowing less mediation between politicians and voters.

The main journalists of online newspapers in Argentina admit that they still work with the logic of the print papers and that their companies are unwilling to invest too much in new formats until they discover a way to make profitable digital media.127 The possibilities offered by new technologies,

127. Blog. Gastón Roitberg. Lanacion.com’s Online Manager, states, “Digital communication in Argentina is delayed compared to Europe, Asia and the United States. However, in a regional context, Argentina has a good performance. Argentine developments are watched and copied by other countries. Argentine experts are constantly trained. There are three vectors in which we are currently working: changes in the organisation (the new environment requires a more flexible and multimedia production system), rapport with the audience (Lanacion.com not only address its users, but it also participates in other platforms and social networks), and new
enabling any recipient at all to receive and send both messages and content, are still underused; the Argentines seem more likely to produce personal content than content related to public affairs.

So, those who might take advantage of new technologies and invest in public interest media don’t do it for commercial reasons and those who wish to do so, sometimes lack the skills and resources. An example of this is the initiative www.chequeado.com, a fact check blog. Even with the support of some key civil society organisations in Argentina, Chequeado.com is not getting enough funding to continue the initiative after almost a year of working. The NGO Periodismo Social, www.periodismosocial.org, also launched a website that disseminates articles for a network of provincial media, thus cheapening the costs to regional newspapers that generally cannot afford in-depth journalistic investigations.

**Mobile phones: lots of personal text messages and more**

Mobile phones, especially those with access to the internet, built-in cameras, recorders and music applications, are excellent tools for people to produce and share content of public interest, because anyone with a mobile phone can be a content producer at a low cost and with little need for previous education. However, although there are some initiatives that encourage such actions both in the media (such as TN and the People\[128\]) and civil society organisations (such as the website Quién Te Banca\[129\] launched by Poder Ciudadano), its use is not yet widespread and instead, mobile phones are mostly used to send personal text messages.

The state has launched some isolated initiatives that facilitate public access to certain information through text messaging or mobile phones. In recent elections, for example, voters could check their voting place by SMS. Another good example is the programme, The City on Your Phone, launched by the municipality of Morón, in Buenos Aires province\[130\]. This initiative allows the citizen to receive on their mobile phone personalised information according to their interests, including news, information, cultural offerings, training, health services, job searches and other information. Another good example is the municipality of Rafaela, in Santa Fe province, which provides access to news and a local city guide through the programme, The Web on Your Phone\[131\]. Though these initiatives are not massive in any of the levels of government in Argentina, their development has grown steadily in recent years\[132\].

### 5.3. Advancing Human Rights and Social Justice through Communication

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Due to its characteristics - allowing any user to become a researcher, transmitter and receiver at the same time - the internet is the medium that best embodies the right to information guaranteed under international and national law. Information facilitates and promotes a fuller exercise of other human rights for better informed citizens. It enables them to create, edit, share, post comments and criticise public officers and other political, social or economic actors more powerfully than silenced citizens.

However, the use of digital media to promote human rights is still new in Argentina, even as activists and members of civil society organisations recognise its enormous potential and the fact that it is underused. New technologies allow more people to access information (even those located in geographic areas difficult to reach or excluded and unseen groups) at a much lower cost. So this could enable the development of mass movements. Digital communication also enhances third sector organisations (as well as public and private institutions) to interact with the beneficiaries of their initiatives, thus adjusting or reformulating them with their feedback. The main reason for this under-exploitation is that most social movements do not have the time, resources or skills needed to develop innovative communication tools that attract attention and generate interest among netizens. Thus, because causes promoted by organisations on the web do not become massive or achieve the expected impact, they are usually dismissed.

Nevertheless, there are examples of civil society using digital communications effectively to achieve social aims:

- **Education:** March 24 is Memorial Day in Argentina when people remember the 1976 coup d’état which was started by the last military dictatorship, and left 30,000 ‘desaparecidos’ (Spanish for “enforced disappearance”). On Memorial Day 2010, victims of the illegal repression, and relatives of missing persons, particularly the group HIJOS, decided to remove their Facebook profile pictures and called others to do the same to raise awareness about the reasons for the holiday. The initiative, known as ‘siluetazo’ (in reference to the human silhouettes that represent the missing people), went viral among Facebook users. This year, Facebook users repeated the national ‘siluetazo’.

- **Health:** The Huésped Foundation, which has been fighting AIDS in Argentina since 1989, created the blog ‘Positive Space’ which is hosted on Clarin.com, one of the 15 most visited sites in Argentina. This initiative disseminated key information on AIDS to a wide and diverse audience that Huésped Foundation couldn’t have reached if it weren’t for digital communication. The Foundation also participated in 2009 and 2010 in ‘Passion for Life’, a multi-platform campaign of the Latin American Media Initiative on AIDS (IMLAS) that seeks to increase awareness, challenge misinformation, and end discrimination against AIDS patients.

- **Justice and remembrance:** The Centre for Legal and Social Studies (CELS) produces blogs with updated information on the trials held against military officers accused of human rights violations. These blogs (so far a dozen) operate as a source for the interested audience and the media, who do not always send reporters to cover these trials. Thanks to the potential of digital

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media, with this low-cost strategy (only one reporter needed), CELS achieves its goal of spreading information on these trials in various media.\textsuperscript{135}

- **Democratic participation:** With the aim of improving the quality of electoral debate and public policies, CIPPEC (Center for the Implementation of Public Policies Promoting Equity and Growth) launched the website www.agenda-presidencial.org, which disseminates CIPPEC’s public policy proposals to be considered by the next Argentine president and information on the presidential candidates for the 2011 election. The site also encourages visitors to provide information about political debates conducted in municipalities and provinces. CIPPEC is associated with a group of students from Torcuato Di Tella University, who launched the site www.yoquierosaber.org. It had over 30,000 visitors during the month of its release, with the aim of improving the quality of electoral debate and public information. The success of this initiative can be partly explained by the fact that the site’s founder works for Google Argentina and is an expert in digital communication and search engine optimisation.

- **Cultural rights:** This year, a massive virtual refusal prevented the Senate from discussing a bill on digital cannon. The digital cannon is a sum of money, similar to a tax, which applies to all computers and electronic media. The bill sought to establish an allowance for musicians, artists and producers by applying a levy on electronic devices capable of copying or storing copyrighted material. The initiative provided an indemnity to the producer of the content before, and regardless of whether, any act of piracy is actually committed. Public mobilisation was driven by several organisations, including the Fundación Vía Libre. It worked mainly through social networking sites such as Twitter, where millions of Argentines demonstrated against the bill arguing that the senator sponsoring the bill saw all citizens as potential pirates and considers them ‘criminal suspects’. According to local press, the hacker group ‘Anonymous’, also intervened in the affair. The cyber community launched attacks against the site of the Senate on June 28th, when the project was meant to be debated in the Congress’ Committee, thus disabling the discussion for several hours. This case clearly evidences that digital communication can enable many citizens to swiftly and effectively mobilise and communicate their criticisms and comments to public officials.\textsuperscript{136}

### 5.4. Controlling Media and Communications

In Argentina, the rights to freedom of information and expression are recognised in the Constitution. The 1994 reform provides the right to, "seek, disseminate and receive information and ideas across boundaries and through any medium of expression", and prohibits any indirect censorship mechanisms (Article 75).

\textsuperscript{135} Centro de Estudios Legales y Sociales

\textsuperscript{136} La Nacion, 29 June 2011 Suspeneden el tratamiento del canón digital en Argentina
Decriminalisation of defamation
In 2009, Congress passed Law 26.551, decriminalising defamation and injuries for statements concerning public officers, and incorporated the doctrines of ‘actual malice’ and ‘faithful report’ into law. This reform of the Penal Code, which the House of Representatives approved by a large majority and the Senate approved unanimously, represented a major step in terms of bringing domestic legislation in line with international standards. This enabled Argentina to begin to comply with what was established in the sentence of journalist Eduardo Kimel, who was convicted on May 2nd, 2008, for criticising the performance of a judge in a criminal case linked to an assassination during the last military dictatorship. Kimel appealed against his conviction to the Inter-American Court of Human Rights which ruled that the authorities were in contravention of Article 13 of the American Convention on Human Rights, which guarantees freedom of expression and the right to information."

The Civil Code, however, protects, “privacy against arbitrary intrusions in the lives of others” (Article 1.071 bis), and establishes indemnities for those who commit calumnies or injuries (Article 1,089) and cannot prove the veracity of their assertions. The application of penalties, in some cases for high amounts, is a limitation to freedom of expression, particularly because any process of this kind usually extends over several years and includes the seizure of the assets of the accused person while the trial lasts. This operates as a constraint for many journalists and citizens. In general, the sentences against journalists are exceptional, but the judicial process certainly discourages criticism.

The main challenge is now not legal but cultural and implies bringing about change in order to ensure a consistent position from the Judicial Branch in relation to privacy and defamation. For decades some judges punished journalists for reporting critically about public affairs when they involved, in some way, some aspect of the private lives of public officers.

Lawless print media and audiovisual media, in the midst of change
As stated in Article 32 of the constitution, applied since 1860, Congress cannot enact laws that restrict freedom of the press. Therefore, there is no legislation regulating the print media in Argentina. However, the case is not the same for the rest of the media. The Audiovisual Communication Services Act, approved by Congress in 2009, intended to decentralise and democratise the info-communicational industry with the entry of other voices to the radio spectrum and the pay television market. Although the first two years of enforcement has shown that its implementation is not easy, the passing of the law is an important step towards right to information. Challenging this law, Clarín Group, Uno Medios and Cadena 3, amongst other media, have petitioned Law Courts to examine the constitutionality of Article 161, which provides a divestiture deadline.

Specific internet regulations
Although it is redundant and no legal distinction with other media fits, a law has recognised the right to freedom of expression on the internet in Argentina since June 2005. Law 26.032 states, "Seeking,
receiving and disseminating information and ideas of all kinds through the internet service is considered within the constitutional guarantee that protects freedom of expression". Experts and netizens agree on the fact that freedom of expression online is a reality in Argentina and that there are very few cases of restrictions on the content circulating on the web. These cases are mostly associated with matters considered by the judges to do with the privacy of the individual.

In Argentina, internet access is regulated as a telecommunications service. Internet service providers are required to obtain a license from the Secretariat of Communications and are subject to supervision by the National Communications Commission (NCC). For some observers this constitutes an indirect barrier since not anyone can become a provider. Law 25.690 of January 2003 states, "ISP companies have the obligation to provide protection software to prevent access to specific sites". Companies only activate filters if required by the user, as stated in the contracts customers and companies sign. Resolution 1235/1998 of the Secretariat of Communications states, "The national state does not control or regulate information available online. Parents are advised to exercise reasonable control over the content their children consume".

However, in several districts, such as Buenos Aires city, there are rules that establish the obligation of internet providers to set up filters to porn sites in schools and public and private libraries that provide access to the internet. However, an investigative report reveals that the filters often filter out more than what they say and is allowed by law, "We went to a cyber cafe that had filters installed and we found out that the filter blocked much more than pornography: sites like www.dialogica.com.ar (a site of educational and cultural weblogs), www.ilhn.com (the first digital newspaper in Argentina), www.argentina.indymedia.org (a site of alternative information), www.urgente24.info (a news site) and www.fzln.org.mx (the site of the Zapatista Front of National Liberation in Mexico) were inaccessible. These sites were blocked by the antiporn filters".  

Providers should maintain confidentiality of user activity: the pages users navigate, and the content which they download, belong to the sphere of private life and are therefore protected from the authority’s knowledge. Internet access covers only the physical layer and the logic of the ISO-OSI simplified - meaning that internet service providers do not register any information about user activity. Instead, users can freely select content and applications, protected by the right to information. Content and applications do not require any licenses. Internet providers do, however, receive an increasing number of government requests for information about the sites that users visit. These requests are made by judges as part of criminal investigations or similar. However, the law does not require providers to record such information, nor to deliver it.

Intermediary liability on the other hand in a serious issue, at present there are more than a hundred lawsuits against search engines for their alleged responsibility for content; also requests for removal of

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content by users who resort to law courts have increased\textsuperscript{139}. The case of "Da Cunha, Virginia against Yahoo Inc. Argentina and others over damages" reached the Supreme Court, and the Association for Civil Rights (ADC) filed an \textit{amicus curiae} (a resource that allows those who are not parties to a case, but have an interest in it, to present their arguments to judges), arguing search engines should not take responsibility for contents produced by third parties. This is the first case on the subject on which the Supreme Court will have to rule\textsuperscript{140}. “Given the emerging international consensus ... both in jurisprudence and legislation, as well as the incontestable technological realities of the mechanics of search engines, it could be only a matter of time before the Argentine courts reverse the existing pattern, such as in the recent Da Cunha appeal case”\textsuperscript{141}. “The lack of legislation in this region not only creates uncertainty in the legal realm, but also, stifles innovation”, stated Pedro Less Andrade, Latin American policy counsel for Google.

In Argentina, the Government does not censor or block specific content. An exception took place this year when the federal judge Sergio Torres banned the dissemination of private emails of public officers and political leaders leaked through the site Leakymails, an Argentine website similar to Wikileaks. Supposedly, the emails were obtained illegally by the State Intelligence Secretariat. And a mistake in the blocking of "leakymails" led to one million blogs being inaccessible for a few hours\textsuperscript{142}.

\textbf{5.5. Commentary and Recommendations}

Argentina is a country with an extensive media and communications sector. Some years ago, this system was dominated by the private sector and a non-transparent state with no policies in the field. The market which emerged was extremely profitable, but did not meet the needs of underprivileged citizens and disadvantaged areas in terms of access, reception and production of content. One may wonder how much more could have been achieved if, instead of neglecting the media market, the Argentine state had regulated and defined a policy of public service key to strengthen all democratic systems. According to Aguiar, "Argentina has, in telecommunications, a height three times lower than it should have\textsuperscript{143}.

In recent years, the government has adopted a new role and launched several important initiatives. However, Argentina does not have a comprehensive policy for the broadcasting and telecommunications sector which can encourage universal access to new technologies and to coordinate

\begin{footnotesize}
\begin{itemize}
\item Brief filed by the ADC to the Supreme Court of Justice [online] www.adc.org.ar/sw_contenido.php?id=828 [Accessed October 7, 2011].
\item Bertoni, E. and Compa, E., 2010. \textit{Emerging Patterns in Internet Freedom of Expression: Comparative Research Findings in Argentina and Abroad.} Buenos Aires: CELE.
\end{itemize}
\end{footnotesize}
and give coherence to the current collection of disjointed measures. The potential of the internet and mobile phones, which are widespread in the country, are enormous to help facilitate the exercise of many human rights. Although its use is growing steadily for several purposes driven by the private sector, for the public sector and civil society organisations, these new media are underused, particularly with regards to public affairs.

So far, the federal government seems to have taken major steps in legislative and infrastructure terms, rather than in implementing policies that seek to enrich new media contents. On the one hand, the government explains that the goal of its public policy is the democratisation of communication. On the other hand, critics coming from the opposition and some media owners’ associations (IAPA, ADEPA) and some journalists, accuse the government of wanting to silence the press in its watchdog role and, instead, develop a less critical information system.

**Policy and regulation**

- The Government should define and publicly present a comprehensive policy for public service communications, which include digital communications. To improve the media and communications system it is essential that the state complies with the laws and rules regulating info-communications industries and applies appropriate sanctions for those who fail to comply, whether they support the government or not.
- The national public media system should be reformed, so that public media are no longer managed as pro-government media and can become truly public.
- Specific legislation on digital contents (such as e-commerce, e-banking or online copyright) must be discussed and passed where needed.
- A federal law on statistics and a national law on access to public information must be passed. Also a policy of greater transparency in government processes must be implemented, enabling an updated official statistics system – key in such a dynamic industry. The Federal Audiovisual Communication Services, established after the enactment of the new law in 2009, is far from meeting international standards in the field. The same happens with the Secretariat of Communications and the National Communications Commission, which regulate the telecommunications system.
- A law should be passed to regulate government advertising and to create a transparent and non-discriminatory mechanism with which to distribute it. This would end abuses of the incumbent national government, which despite a ruling of the Supreme Court of Justice, benefits pro-government media and punishes the critical ones. The standard should make it mandatory for the state to publish the distribution of government advertising.
- A reform of the Civil Code to prevent the proliferation of lawsuits against journalists and citizens - who sometimes are liable for large amounts after accusations of damaging honour- should be added to the decriminalisation of defamation approved in 2009.
- Triple play (internet, telephone and television services) should be clearly and specifically regulated, and a policy to effectively control competence should be implemented, including the creation of new institutions to strengthen comptroller mechanisms.
With greater demands for compensation to companies (previously, clearly and precisely defined, as did the Decree 764/2000, which only began to be fulfilled 10 years later by Decree 558/2008), the exclusions and social iniquities in internet access should be eliminated. Reducing the digital divide is not an end in itself but an intermediate target for all to enjoy and exercise their rights.

The state could take a more active role to ensure competitive conditions for access to internet wholesale networks for all operators. For instance, it should establish clear rules for the Local Loop Unbundling (established in the Interconnection Regulations approved by Decree 764/2000), which supports competition between historic providers and entrants in all cities belonging to the current digital corridor and, especially, in economically depressed areas, where access is more expensive.

The government needs to carry out a serious diagnosis of the state of production in the info-communicational industry across the country, and develop a plan for public and private investment in the medium term to ensure the fulfillment of local content quotas established by the Audiovisual Services Communications Act.

Observatories, research and capacity building are needed

- Systematic and independent monitoring of the Audiovisual Communication Services Act and regularly reporting on its progress would undoubtedly contribute to the democratisation of communications in Argentina given the centrality of this law to the overall system.

- It is necessary to create observatories to monitor progress in the information communications industry and conduct independent research on the development of the sector, its uses and public consumption. The Argentine government has no data to enable analysis of the evolution of this strategic sector, so fertile for facilitating the exercise not only the right to information, but also other human rights. It is encouraging that the 2010 census, from which data has not yet been released, included a section on access to new technologies. Still, no media observatories driven by business associations or academia exist in Argentina, as happens in other countries.

- Since there is no public information on the composition of the media and telecommunications system in Argentina, research in this area would also be useful in order to decentralise the market. Accurate knowledge is a prerequisite for change.

- In a federal country like Argentina, it is critical to develop specific research on the media system in the 24 Argentine provinces, including an analysis of the links of the main media with political actors in the regions to assess their degree of independence. Without independent media, there can be no solid public interest media.

- Plan and deliver workshops and develop digital communication tools for civil society organisations and social movements.

- Identify and seek support for initiatives that aim to improve public debate and information available on public affairs in the country. Given that so far neither the public nor the private sector invest in projects or initiatives alternative to those promoted by major media groups, international cooperation, being less affected by local political disputes, is a possible way to finance these initiatives. The idea of creating a network of independent online news sites in all provinces, particularly in those where one political party remains in power ever since the return of democracy
(like San Luis and Formosa provinces, for example) would be very healthy for the democratic system in Argentina. The sites could include 2.0 tools to enable high involvement of users.

- **Develop**, in collaboration with the state, quality content, included in netbooks that encourage the use of digital media for information and the development of projects of public interest media. The fact that the nearly 1,500,000 students netbooks delivered by the Government included an application to access only the official news agency sets off an alarm about the importance of ensuring the diversity of voices that internet and other means enable.

- **Promote** the effective implementation of the Audiovisual Communication Services Act as regards content production quotas within the provinces and adopt a similar policy regarding the production of multimedia content for internet and mobile phones.

- **Promote** quality public debate on the regulation and the policies needed to encourage greater use of digital media for the exercise of human rights. This could be achieved through forums, supporting investigations on the subject, and even generating a multimedia site that becomes the benchmark for this discussion.
6. Communications at a Crossroad – Reforming Regulation in Brazil

By João Brant

Brazil is the fifth largest country in the world, both in terms of its geography and population which stands at more than 190 million people. It is also the seventh largest economy, but one of the most unequal ones. This inequality extends to the media and communication realm: having a developed broadcasting system, but one that lacks pluralism and diversity. It has a profitable telecom and internet service, but one that reaches only 27 per cent of households in the country. With regulation and policy changes in several spheres – including broadcasting, telecom, internet, copyright and access to information - this inequality in Brazil’s media and communications sector is hopefully set to transform.

Changes are also happening rapidly in the area of content production and distribution. Peer recommendation are taking the place of search engines in signposting users to new content, leading to new information fluxes. This complex system has the capacity to strengthen human rights movements, giving them the ability to use digital communications to mobilise people on a large scale. This chapter gives an account of the changing media and communications environment in Brazil and future challenges and opportunities for citizens.

6.1. Access and Accessibility

The figures around access to communication in Brazil are representative of both historical trends and recent changes in the country. Three current trends exist: firstly, the explosion of internet and IP services – consolidated by bundling with subscription-based television; secondly, the rise of mobile phones over landlines; thirdly, the success – albeit delayed - of some traditional media, such as newspapers, that are facing decline in other countries. The latter trend seems to have been spurred on by the recent social inclusion process in the country. What has not changed significantly, however, is the prevalence of free-to-air television and radio in Brazil.

6.1.1. Traditional Media

Free-to-air television and radio sovereignty

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145 As measured by nominal GDP.
There is almost universal access to free-to-air television and radio in Brazil with household penetration rates standing at 96 and 88 per cent respectively\(^ {146}\) in 2009. While still the absolute leader in audience numbers, free-to-air television is losing viewers to other television-based services. There are currently 270 television channels in the country and most of the population has access to at least five television channels (four of them show mostly the same programming throughout the country). There are also a high number of FM and AM services with 1485 and 1582 licenses, respectively\(^ {147}\). Radio is listened to by 80 per cent of the population, who mostly listen to music\(^ {148}\).

The most popular television channel for 70 per cent of viewers is the national network, Globo. The most viewed programme being Globo’s prime-time “Jornal Nacional”\(^ {149}\). Television was considered the most reliable media by 69 per cent of citizens in a recent survey\(^ {150}\), however 57 per cent of respondents also said that they did not consider television news outlets to be impartial.

**Subscription-based television services reach the middle class**

Subscription television is growing fast, taking advantage of a middle class that now has the economic ability to enter the market. In 2010, household penetration for subscription television reached 15 per cent, double what it was ten years before\(^ {151}\). The service is still concentrated among social classes A and B with 76 per cent of the individuals who have access to subscription television coming from within these classes. But social class C is now increasingly part of the market.\(^ {152}\) Social classes in Brazil are officially classified according to monthly income. Classes range from A-E, Class A representing the wealthiest class and Class E, the poorest.

The triple-play (a business model combining internet, telephone and television services) market in Brazil is growing, but it is somewhat hindered by the prohibition on telecommunications incumbents from offering cable television. Only 258 municipalities (out of more than 5,500) have cable services. For more than 5,000 municipalities, satellite television is the only option besides free-to-air services.

Today, triple-play is offered by cable television operators or by the telecom operators combining satellite with telecom cable services. This rule is about to change, however, with new rules published by

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\(^ {149}\) Meta, 2010

\(^ {150}\) Ibid.


\(^ {152}\) ABTA, 2010
the regulatory body, Anatel (Agência Nacional de Telecomunicações). These rules are currently under public consultation and there is also a bill (PLC 116/2010) waiting to pass through the Senate which authorises telecommunication companies to enter into the market and eliminates restrictions on foreign capital. This bill also creates rules that stop telecom operators from production and programming related activities, and similarly it stops broadcasters, producers and programmers from owning more than 50 per cent of telecom operators.

Audiovisual sector facing business model crisis
Cinemas exist in less than a tenth of the municipalities in Brazil, with a large concentration in the south-east and south regions. In the last few years, cinema box office sales have stagnated and domestic video consumption has declined. This trend is probably, in part, explained by an increase in consumption of non-authorised copies, given that the sale of DVD players has increased, reaching 72 per cent of the households in 2009.

Community radio: widespread, but limited reach
It was only in 1998 that Brazil legalised low power, FM, community radio. Today, in absolute figures, community radio makes up the majority of the FM radio stations in the country. Brazil has 4,242 community FM radio stations. But more than 2,000 municipalities out of a total of 5,500 do not have access to these services. Those that do have community radio stations only have limited coverage. Legal restrictions on coverage mean that less than 20 per cent of the territory in each locality is covered by a service.

Newspaper reading increases, against the odds
While in other countries the print media market is in decline, Brazil’s newspaper sales have been increasing since 2004, with a daily average circulation of more than 8 million issues. This can be explained in part by the increase in economic inclusion over the last 15 years: a trend shown by the drop in Brazil’s Gini coefficient (a measure of statistical dispersion) and illiteracy figures, and the increase in children in school. Over a third of municipalities publish local newspapers. Figures show that Brazil’s youth are reading less than before and that time spent reading is also decreasing. On the other hand, online reading has grown threefold in four years.
6.1.2. New media

Internet access takes-off
Internet access is now growing but at a slower pace than expected. Recent figures show that residential internet access is at about 27 per cent\textsuperscript{162}, and is clearly concentrated around the wealthier class. Internet users in the country (measured as those who had accessed the internet in the three months preceding the survey) represent 41 per cent of Brazil’s population over the age of 10 years.\textsuperscript{163}

About 37 per cent of the population over 10-year olds access the internet at least once a week\textsuperscript{164}, with a fairly even gender split. There is, however, a relative concentration of internet use in urban areas. In rural areas, only 23 per cent have ever accessed the internet. Regional disparities are also strong: the north and north-east have 35 per cent fewer users than the south east\textsuperscript{165}.

Broadband access is limited, slow and expensive. The cost of broadband relative to per capita income in Brazil stands at 4.5 per cent compared to 1.7 per cent in Russia and an average of 0.5 per cent in developed countries\textsuperscript{166}. Within Brazil, there is also a regional disparity. In the northern region, the price is about five times as much as in the south east. In response, special access policy focus on the 241 indigenous groups\textsuperscript{167}, which comprise of more than 700,000 people.

In 2010, the Brazilian government launched its National Broadband Program, which aims to connect 72 per cent of the households by 2014, and to offer 1 Mbps connection at R$ 35 (US$ 22) per month\textsuperscript{168}. The programme intends to take broadband backhauls to all the municipalities by 2014. Mobile access in Brazil is growing, but is still small. In 2010, only five per cent of mobile users used their phone to access the internet\textsuperscript{169}.

Young, intensive and keen on social interaction

\textsuperscript{163} Ibid.
\textsuperscript{164} Ibid.
\textsuperscript{165} Ibid.
\textsuperscript{169} Cetic, 2010.
The average internet user in Brazil is young - 63 per cent of the internet audience in Brazil is between 15 and 35 years old compared to 53 per cent globally. The average user also uses the internet fairly intensively at over 24 hours per month. This is the third highest figure in Latin America and close to the rate of internet use registered in France. And internet use in Brazil is strongly rooted in social interaction. Brazilians are reportedly some of the world’s most keen users of social networks, e-mail, instant messaging and blogs. With regards to social networks, Brazil has a strong presence on Orkut (Google’s social network), with more than 31 million unique visitors in 2010. This is equivalent to 78 per cent of internet users in Brazil. There has been a sharp increase of 258 per cent in Facebook usage between 2009 and 2010, reaching 12 million unique visitors in 2010. Brazil was also a close second in the top Twitter markets of December 2010.

Going mobile, but unable to call
Telephone services in Brazil are becoming wireless. Landlines are in decline and only 43 per cent of the households have them, compared with 79 per cent which have at least one mobile phone. Figures may be deceptive, though. Only 58 per cent of the population over 10 years of age actually have a mobile phone. Usage is also limited: 80 per cent of the lines are pre-paid, with only an average of US$ 5 expenditure per month. Furthermore, service costs are high in Brazil with only 38 countries having more expensive services. This means that the majority of people can receive calls, but cannot afford to make them.

6.2. Media and Public Interest Communication.

6.2.1. Media Ownership

While figures in the previous section show that there are a large number of broadcasting outlets in the country, this number does not necessarily reflect the number of information sources. In Brazil, both broadcasting and print media have a tradition of familial control, together with limited regulation on concentration in media ownership. Media concentration (both in terms of ownership and market share) has been a serious issue in Brazil since the 1970's. The 1988 Constitution prohibits direct and indirect monopoly; however no law has been passed which adequately defines these concepts. This makes them almost inapplicable.

171 Ibid.
172 Ibid.
173 Ibid.
174 IBGE, 2009, op. cit.
175 Ibid.
6.2.2. Broadcasting Ownership

Horizontal, vertical and cross concentration is a systematic problem

In Brazil, eight families control most of the media’s content. Local outlets are linked in nationwide networks, with the majority of content being made by head companies. Thus, despite the number of different owners of local media outlets – there is a lack of diversity of content. A study of 11 state capitals shows that locally-made content occupies no more than ten per cent of airtime\textsuperscript{178}.

The limits on horizontal concentration were defined in 1967: one entity cannot have more than ten television channels in the country - five in VHF and a maximum of two in each of the 27 Brazilian states. There is also a limit of six FM radio stations per entity. In addition, no entity may have more than one licence for the same service in the same town.

All these rules are ignored, however, through creative compliance. Spouses and relatives tend to appear as licence holders to mask the actual owner. Companies divide shares between natural persons with the same result\textsuperscript{179}. Licences for specific towns are frequently operated from a big city instead.

There are also no limits on cross-ownership; no limits on network building; and no obligations towards localism and independent production, despite these requirements being in the Constitution. Thus, almost the whole country receives the same programming from four or five private networks, all established in Rio de Janeiro or São Paulo.

Vertical limitations only exist in general terms. Telecom operators are not allowed to offer cable television (although they can offer satellite television). With subscription-based services, however, there are currently no other limitations. This enables vertical integration and creates content gatekeepers. Furthermore, 82 per cent of subscription-based television services are offered by operators linked directly or indirectly to Globo, the main free-to-air television network in the country\textsuperscript{180}. Globo’s main competitors - such as Bandeirantes and Record – therefore face a significant barrier to inclusion of their channels in television packages. This situation may change with Law PLC-116 (authorising telecommunication companies to enter the market), as mentioned above.

Politicians who own the media

There are strong relationships between media owners and politicians in Brazil and this has a profound effect on the public interest. In the National Congress, 21 per cent of the Senate and 10 per cent of the


Chamber representatives own television or radio stations. There is a similar situation in the various states and municipalities. While the Constitution prohibits politicians from owning public licences, there are various interpretations - subject to dispute - that this does not apply to radio and television.

Television and radio licences have been used as a currency for political negotiation since the 80's. Congress is, since 1988, responsible for approving licenses, which affects the principle of separation of power, creates privileges for candidates who wield a licence and leads to some MPs approving their own licences.

**Public service in a marginalised role**

Alongside the four or five private networks present in the whole country, in the majority of the states, there is one state-owned television channel, usually defined as 'educational television'. These channels usually broadcast a mixture of local programming and programmes made by TV Brazil - the national public television based in Brasília and Rio de Janeiro; and made by TV Cultura - São Paulo public television. The national television network has a limited reach, broadcasting directly to four cities in VHF and six other cities with analogue or digital signals in UHF. With FM Radio, there are usually one or two public outlets in state capitals with only one state not having a public radio station, but rural areas are neglected in this respect.

The Constitution states that public, state and private radio and television sectors should be complementary. However, there is no rule on the division of spectrum. Apart from the one frequency reserved for educational channels, in over 100,000 cities there is no positive frequency reservation.

**6.2.3. Broadcasting participation in the market**

**TV audience and Globo’s stable leadership**

Over the last ten years, the average number of television sets on during the day has remained constant at 40-45 per cent. Free-to-air television, however, has been losing audiences slowly to paid television and other devices.

Globo has been the most watched television channel since the 1970's, having had more than a 50 per cent share of the free-to-air television market. This share is now just below 50 per cent with audiences migrating to other media. Record and SBT (Sistema Brasileiro de Televisão) networks have historically been placed second and third with a joint 28 per cent market share.

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182 Ibid.
183 20 out of 27.
186 Ibid.
Brazil’s public television does not release national data, but local figures show that audience levels are generally quite low and that nine out of ten of the most watched programmes are children’s programming.\(^{187}\)

**Television gets biggest slice**

Comparing the period from 2001 to 2010, there have been significant changes in how the investment in advertising is shared among the different media, but free-to-air television has remained the biggest part, increasing its participations, see Table 3. Jorge Nóbrega, Corporative Management Director in Organizações Globo, explains that this is because free-to-air television still holds the largest audience numbers\(^{188}\). The total advertising investment reached US$ 16.8 billion in 2010, and is increasing along with the GDP, levelling out at about 0.7 per cent of the GDP\(^{189}\).

**Table 3: Advertising investment in media\(^{190}\)**

<table>
<thead>
<tr>
<th>Media</th>
<th>2001</th>
<th>2010</th>
</tr>
</thead>
<tbody>
<tr>
<td>TV (free-to-air)</td>
<td>57.76%</td>
<td>62.93%</td>
</tr>
<tr>
<td>Newspapers</td>
<td>21.73%</td>
<td>12.36%</td>
</tr>
<tr>
<td>Magazines</td>
<td>10.84%</td>
<td>7.50%</td>
</tr>
<tr>
<td>Internet</td>
<td>1.49%</td>
<td>4.64%</td>
</tr>
<tr>
<td>Radio</td>
<td>4.70%</td>
<td>4.18%</td>
</tr>
<tr>
<td>TV (subscription-based)</td>
<td>1.57%</td>
<td>3.86%</td>
</tr>
<tr>
<td>Others</td>
<td>1.91%</td>
<td>4.52%</td>
</tr>
</tbody>
</table>

A noteworthy distortion is the lack of correlation between audience share and advertising share within the free-to-air television market. Globo attracts about 50 per cent of the audiences, but receives about 70 per cent of the advertising revenue\(^{191}\). This is due to a mechanism known as 'bonification for volume' (BV) – under this mechanism the television channel pays a bonus to the ad agency which is proportional to the total investment made by their clients in that specific channel. This is an incentive on advertisers to concentrate their investment in fewer television countries, thus benefitting those who already market leaders.

For community radio, commercial advertising is not permitted. Associations or foundations, which are authorised to provide community radio programming can only receive local cultural support or earn money from their associates. As there are no public funds dedicated to these media, this creates a barrier to their sustainability.

**Telecom ownership and share**

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\(^{187}\) Ibid.


\(^{190}\) Ibid.

\(^{191}\) Ibid.
The telecom market in Brazil has consolidated around three groups, all operating in the landline, broadband, subscription television and mobile phone markets:

- **Telefonica** – is a Spanish company which owns Vivo (mobile company). Telefonica operates principally in the São Paulo state, although its mobile market is more widespread.
- **Oi** – is controlled by two big Brazilian groups and Portugal Telecom.
- **Claro** – is owned by Telmex (owned by Carlos Slim) and controls Embratel and NET, which is connected to Globo.

In addition to these groups, GVT (owned by Vivendi) is increasing its participation in landline and broadband, Telefonica de Italia (TIM) has a large participation in the mobile market and Sky (owned by Rupert Murdoch) takes an ascending share of the subscription television market.

**Market share in telecom markets**

Market shares in the telecom market have been stable over the last few years, with more significant moves in the subscription-based television services where satellite television, especially Sky, has been gaining momentum.

**Table 4: A breakdown of the telecom market share**

<table>
<thead>
<tr>
<th>Landline</th>
<th>Broadband</th>
<th>Subscription TV</th>
<th>Mobile</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Operator</strong></td>
<td><strong>Market share (%)</strong></td>
<td><strong>Operator</strong></td>
<td><strong>Market share (%)</strong></td>
</tr>
<tr>
<td>Oi</td>
<td>47.6</td>
<td>Oi</td>
<td>32</td>
</tr>
<tr>
<td>Telefonica</td>
<td>26.6</td>
<td>NET</td>
<td>26</td>
</tr>
<tr>
<td>Embratel</td>
<td>16.7</td>
<td>Telefonica</td>
<td>24</td>
</tr>
<tr>
<td>GVT</td>
<td>5.8</td>
<td>GVT</td>
<td>8</td>
</tr>
<tr>
<td>CTBC</td>
<td>1.5</td>
<td>CTBC</td>
<td>2</td>
</tr>
<tr>
<td>Others</td>
<td>1.9</td>
<td>Others</td>
<td>9</td>
</tr>
</tbody>
</table>

**6.2.4. How traditional and new media cohabit**

**Organisation of the media changes slowly**

The way in which the media in Brazil is organised is changing at a slower pace than it has in other countries. There are three distinct characteristics of Brazil’s changing landscape clearly connected to the debate on ownership.

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193 These were identified through the interviews that were conducted for this project.
Traditional media players lend credibility to new media players allowing cross-media strategies. In Brazil there is a strong relationship between old and new media players. Aside from international platforms, the strongest Brazilian references in local websites are those related to the traditional media: Globo (biggest television network), Folha de S.Paulo (biggest newspaper) and Terra (connected to Telefonica, one of the majors telecom companies).

The sector is becoming transnational. New international intermediaries are now part of the value chain within the country. In addition to the international presence within Brazil’s media infrastructure, described in the previous section, the global nature of the internet has helped to blur borders. In May 2011, the top ten sites in Brazil were a mix of international platforms and sites run by Brazil’s traditional media organisations.

New rivalries between broadcasters and telecom operators are pushing the policy agenda in different directions. Telecom operators are entering the cable television market and competing with broadcasters and content producers. The broadcasting and telecom sector tend to have different priorities when it comes to key policy areas such as concentration rules and spectrum allocation.

Traditional media’s way forward
Strong traditional media groups are more preoccupied with keeping their dominant position in the traditional market rather than on gaining entry into new markets. TV companies fight for traditional free-to-air audience. Newspapers are caught up in a paradox: the economic inclusion of millions of Brazilians, and the country’s economic growth has given them new wind. As already mentioned, newspaper circulation is not in decline because the growth in new readers makes up for the transition of existing readers from paper to online media. This situation postpones the need for any daring action in the print media sector.

Subscription-based television services face a complex moment. On the one hand, sector figures show that only now is the service reaching social class C viewers, and it is expected to expand even more once telecom operators are legally authorised to enter the cable market. On the other hand, the business model will have to adapt to video-on-demand, TIVO-style boxes and the competition of IP services such as Netflix, which is about to start its services in Brazil.

6.2.5. Production and Content
Models of content production are changing in Brazil with the adoption and growth of new media. The process of producing information, as well as public discussion more generally, is changing and being influenced by new online dynamics together with the steady increase in internet access. The internet has been used both as a source of information and as a way to spread viewpoints. Not only are content processes changing, but the whole ecology of the system is becoming more complex as the flow of

194 These were: 1) Google; 2) Facebook; 3) You Tube; 4) UOL (Folha de S. Paulo’s portal); 5) Orkut (Google’s social network); 6) Windows Live; 7) Globo.com (Globo’s portal); 8) Blogger; 9) Yahoo!; 10) Terra (Telefônica’s portal).
information is becoming multidirectional. Bottlenecks and gatekeepers shift and so do the ways in which people are informed.

6.2.6. Traditional media content

Economic factors prevail over diversity
Spectrum allocation in Brazil does not properly consider diversity as a goal, instead economic concerns dominate. This has negative implications for freedom of expression. Since 1997, spectrum allocation has been driven by public tenders based on both technical and economic criteria. Technical criteria focus mainly on allocating programme time, with little weighting being accorded for specific types of programme or for locally made content. Economic factors hold more weight particularly with the more powerful stations, and have been prevailed in 93 per cent of public tenders where there was dispute between two or more applicants\textsuperscript{196}.

Once licences are allocated, there is also a lack of regulations ensuring diversity of content. Broad rules state that five per cent of the television channels’ programming time must be dedicated to news and five hours per week to educational content. Apart from this, however, there is no broadcasting code and no obligation to fairness or impartiality. The exceptions to this are with regards to community radio (outlined below) and during election time. Before and during elections, direct and indirect support of candidates is prohibited as are paid political advertisements. All political parties are allotted a certain amount of broadcast time which is proportional to their representation in Parliament.

Community radio as a positive exception
For community radio, legal provisions on production of content allow any individual living in the coverage area to participate and produce radio content. Programming at the community level is, therefore, relatively diverse and relevant to local contexts, even if it does lack the professionalism of larger producers.

The law also prohibits religious or political proselytising, and states that opinion and information programming must observe the principles of pluralism and diversity of viewpoints when covering controversial issues. To make sure that stations are compliant with these principles, every station is overseen by a community council.

Absence of political pluralism
While there is no reliable source for evaluating the extent of political pluralism in the media Brazil, it is clear that there is a distinct lack of left wing perspectives on television and radio. Among print media sector, there has been a historical shift from the previous situation where the political spectrum was

fairly represented by publishers, to the current situation whereby the main newspapers have declared themselves 'neutral', but are considered to present more centre/right wing perspectives. None of the most influential newspapers are self-declared left wing.

Lack of demographic diversity
Ethnic, racial and general cultural diversity is limited in the Brazilian media. Guilherme Canela, head of UNESCO’s Communication and Information Sector in Brazil, sees three reasons for this: firstly, it is expensive to produce really diverse programming; secondly, there is no regulation or public policy that demands companies do this; thirdly, some purposefully do not produce diverse content for ideological reasons. Especially concerning is the fact that public service broadcasters also lack concrete strategies for ensuring diversity, aside from surface level measures.

Indigenous issues are rarely aired in the traditional media. Unlike other Latin American countries, language is not a big issue in Brazil. Even though there are 180 languages spoken among the 700,000 indigenous people, almost all of them do speak Portuguese.

National and foreign content
In Brazil, news production is dependent on national and international news agencies. National political and economic news tend to come from four sources – one of the three main newspapers (Folha de S.Paulo, Estado de S.Paulo and O Globo) or the public service (Agência Brasil). Most international news is reproduced from Reuters, United Press International and France Press; although the top media groups in Brazil do have international correspondents around the world.

In 2010, 85 per cent of broadcast time on free-to-air channels was occupied by Brazilian audiovisual works. But, while national content does occupy a relatively large proportion of programming time, only 13 per cent of feature length films broadcast are Brazilian titles. On the two main channels, this was less: 4.5 per cent on Globo and 0 per cent on Record. This is perplexing given that Brazil produces 70-100 full-length films every year. There is no official quota on the number of national films on television.

Independent production
There has been a strong tradition of audiovisual production by television channels since the 1950's. The business model for free-to-air television keeps out the Brazilian independently produced content, as

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198 Ibid.
200 In cinema screens there is an annually updated quota, which defines a minimum amount of titles (from 3 to 14, in 2011) and number of days (28 to 50, in 2011), dependent on the number of screens in each complex.
content tends to be produced by the licensees themselves. This kind of closed market in turn leads to a lack of incentives for private investment in production\footnote{Ramos and Haje, 2011}.

**Brazil for export**

The export market for the Brazilian audiovisual sector is not well explored and represents only 1.6 per cent of the international market\footnote{Ibid.}. However, the production of “telenovelas” (seven months soap-operas), especially by Globo, has created an international demand for this product. These reach more than 120 countries and represents sums of more than US$ 100 million.

### 6.2.7. Internet and new media

**New content, old sources**

The vast majority of the information circulating in blogs and social networks has its origin in the mainstream media\footnote{Vianna, R., blogger and reporter at TV Record reporter. 2011. Interviewed by João Brant [personally] São Paulo, 3 June 2011; Palacios, M., professor at Universidade Federal da Bahia. 2011. Interviewed by João Brant [phone] 10 June 2011.}. In general, it is thought that traditional media holds more credibility and reliability for the average reader. Other sources may be known and trusted within niche groups, but in general these sources are not well known and trusted among the general public and can only reach a wider readership through mainstream media routes. Information, however, is processed and gets new meaning on the internet. Users of blogs and social network are able to comment, monitor, criticise, provide counter-arguments and correct mistakes made by the traditional media\footnote{Savazoni, R., projects coordinator, Digital Culture House. 2011. Interviewed by João Brant [personally] São Paulo, 10 May 2011.}. Also, the majority of traditional media journalists are inserted into social networks and read alternative media blogs. This creates an interesting flow of information, mutual feeding between traditional and new media, as well as bringing sources closer to journalists\footnote{Vianna, 2011}. The capacity of the traditional media to determine the news agenda is understood as closely related to the difficulty of alternative sources of information in maintaining a sustainable business model. This economic barrier means that the capacity of carrying out in-depth investigations and reports, especially on hard news, remains concentrated within the traditional media\footnote{Vianna, 2011; Palacios, 2011.}. In spite of that, it is now possible to notice a ‘long tail’ behaviour flourishing in news production, with content made available directly by small groups\footnote{Savazoni, 2011}.
Fragmentation of revenues and audiences may weaken in-depth content production, but on the other hand it may enhance the diversity of viewpoints available, and users may develop networks of credible intermediaries on which to give support to, or dispute, dominant versions of events and viewpoints.208

Changes in how information is organised

Internet intermediaries are able to organise not only information, but also interpersonal communication and access to services - thus they are changing the way distinct groups access, organise and disseminate information.209 A clear example is that social networks offer links and viewpoints from a network created by users themselves – the user becomes a producer, editor and reader at the same time.210 This has led to a shift in patterns of how users access information with search engines losing ground to peer recommendations as the primary tool for users looking for content. This further decentralises access to information.211 Attention, as the key scarce resource, has to be fuelled directly and indirectly, with content providers needing to attract viewers through social networks and peer recommendations.212

As a consequence of this model, media organisations are courting audience participation to some extent as a commercial strategy. Participation is thought to create a sense of community and a perception of belonging, which in turn can strengthen loyalty and fidelity.213 This is confirmed by companies, such as Globo, which mention this as a key goal in their changing service model.214 In fact, traditional media companies are pursuing a strategy whereby rather than competing with their television services, online media can be used to create loyalty by build new platforms and interaction mechanisms.215

6.3. Advancing Human Rights and Social Justice through Digital Communication

Brazilian civil society is considered to be strongly organised, both around issues that directly affect people such as health, education and labour, and also around more diffuse rights such as environment, violence and communication. The source of this strong tradition of mobilisation is thought to have stemmed from the constitutional process between 1986 and 1988. Some years after, in 1992, during ECO-92 (the United Nations Earth Summit) there was a clear flourishing of a wider civil society movement. NGOs joined forces with workers' unions and associations and began to form thematic networks. This UN summit coincided with what is widely considered the birth point of the internet in Brazil, providing some insight into the relationship between civil society movements and digital technology in the country. This has deepened since 2001, when the first edition of the World Social

208 Vianna, 2011; Savazoni, 2011
210 Palácios, 2011; Savazoni, 2011.
212 Recuero, 2011; Savazoni, 2011.
213 Palacios, 2011.
214 Nóbrega, 2011.
215 Ibid.
Forum took place. The flourishing of the Web 2.0 and social networks has further facilitated diffuse but coordinates social action, which was previously dependent on in-site meetings.

Historically, and up until a few years ago, digital communications were more widely used by civil society to create and sustain networks rather than for mobilising and engaging new supporters. However, in the last few years, it is possible to identify some emblematic cases in which mobilisation through digital communication tools broadened the scope of people involved in certain movements and created a significant impact.

**Democratic participation and mobilisation**

The most striking and effective cases of mobilisation in Brazil combined digital communications and offline tools:

- **“Clean records” law:** this movement was led by two broad networks against electoral corruption and gathered around 1.6 million signatures for a bill that prevented any political candidate with a previous criminal record from standing for election. While the signatures had to be made in person, people were mobilised to engage through e-mails and social networking platforms. In 2010, after the bill had been presented, a strong internet movement put pressure on Parliament to have the bill approved as law. This happened quite quickly, considering usual standards within Parliament. The success of this movement is mainly attributed to three different factors: firstly, the social alliance was extremely broad, including strong NGOs, social movements, professional associations and the church; secondly, the agenda had no ideological ties and was widely-supported across society; thirdly, the intense use of digital tools, by actors with expertise in using digital tools.

- **“No to cybercrime law”:** in 2009, thousands of digital activists started a network against a cybercrime bill that was about to pass through Congress and that threatened freedoms on the internet (discussed further in the next section). This movement was not led by organisations, but by connected individuals. It combined mobilisation on social networks with ‘on the ground’ demonstrations in several state capitals and Brasília. An online petition garnered 163,000 signatures and eventually prevented the bill from being approved.

- **Riots in Jirau:** in 2011, hundreds of workers in a hydroelectric power plant in the Amazon area of Jirau started protesting against bad working conditions. The protests were sparked by SMSs which informed them of better working conditions in other power plants. The protests rapidly transformed into riots, with 70 per cent of the settlements where they were hosted being destroyed and set on fire, and the company sacked 4,000 workers. However, the riots raised awareness about working conditions in factories amongst the general public and started a national debate.

It is worth noting that most well-known cases of successful of digital mobilisation are related to human rights or citizens' participation, which reflects the significance of social networks in pushing for a democratic and progressive agenda. These tools have empowered activists to bring about social change.

**Mobilisation around social and economic rights**
Traditional and non-traditional movements are also using digital tools to mobilise around social and economic rights. Below is an outline of broad digital trends within various sectors:

- **Labour rights**: according to Central Única dos Trabalhadores (a national trade association): unions and associations in Brazil have increased the use of internet and online tools in the last few years, and workers are more engaged in using a range of online tools. The workers’ movement is more inclined to traditional ways of mobilisation, though, and the success of their struggles depends on actual demonstrations.

- **Health rights**: health movements have long been organised through commissions and conferences, and have in recent years been using e-mails, lists and newsletters. But in 2010, a blog called “Saúde com Dilma”, with more than 100 contributors, became a collective reference for the movement and is now a space followed by the Ministry of Health, which responds to critics and queries.\(^{216}\)

- **Education**: all national education movements in Brazil use digital technology, including web pages and discussion lists. More recently, education movements have begun to use YouTube to share speeches and public audiences and Twitter and Facebook to enhance mobilisation. Some recent successful demonstrations were organised using these tools.\(^{217}\)

- **Monitoring violence by official actors**: the use of digital communication is still in its early stages in this area. Communication is not dealt with as a key strategy, and the aesthetics and language adopted do not meet public expectations (rather they tend to use more traditional and unattractive forms of communication).\(^{218}\) However, some workshops on video advocacy are being held in order to stimulate civil society groups working in this area to appropriate the technologies.

- **Gender and LGBTI rights**: these movements also have a long tradition of networks which have gained momentum as a result of using digital communication tools. E-mails and discussion lists still exist, but video has been widely adopted as medium for discussion and awareness-raising.

- **Ethnic-racial issues**: the movement has a strong understanding of digital communication as an empowering tool. It has invested in capacity building around ICTs for community leaders and especially black women who were dependent on third-parties to access devices and platforms.\(^{219}\)

- **Environmental rights**: being a diffuse right, environmental battles benefit from broad network mobilisation. The recent Forestry Reform Code is an interesting case in which millions of citizens mobilised using digital tools. This case, however, was not successful as the related economic interests were strong. The vast majority of Congress voted against the environmental agenda.

- **Digital rights**: because of its inherent nature, the digital rights movement is able to use more complex and avant-garde tools, and has engaged more individuals (rather than organisations). The mobilisation against the cybercrime bill already discussed is an example of this. The

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movement also makes good use of wikis and similar platforms, such as Culturadigital.br, which has gathered thousands of activists to discuss public policy on digital culture-related issues. The initiative was granted the prestigious Prix Ars Electronica in the “digital communities” category.

- **Communication issues**: this movement also combines traditional tools with digital ones. A case worth mentioning is the National Conference on Communications, held in 2009, involving around 20,000 participants. Online tools were widely used to discuss the main issues and to mobilise during the regional phases. Recent mobilisations on broadband became trending topics in Brazil and gained traction in traditional media, forcing the Ministry to respond to criticisms.

- **Consumer rights**: there have been interesting cases of individual initiatives by consumers denouncing products via e-mail and social networks, obliging producers to respond.

**Challenges faced by human rights movements**
There is a limit to how far digital technology and communications is empowering marginalised groups, because internet penetration is still relatively low in Brazil. What is more, movements are most successful when their messages are picked up and reasserted by traditional media. This tends to happen best when the journalist him/herself is involved in the network and is 'watching' the demonstrations; and when the agendas are not ideologically motivated. Ideological issues that conflict with political or economic interests are more difficult to assert and to have impact.

### 6.4. Controlling Media and Communications

Regulation of media and communications in Brazil is about to change dramatically. Firstly, the regulations prohibiting telecom operators from entering the cable-television market are set to change. Secondly, broadcasting regulations - which have not had any significant amendments since 1967 - will be substantially revised and will incorporate new rules to enforce the 1988 Federal Constitution. Regulations covering access to information, civil rights on the internet and copyright are also due to be amended in 2011. For the most part, the expected changes are considered positive and likely to create a more open and democratic environment.

Allowing telecom operators to enter the cable-television market is part of a bill, PLC 116, which completely transforms the regulation of subscription-based television services. The bill, which has been in the pipeline since 2007, opens the market up but also establishes new rules to prevent telecom operators from engaging in production and programming activities; and broadcasters, producers and programmers from owning more than 50 per cent of a telecoms operator. The bill also defines national and independent content quotas for the first time. The bill is the outcome of an extensive multi-stakeholder debate. It has already passed in one house, but has to be approved by the Senate to be put into effect.

**Broadcasting regulation**
Broadcasting regulation reform is currently being discussed at the Ministry of Communications, and a bill is expected to be put to public consultation towards the end of 2011. One of the changes the bill is expected to make is to define the regulatory responsibilities in the sector. At present Brazil does not
have an independent regulator, and the few responsibilities defined in law are directly applied by the Ministry of Communications.

The bill will also enact in hard law the principles defined in the 1988 Federal Constitution. Among these are: the prohibition of monopolies and oligopolies; the obligation to broadcast regional and independent content; and the complimentarity of public, private and state-owned outlets in radio and television. There will also be changes to the licensing process and criteria. Pluralism and diversity requirements are expected to be introduced as key license criteria. Politicians may also be barred from owning television and radio channels.

It is unknown whether the bill will change rules around community media. As discussed, community television is currently only available on subscription television, which reaches just 15 per cent of the population. Rules for community radio stations are restrictive - frequency and transmission rules limit the number of community radios and their reach in any given area, and rules that prevent community radio from broadcasting commercial advertisements seriously undermine their financial sustainability.

**Freedom of expression and access to information**

The new broadcasting regulatory framework is expected to better support freedom of expression, as required by the Constitution. There are virtually no institutional threats to freedom of expression by the elected government in Brazil. The judiciary, however, is cause for concern with rulings frequently finding against freedom of expression both in traditional media and on the internet. Other threats against freedom of expression and investigative journalism come from other powerful players, such as drug cartels.

Brazil makes the highest number of requests to Google for content to be removed, as revealed in Google’s new Transparency Report. The majority of these requests are, however, related to copyright and defamation and are made with court orders. To this extent, they do not represent governmental censorship, but may be constitute judicial threats to freedom of expression.

Access to information is another issue being tackled by new legislation - a bill (PLC 41/2010) which is about to pass through Congress addresses access to information for the first time. While access to information is contained within the Constitution, but current laws do not guarantee this principle. The new bill guarantees the right to access and defines rules about how demands for information are processed, and how information is publicised. There is still some resistance against the bill from certain more traditional politicians, the military and the Ministry of Foreign Affairs who want to maintain the possibility of perpetual secrecy for some documents.

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220 There can only be one community radio frequency per municipality meaning that 39 out of 40 of frequencies are reserved for commercial and a few public services. Community radio stations also cannot have a transmitter over 25W so have a maximum reach of a one kilometre radius.

221 Canela, 2011.

Internet control

Brazil has established a successful, multi-stakeholder internet steering committee to guide legislation and policy in this area. At present there is ongoing serious dispute regarding new legislative threats to internet freedom. A cybercrime bill, PL 84/99, threatens to undermine online anonymity, criminalises common practices such as backing up files, and allows long-term data retention by intermediaries – creating an auditing and certification industry for the purpose. A strong campaign (mentioned above) has prevented the bill from being passed thus far, but there are still concerns that it will pass later in 2011.

However, partly in response to the strong public reactions against the proposed cybercrime bill, the Federal Government has produced a draft Bill for a Civil Rights-Based Framework for Internet in Brazil. This civil framework is very progressive in its approach towards defining and defending users’ rights. Amongst other things it prevents intermediary liability for content generated by third parties; it states that content can only be removed from the internet following a court order; and it includes protections for privacy, personal data and net neutrality.

Both bills are expected to be scrutinised during the latter half of 2011. Furthermore, the Ministry of Justice has also drafted a bill on the protection of personal data which is currently under public consultation.

Copyright reform

Copyright law in Brazil is considered to be one of the most restrictive in the world. The Brazilian approach broadly follows the international Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement, containing few limitations or exceptions. Even the least controversial exceptions, such as format shifting, archiving material and educational use, are not protected in Brazil. According to a list of the worst countries in the world for protecting access to knowledge produced by the civil society group Consumers International, Brazil is the seventh worst.

Since 2008, a copyright reform bill has been on the agenda at the Federal Government. Civil society groups working on access to knowledge issues have formed a large coalition calling for: legal exceptions to be introduced for scientific, cultural and educational purposes; reproductions to be permitted where they preserve cultural heritage; new mechanisms to expand content in the public domain; exceptions allowing private copies for personal use; and protections for content creators in their relations with intermediaries. At the other end, industry is calling for current rules to be maintained and for new rules to be introduced to criminalise so-called piracy. The bill is due to reach Congress by the end of 2011, but it is unclear which way the decision will tip. It is also worth noting that a bill proposing a three strikes response to copyright infringements (where users are disconnected from the internet following a third allegation of copyright infringement) has previously been proposed in parliament but received limited support and did not go through.

Economic and political control over the media
The relationship between media and the government is especially strained at the local level. For example, there seems to be a two-sided game of blackmail playing out whereby political actors use advertising as a way to control the media; and the media uses criticism as a tool to control politicians. This is especially a concern at local level, but it does also occur at state level. At state level the criteria governing the distribution of government advertising is unclear and there are no public figures showing which companies receive exactly how much. In the last five years, however, the governments advertising budget has been shared out among a much larger group of organisations. In 2003, just 500 organisations received through federal advertising; in 2008 this number had increased dramatically to 5,297 organisations.

6.5. Commentary and Recommendations

A summary of the media and communications environment in Brazil

- Free-to-air television and radio are still dominant in Brazil, and are the only media to which access is universal.
- Internet access is low, limited to 27 per cent of the households. Still, the internet is a powerful tool and clearly influences public opinion.
- Community radio is widespread, but faces tough limits under Brazilian law.
- Unlike most of the world, newspaper readers and sales have increased over recent years.
- Brazil’s offline media faces high levels of horizontal, vertical and cross concentration, in terms of both ownership and market share.
- Public television and radio services have traditionally been marginalised and only now are they beginning to be developed.
- The telecom sector is dominated by three big companies: two foreign and one national.
- Content diversity is negatively affected by economically driven licensing rules, the absence of political pluralism, and a lack of content demographic diversity requirements.
- Traditional media players lend credibility to the new media players which connect to them; this encourages further cross-media strategies.
- The structure of the media sector is being transformed – new international intermediaries are increasingly part of the value chain within Brazil.
- Specific corporate agendas split broadcaster and telecom operator interests.
- Some media organisations are integrating public participation (as enabled by digital communications) into their business models as a way to strengthen audience loyalty.
- The way in which information is being organised is changing as citizens can now, simultaneously, act as readers, editors and producers. Digital communications have strengthened the struggle for human rights, but while the use of technologies to articulate demands is already well developed, mobilisation through these technologies is only now really evolving.

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Regulation of the media and communications sphere in Brazil is about to undergo many fundamental changes.

Priority areas for action
There are four areas that demand special attention in the future:

Regulatory and policy issues
- Broadcasting regulation: in Brazil, there is currently a positive environment for reform within this sector. The main issues to address are: the creation of an independent regulatory body; development of stricter rules against media ownership concentration; fostering of public service broadcasting and community media; and supporting regional and independent content production.
- Internet rights, internet freedom and internet access: unlike other countries where the internet governance agenda is driven by the concerns of major entertainment corporations, the Brazilian government seems genuine in its attempts to develop a positive agenda for internet rights and freedom, both nationally and internationally. The combination of the Civil Framework for the Internet and copyright law reform is an important opportunity for public interest groups to embrace. Finding solutions to universalise access to broadband is also a key issue to address.
- Supporting the long tail production: with different models of content production and distribution using digital communications currently being tested, systematic research into types of incentives and support for public interest material, especially that created by alternative media, is urgently needed. Emphasis should be on supporting open and collaborative processes of content production. This is an opportunity to foster greater plurality and diversity in Brazilian media.
- Access to knowledge: this is a key issue in the digital era. New licensing and distribution models must be developed. And open access to scientific and educational resources must be enabled.

Tools and references
- Best practice: the Global South has made some headway in creating a dialogue to exchange ideas around best practice for media and communications governance. South-South exchange should be encouraged, among countries and also among civil society groups. Further study into global examples of best practice is needed and Brazil should be at the forefront communicating its experiences and successes to other countries and groups in the Global South and in the North.
- Common tools of understanding: in recent years various tools have been developed to help analyse the shifts in the global media and communications environment, such as UNESCO’s media development indicators of media. The development of common tools and frameworks should be encouraged.
- Fostering e-democracy: technological development and uptake is taking place at a rapid pace. At the same time demands for formal mechanisms of public discussion and participation, are growing. It is worth exploring the potential of using technology to foster democracy.

Civil society organisations
• Bridging movements: social movements within the communications field tend to have very specific points of focus - such as internet freedom, access to information or broadcasting - and are generally very isolated from one another. These movements can have more impact if they collaborate and identify a common agenda. There is also a need to reach out to, and engage, the broader human rights movement.
• Digital tools for political action and mobilisation: need to be developed and explored further, particularly for the human rights movement.
• Fostering networks: at a time when political action and momentum is built though networks, these must be developed and replicated.

The role of key stakeholders
• Mapping the field: a better understanding is needed of the different players and stakeholders shaping the media environment in Brazil, together with their relationships towards each other. This will allow us to identify those players and relationships that have most potential to benefit the public interest.
• Raising awareness: worryingly, some of the legislative and judicial actors who hold influential positions do not have an in-depth knowledge of media and communication issues. There is, therefore, a need for awareness raising initiatives targeted towards these players.
• Capacity building within the judiciary: the Brazilian judiciary is not well prepared to deal with communications cases, owing to a lack of understanding of the internet environment, and a lack of jurisprudence on which to draw upon. One solution could be to bring test cases to the Supreme Court which would allow a clearer body of jurisprudence to develop which can guide the work of lower courts.
The media in Egypt is currently playing, as it often has in the past, a crucial role in political, social and cultural change. The media has a critically important role to play in Egypt given that authoritarian political rulers have, to a large extent, been controlling the public sphere. Media ownership trends and editorial practices have evolved dynamically within, and in response to, the repressive political ecosystem. A set of intricate factors have been driving this evolution since 2000, and these are now changing rapidly in the wake of the 25 January revolution.

In parallel, technological developments are also shaping changing practices and trends in Egypt’s media landscape. Developing information and communication technologies (ICTs) impact on the types of platforms people use to consume media, the way content is produced and the decisions taken by editorial policy makers. For a start, ICTs have transformed mass-mediated communications into a more interactive process that engages citizens more strongly. As well as affecting the way traditional mass media operate, the advent of ICTs has also produced a parallel arena of digital and new media, mostly used by independent citizens. New media spaces, unfolding through interactive content publishers and online social networks, increasingly constitute important players in shaping public opinion about current events.

In this study, we investigate how ICTs are both interlacing with mainstream media practices, as well as creating a novel digital media space. We look into how the two spheres of mainstream and alternative media co-exist, and ultimately intersect and converge. We specifically explore how media, through digital tools, fosters the promotion of human rights. These dynamics are examined within a broader context of online access, and barriers preventing access.

The present study is rooted in the access to knowledge (A2K) paradigm, which advocates the openness, enhancement and development of tools and platforms for building a robust knowledge base, which in turn promotes human development. At the heart of the A2K paradigm is the belief that the media should allow citizens to not only receive, but also contribute to an overall body of knowledge – and so enhance democratic participation. A2K is about democratising knowledge content, tools and platforms, and promoting a participative and active citizenry.

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224 The authors of this chapter are thankful to the research support received from Karim Khalil, Roland Manadily and Nadine Weheba.

225 Lina Attalah is the managing editor of Al-Masry Al-Youm English Edition, a web-based news operation in Egypt. She is also a co-founder of Arab Techies, and an affiliate of the Access to Knowledge for Development Center and the Arab Digital Expression Foundation. Nagla Rizk is associate dean, associate professor of economics and founding director of the Access to Knowledge for Development Center at the School of Business, American University in Cairo. She is also an affiliate of the Information Society Project at Yale Law School, co-editor and contributor to Access to Knowledge in Egypt: New Research on Intellectual Property, Innovation and Development (Bloomsbury Academic, 2010).
7.1. Access and Accessibility

Media users in Egypt use a variety of platforms in different amounts. A recent study on media consumption by Google found that, between September and November 2010, mobile phones were the second most popular medium, used for both calling and short messaging services\(^{226}\). The internet followed in third place (see Figure 9), this provides an indication of the importance of digital platforms. Access and use of mobile telephony has expanded widely in Egypt, more than any other platform. In January 2011, the penetration rate for mobile phones was just over 91 per cent, the internet penetration rate was 30 per cent.

*Figure 9: Frequency of use of different media, Egypt, September-November 2010\(^{227}\)*

![Frequency of Media Use, Egypt September-November 2010](image)

One factor behind the relatively high levels of technology use for public media consumption is the strong infrastructural foundation rolled out by the Egyptian government since the 1990s. Tarek Kamel, former Minister of Communications and Information Technology traces the advent of the internet in Egypt back to 1993, when a small group of 2000 users were connected via a 9.6K link between the Egyptian


\(^{227}\) Source: InsightsMENA.com
By 1997 the number of users had jumped to 25,000, as a result of the significant investment in infrastructure by the Egyptian government. The government has continued on this path until now, as reflected by the rapid growth in internet use - there were an estimated at 23.5 million internet users in Egypt in 2011.

Figure 10: Internet users per 100 inhabitants

The Egyptian government’s agenda of promoting the adoption of ICTs in general, and the internet in particular, has been pursued via a number of institutional initiatives. In 1999, the Ministry of Communications and Information Technology was created and charged with designing and implementing a national ICT plan. Expanding connectivity was a core objective of the plan.

The “free internet” initiative promoted access by providing free dial-up connectivity with landlines subscription, meaning that the rates for accessing the internet were the same as standard phone call rates. Broadband services later became available, overcoming the dial-up limitations of speed and landline occupancy, but charging users a higher price. Nevertheless, by January 2011, more than 86 per cent of internet users in Egypt were broadband subscribers.

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230 Source: Ministry of Communication and Information, Egypt ICT Indicators Portal

231 Kamel, Sherif. ‘Information and Communications Technology for Development: Building the Knowledge Society in Egypt’, Access to Knowledge in Egypt. P 179

232 Ibid, p 180

233 Ibid, p181-184

sharing broadband connections across households, and by using internet cafes.\textsuperscript{235} Almost two thirds of broadband users (63 per cent) share a subscription between neighbours, and more than one fourth of internet users access the internet from a cyber cafe.\textsuperscript{236} The liberalisation of the market has led to the creation of some 200 internet service providers, in turn improving the competitiveness of the available packages.\textsuperscript{237}

Earlier initiatives to promote ICT use include a plan in 2002 which made subsidised PCs, together with ADSL subscriptions, available to all households in low-income communities.\textsuperscript{238} This plan was upgraded in 2010 to include a wider variety of desktops and laptops, as well as a wider distribution across the country’s provinces.\textsuperscript{239} Information Technology clubs (IT Clubs) were also established across the nation to provide both access and training.\textsuperscript{240} By January 2011, the number of IT clubs reached 2162; 1920 of which are connected to the internet.\textsuperscript{241}

Mainstream media organisations quickly tapped into the potential presented by the internet, by starting up web-based operations. The emergence of online delivery platforms has come at a time when newspaper circulation has remained modest. In 2009 there a total of 19 paid-for-newspapers titles in Egypt with a circulation of 4 million copies, being read by 5.3 per cent of the adult population (i.e. 76.7 million people)\textsuperscript{242}. Furthermore, newspapers were found to be the least used media platform in the study discussed above (Table 1).

The online activities of mainstream media organisations are developing alongside the proliferation of web 2.0 tools. Since the early 2000’s, a community of bloggers has thrived in Egypt. As bloggers began to write poignant social and political commentary, they created a media discourse parallel to the one produced by mainstream media. Bloggers use free interactive web publishing platforms such as Blogger, Wordpress, Maktoob, and Tumblr. Youtube and Flickr are other platforms for citizen-generated diversified content, allowing users to upload videos and photos. More recently, online social networks joined the ranks of citizen media tools with Facebook, 2004, and Twitter, 2006, offering highly interactive platforms for user-generated content, around which online communities emerge and flourish.

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\begin{thebibliography}{9}
\bibitem{Kamel2011} Kamel, Sherif. p181-184
\bibitem{Ibid} Ibid
\bibitem{Ibid} Ibid
\bibitem{Ibid} Kamel, Sherif. P 184
\bibitem{Ibid} Ibid. p 184
\end{thebibliography}
Since the 25 January revolution, the use of social media in Egypt has expanded at an unprecedented rate. The number of Facebook users in Egypt grew by 1.95 million between January and April 2011, meaning that over 7 per cent of the population now has a presence on the platform. In April 2011, Egypt’s users represented 24 per cent of the total Facebook users in the Arab world. Egypt’s Facebook community is predominantly young - 75 per cent are between 15 and 29 years of age. Females account for 36 per cent of Egyptian users. Egyptian Facebook members use Arabic and English almost equally.243

In Egypt, Twitter is less popular. The number of Twitter users by March 2011 was over 130,000, this shows a very modest penetration rate, reaching to just 0.15 per cent of the population. However, this group provides more than 16 per cent of all tweets coming from the Arab region.244 Given the massive expansion in both Facebook and Twitter, it is likely that penetration rates have increased further since these statistics were published.

Mobile telephony has also witnessed an expansion in use ever since GSM services were introduced in Egypt way back in 1996. The number of subscribers grew from 194 thousand245 in 1998 to 71.46 million in January 2011, representing a penetration rate of more than 91 per cent of the population. Between January 2010 and January 2011, the number of mobile subscribers increased by almost 30 per cent.246 Today there are three main operators offering a variety of packages, both pre and post-paid, at competitive rates.

Besides calls and text messaging, (commonly known as SMS for short messaging system), the mobile internet is proliferating fast. By January 2011, 41 per cent of internet users were reported to have accessed the internet through a mobile device and/or using a USB modem.247 There are currently around 1.5 million GSM internet lines in use.248

Overall, the landscape of internet and mobile penetration in Egypt has apparently been positive. There have been some steps towards using ICTs to consume media. Nevertheless, significant barriers to access remain.

Firstly, a rural-urban gap in access remains an important feature of internet penetration in Egypt. The most recently published data (from 2008) shows that internet access in rural areas of Egypt stood at less than 5 per cent of all Egyptian internet users, i.e. 5 per cent of the 15-16 per cent of internet users at the

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243 Dubai School of Government, 2011. ‘Arab Social Media Report’ vol. 1 no. 2
244 Ibid
247 Ibid
248 Fakharany, Wael
time. Broadband access in rural areas was less than 2 per cent, as compared with 12 per cent in urban areas.\textsuperscript{249}

Secondly, language is also an important barrier to access. The creation of more localised and more Arabic content is an important strategic challenge. The 2009 Arab Knowledge Report found that, at the beginning of 2008, there were 60 million internet users in the Arab world. This constituted just 17 per cent of the Arab world’s population, a lower percentage than the global average of 22 per cent.\textsuperscript{250} Some initiatives have been deployed by the Egyptian government to promote digital Arabic content, these include: creating electronic documentation projects; financing the digitisation of Arabic books; publishing school curricula; encouraging institutions to set-up Arabic websites; supporting localisation research and Arabised tools such as domain names; and incubating software Arabisation businesses.\textsuperscript{251} Despite that, the amount of digital content in Arabic remains limited. This can be broadly attributed to limited numbers of ICT users, the weakness of Arabic IT applications, high illiteracy rates and an over-reliance on English-language publishing.\textsuperscript{252}

Finally, general illiteracy remains a challenge to the proliferation of access to technology. Illiteracy rates were 66 per cent between 2005 and 2008.\textsuperscript{253}

7.2. Media and Public Interest

Mainstream media ownership

These infrastructural advances come in parallel with a trend of relative diversity in media ownership in Egypt, dating back to the early 2000s. This diversity can be traced back to the business opportunity that arose with the economic openness policies adopted by former President Anwar al-Sadat, and later articulated during the regime of former President Hosni Mubarak. The economic openness policies reversed the Nasserite legacy of the 1960s, whereby concentrated media ownership by the state was an element of former President Gamal Abdel Nasser’s rule.

Print media broke away from state control with the introduction of the privately-owned Al-Masry al-Youm in 2004, which today has the highest daily circulation. The paper was launched under the 1981 press law that allows the private sector to own newspapers through joint stock companies.\textsuperscript{254} Al-Masry

\textsuperscript{249} ITU World Telecommunications, 2011. ‘ICT Indicators Database’ [online] 
\url{http://www.itu.int/ict/statistics} [Accessed October 2011].
\textsuperscript{251} “National Profile for the Information Society in Egypt”. United Nations Economic and Social Commission for Western Asia (ESCWA) [online] 
\url{http://isper.escwa.un.org/LinkClick.aspx?fileticket=x1VgLctd3sY%3D&tabid=219&language=en-US} [Accessed 27 September 2011].
\textsuperscript{252} Ibid
\textsuperscript{253} UN Data, [online] \url{http://data.un.org/Data.aspx?id=5OWC&f=inID%3A74} [Accessed 27 September 2011]
\textsuperscript{254} Hamamou, Sabah, 2009. “Local print media going against the grain”. Daily News Egypt, [online] 16 April 2009 
\url{http://www.thedailynewsegypt.com/local-print-media-going-against-the-grain.html} [Accessed 14 September
al-Youm’s entrance into the print media market kick-started the emergence of other privately owned ventures.

This privately-owned daily interrupted a century-long tradition of state controlled print media, manifested by state ownership of the three main incumbent print media institutions: al-Ahram, al-Akhbar and al-Gomhureya. Each of these institutions produced other publications alongside their daily newspapers.\textsuperscript{255} The state has also owned major publishing houses and the main wire service, the Middle East News Agency.\textsuperscript{256}

Even before the advent of private newspapers, a quasi-alternative voice had been offered through print media by partisan papers. These were produced by political parties however they were highly controlled by the state. Furthermore, their coverage was largely dictated by the interests of their respective affiliated parties.

Similarly, television only broke away from state monopoly during the last decade. In 1960, Egyptian state television was born. In 1970, the Egyptian Radio and Television Union (ERTU) was inaugurated, and has been acting as the control and regulatory body of all terrestrial channels ever since.\textsuperscript{257} The state monopoly over television ownership was broken in late 2001 with the rise of home grown satellite broadcasting, and the emergence of private satellite television ventures. The latter included Dream TV and al-Mihwar TV. Satellite broadcasting had started earlier in 1985 with ArabSat, a top satellite provider in the region, which was used by the Egypt government to broadcast its state-owned Egyptian Satellite Channel in 1990. In 1996, Nilesat was established to become an Egyptian joint public-private company that now operates Egyptian satellites. As of 2010, it broadcast 600 television channels and 100 digital radio channels.\textsuperscript{258}

This realm of private ownership has been widely celebrated as the emancipation of the media from state control. Nonetheless, the concentration of media discourse among a small number of media outlets that can afford to operate in this expensive business has raised a lot of questions. Media organisations have been sustained thanks to the patronage of strong businessmen who supported them even when there was no financial gain to be had.\textsuperscript{259} A prominent example is Salah Diab, the founder of al-Masry al-Youm, who is an established businessman in the oil sector. Similarly, Naguib Sawiris, a

\textsuperscript{256}Ibid
\textsuperscript{259}Al-Zalaky, Ehab. Personal interview. 06 September 2011}
telecom and construction tycoon is behind OnTV, a private satellite television channel. Ahmad Bahgat, a real estate development businessman, is behind Dream TV. So despite the fact that the media is not an immensely lucrative business proposition, investors take to the media because they can influence public opinion in line with their political and economic interests.

In the words of one of our interviewees in the broadcast media management field: “The businessmen involved don’t see media only as an investment project, but as a socially and politically influential one. No one can play with you today if you own strong media. You can change cabinets. You can change perceptions. It’s power and protection that you’re buying.”

There are many anecdotes about mainstream media that show the extent of its influence on public opinion, and thus on decision-making processes. Former Prime Minister Ahmad Shafik was appointed by Mubarak during the 18-day uprising of 25 January 2011, in what was seen as one of the toppled president’s last attempts to hold on to power. Shafik’s cabinet was largely perceived to be a remnant of the old regime. In a seminal episode of a nightly talk show aired on OnTV in March 2011, hosts Yousry Fouda and Reem Maged interviewed Shafik. On air he received severe criticism from the shows other guests, including novelist Alaa al-Aswany and journalist Hamdy Kandeel. This was thought to be lethal to his rule and he was sacked the following day by the ruling Supreme Council of the Armed Forces (SCAF).

Another anecdote showing the dramatic influence of mainstream media on public perceptions is the representation of the January uprising martyrs’ narrative, which was influential in reinvigorating public support for the revolution. On 7 February 2011, Dream TV host Mona al-Shazly interviewed Wael Ghonim, the secret administrator of the Kolena Khaled Said (We are All Khaled Said) Facebook group, a major mobilisation platform for the revolution, in her widely watched nightly talk show, al-Ashera Masa’an. Ghonim had just been released after being in secret detention since 28 January 2011. Towards the end of the interview, Shazly displayed photos of the martyrs killed in the early days of the revolution, while a devastated Ghonim watched and wept, thus engaging a whole nation along with her. The following day, al-Masry al-Youm daily put together a martyrs’ page featuring photos and profiles of some of the revolution’s martyrs. The headline read, “the martyrs of the 25 January revolution, the flowers that blossomed in the nation’s gardens.” The page quickly became an icon of...
the revolution, and was often raised in Tahrir Square, the Cairo site of the sit-in. It became a symbol and a reason for persistence, helping to draw hundreds of thousands of people to the square.

While the mainstream media act as pseudo-empires, fundamentally influencing public opinion, the amount of money involved in operating a media business is also deemed to be a barrier to diversity. In post-uprising Egypt, wealth is still owned by remnants of the old regime, and many of those individuals control an important share of the media market. Hassan Rateb, a cement business tycoon closely tied to the toppled ruling National Democratic Party, still owns al-Mihwar TV. Similarly, the Cairo Broadcasting Channel (CBC), which started airing following the uprising, is owned by businessman Mohammed al-Amin, the partner of the old regime business tycoon Mansour Amer in various real-estate development and tourist projects.

In response to widespread concern about the media being controlled by a small elite of businessmen, some people have been attempting to defy the “anchor investment” phenomenon. An anchor investment is one that represents a majority of shares in a media operation, thus giving the holder control and an ability to influence editorial direction. Hisham Kassem, former publisher of al-Masry al-Youm, is setting up a new media operation that attempts to evade the anchor investor phenomenon by attracting start-up capital from no less than 17 investors, each of whom will own less than 10 per cent of the resulting company’s shares. He recounts the difficulty of imposing this new business model: “When I approach investors, I get a lot of 51 per cent offers or nothing at all. I know that this has not been done before. But I would rather not launch than launch with an anchor investor.”

Alternative citizen-driven media

The 2000’s was the decade that saw the birth of privately owned mainstream media. It was also the decade that saw citizen journalism begin to thrive, primarily through an active blogosphere. Courtney Radsh relays three phases of evolution in the Egyptian blogosphere. The first phase, starting 2003, was an experimentation phase, where “a few dozen Egyptians discovered and tinkered with a new publishing platform”. These bloggers constituted a core elite that influenced public opinion especially when content was amplified by mainstream media. A second phase, starting in 2005, was marked by the intertwining of blogging and activism; while a third phase, started at the end of 2006, was marked by the widespread proliferation of blogging amounting to thousands of sites and representing a plethora of

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267 Amin, Shahira. Personal interview. 23 August 2011
270 Kassem, Hisham. Personal interview. 22 August 2011
271 Ibid
voices, particularly subaltern voices. Radsh writes: “During this phase one could distinguish virtual enclaves or communities of bloggers that tended to engage primarily, though certainly not exclusively, with each other, such as activists, Leftists, Muslim Brotherhood, cultural and poetic bloggers, Copts, Bahais, homosexuals, Salafis, social commentators and personal bloggers.”

Tapping into a multiplicity of web media (text, photos, videos, etc.), and the inter-connectivity between different communities of online activists, both played important role in the proliferation of online citizen content. Additionally, the exclusivity of some online activists’ content further drew attention to their autonomous media.

A case in point is online activists reporting on police torture of ordinary citizens. A famous example is the torture video of Emad al-Kabir, a microbus driver who was sodomised by a policeman under orders from an officer who filmed the whole scene with his mobile in 2006. Wael Abbas, a renowned blogger, managed to get hold of the video and disseminated it widely through his blog Misr Digital. The torture scenes received much attention, and this case became one of few that made it to court, most other cases go unreported on. Citizen journalists mapped, collated and disseminated information about the national incidence of police torture through their blogs. Similarly, bloggers were the first to report a shocking case of sexual harassment in October 2006, when a group of women were attacked in front of a movie theatre - the incident had been ignored by mainstream media.

While the blogger community was thriving, linking to each other and being quoted in mainstream media, new online social networks were introduced. In her recent article for Jadaliyya, Linda Herrera writes about a certain adaptation process of Egyptians to Facebook as one such successful online social network. She recounts how in her field work, people called it “El-Face”. “The community of “El-Face” is developing a cultural, political and ethical universe of its own. It has its own codes and is a regulated space to some degree. There are certain red lines... you should not use the space to insult each other’s religion, for pornography or sexual harassment, for advertising or selling things, for spreading false rumours, or for spying. When a Facebook friend crosses these lines others intervene by way of posting a corrective comment on their wall, and starting a conversation on the post in question, or by defriending them.” And hence the communities formed around online social networks autonomously organise their publishing activities amongst themselves in what has become a unique model of popular, decentralised media.

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273 Ibid
274 Ibid
279 Ibid
Technology convergence and online performance

Where the two streams of media - mainstream and citizen - meet, convergence models can be found. With a plethora of meanings for convergence, from corporate mergers to adopting new economic models, the Egyptian media is mostly concerned with the integration of technology. In their investigation of convergence experiences in Egypt, Naila Hamdy and Phil Auter define two main phases. The first phase was when newspapers and broadcast stations launched online versions of their content. The second phase was when those websites became interactive and were supported by multimedia content. They conclude, however, that convergence in Egypt is still in its initial stages.

Many existing media organisations have tapped into the potentials of technology in many ways; from supporting the communications process in and out of the newsroom, to creating a fully fledged networked content management system which can facilitate the production process on all levels and across departments. Digital presence ranges from making an exact copy of a printed edition available online, to managing web-specific content in parallel with printed editions, marked by faster and shorter content. The state-run al-Ahram media organisation, which produces the al-Ahram daily (for a long time the highest circulated paper in Egypt as well as the second oldest) has created a website edition. Similarly, al-Masry al-Youm started a web edition in 2009, a more interactive updated version running in parallel with a more static web-page that only holds a digital version of the printed edition. Other operations that have taken off exclusively online include al-Youm al-Sabea and Masrawy, both of which enjoy a high level of traffic on a daily basis.

However, applying convergence models and experiences still faces lingering challenges. On the one hand, television operations remain oblivious to the convergence concept, backed as they are by an already solid viewership. For print organisations that are more challenged by falling readership, most efforts are still geared towards the production of the daily print edition, prioritising this particular platform, and leaving web operations to come a distant second. Editors say that for convergence to happen, the culture of journalists needs to change from one of concentrating on the print edition to one of branching into different outputs. For example, they need to come to terms with the fact that breaking news should go on the web edition. Also, some observe that content produced for print is published online in exactly the same format and without taking into consideration the nuances of the medium. Accordingly, some organisations develop their convergence strategy through journalist training and the concept that a reporter needs to be able to produce different multimedia outputs besides text.


Ibid


Ibid

Ragab, Ahmed. Personal interview. 05 September 2011
The old guards of journalism perceive convergence as creating competition between different platforms. Meanwhile, proponents of convergence don’t see a negative effect on traditional media, but rather an expansion of the community of readers and viewers at large and a positive input to the relevant organisation’s reputation.\(^{285}\) Many media leaders remain largely outside of tech-based networks – this filters down through their entire organisations undermining the full integration of new technologies.

Moreover, a lack of technical expertise in web development, network performance and functional design pose another challenge to technological convergence. News websites often load slowly, display performance issues and lack facets of functional design.\(^{286}\)

Besides developing integrated technology strategies, many mainstream media organisations - especially in the realm of print - have felt the urge to embrace online social media. Several media outlets have attempted to mainstream online social media content particularly following the outbreak of the 25 January revolution, believing that those networks are the sites of discourse development. It is now common for print media outlets to feature content from Facebook and Twitter, such as can be found in al-Tahrir and al-Shorouk dailies. Prominent bloggers and digital activists are increasingly featured in television talk shows as commentators, and invited to write articles in print media. The level of freedom exhibited in online social networks and blogs has on some occasions motivated mainstream media to experiment with its own freedom of expression. For example, a common practice among mainstream media is to cover a hype created by online social media around a controversial issue such as torture cases of civilians involving the military. For some operations, online social media represents a pool of information and an opportunity for witnesses to newsworthy events to emerge, which can then be called in to share their testimony with both television and print media.\(^{287}\)

More broadly, media organisations are developing social media and community teams within their operations who are responsible for articulating a strategy for interaction and engagement with their online communities. Such teams define the organisation’s online identity, feature its content in online social networks and engage with readers and viewers. However, for most mainstream media their online strategies are limited to just featuring their content on Facebook and Twitter.\(^{288}\) An example of such superficial use is that of SCAF, which had no online presence at all before the uprising but rushed into creating a Facebook page in the aftermath. SCAF does not interact with its fans on Facebook; it only posts SCAF statements online in an un-searchable JPEG format.\(^{289}\)

For some media outlets, the quest to build an online social network presence transcends the mere need to attract traffic to their websites. For those media outlets the goal behind embracing online social networks is to create a community around the media operation, and constantly interact with it, in a way that eventually affects editorial decisions. However, the way interactivity is integrated in editorial

\(^{285}\) Al-Zalaky, Ehab. Personal interview. 06 September 2011
\(^{286}\) Ibid
\(^{287}\) Ragab, Ahmed. Personal interview. 05 September 2011
\(^{288}\) Al-Zalaky, Ehab. Personal interview. 06 September 2011
\(^{289}\) Raouf, Ramy. Personal interview. 24 August 2011
processes remains weak. Editors say that while there are teams monitoring interactions and comments, there is no instituted process to follow them up editorially.\textsuperscript{290}

\textbf{7.3. Advancing Human Rights and Social Justice}

While mainstream media has been negotiating its relationship with web tools since the mid-2000s - many commentators give credit to individual human rights activists for making effective use of digital media.\textsuperscript{291} Today, the ways in which digital communications are used to defend human rights in Egypt can be divided into four main categories: self-expression; information and reporting; awareness and advocacy; and organisation and mobilisation.

With regards to self-expression, observers say that digital tools have provided obvious avenues for exercising these two basic rights which were stifled under the toppled regime.\textsuperscript{292} Blogging and later on micro-blogging sites became the primary space for bold expression and discussion, which was previously barred by mainstream media channels. While political blogs criticising the Mubarak regime and its police apparatus seemed to be the boldest in terms of freedom of expression, socio-cultural taboos of sexuality and religion are also openly discussed in some blogs.

Meanwhile, there are some success stories of human rights violations, such as police torture and sexual harassment, being reported by activists using digital media. Mainstream journalists, who worked on amplifying the reports, photos and videos captured by activists on online social networks, recognise that it is thanks to the bloggers that torture, for example, became a front page story, when previously it had been barely reported on or was drowned inside newspaper pages.\textsuperscript{293} Online networks-savvy journalists say that while self-censorship would prevent them from publishing sensitive information in mainstream media, they would spread it first through online social media, and then feel emboldened to introduce it in mainstream media once it had created enough noise there.\textsuperscript{294}

On the advocacy and awareness front, some organised civil society groups have been increasingly using e-campaigns to address a range of different causes.\textsuperscript{295} More autonomous citizens’ based e-campaigns have unfolded organically on online social networks such as Twitter, when popular calls have caused certain issues to trend. A case in point is the tragic death of Khaled Said, an Alexandrian middle-class young man, who was beaten by policemen in July 2010. The photo of the young man before and after torture circulated virally through online social networks and deepened the belief that anyone could potentially be a subject of police brutality. One day, activists tweeted intensively about police torture using the #KhaledSaid hashtag until it trended and attracted international media attention. The hype

\begin{table}
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\textbf{290} & Al-Zalaky, Ehab. Personal interview. 06 September 2011 \\
\textbf{291} & Ragab, Ahmed. Personal interview. 05 September 2011 \\
\textbf{292} & Raouf, Ramy. Personal interview. 24 August 2011 \\
\textbf{293} & Ibid \\
\textbf{294} & Ragab, Ahmed. Personal interview. 05 September 2011 \\
\textbf{295} & Raouf, Ramy. Personal interview. 24 August 2011 \\
\hline
\end{tabular}
\caption{References}
\end{table}
continued on Facebook when the page dubbed, ‘We are all Khaled Said’, was formed and was followed by hundreds of thousands of people.

In terms of organisation, the internet has crystallised in people’s minds as a safe haven following a number of high profile online incidences. Under the previously active State Security apparatus, mobilising through Facebook emerged as a safe option given that the security apparatus monitored the physical moves of activists closely. Threatening cases of arrest, intimidation, torture and forced disappearances emphasised the difficulty of working directly through offline networks. A prominent example of how the internet became a safer option was the call on 6 April 2008, through a Facebook group, for a general strike to protest against rising food prices. The Facebook group drew thousands of followers, and while the outcome of this particular strike was limited, the Facebook call had large-scale reverberations. What was born on Facebook became the 6 April Youth Movement, an important player in the current political landscape and the on-going revolution.

While there is widespread celebration concerning the potential of digital media to promote human rights, there are also many important concerns. The main contention is that the hype of digital media has made activists and civil society groups give too much focus to online campaigning to the detriment of much needed work on the ground. The dominance of a narrative promoting digital media as a silver bullet for human rights, and separated from intricate local context, risks alienating the much larger critical mass. An online campaigner in a human rights organisation sums up the issue as follows: “For me, the most important use of digital media is unveiling facts, which has broken so many informational taboos, such as sexual harassment, police torture, the [toppled] president’s health, homosexuality and religious belief. But at the end of the day this process is directed at fellow online users, which are only a few millions. This is very important in order to spread information, but mobilisation and pressure become only secondary impacts of digital media, while unveiling information is the most important function. The millions that joined the revolution from Cairo’s slums and Egypt’s non-urbanised quarters did not answer a Facebook call, but were mobilised through more traditional offline networks.”

7.4. Media Control

Amidst the constant ebb and flow of freedom of expression across the media, self-censorship has remained an on-going practice. It has been widely internalised by mainstream media practitioners, mainly as a by-product, and hangover, of the restrictive censorship regime.

Under that regime, censorship usually happened after the printing or broadcasting process and was manifested through soft strategies, such as threatening phone calls from the security apparatus to the media organisation in question, or harsher tactics, such as journalist interrogations, detentions, prison

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297 Raouf, Ramy. Personal interview. 24 August 2011
298 Ibid
sentences, fines and even license confiscation in severe cases. \(^{299}\) Less frequently, and in relation to broadcasting, censorship preceded publication. This usually happened with live political shows, when state officials inquired about intended guests and advised on who was undesirable. \(^{300}\)

Control was also often imposed through regulations. For example, media organisations used to send news alerts via SMSs directly to users, under an arrangement with mobile operators, in what became a lucrative low-cost business model for web-based operations. However, in October 2010, media organisations were notified by the government that they were required to obtain permission to send such SMSs from the Ministry of Information and Communication Technology and the Supreme Press Council. Many in the news industry perceived this as a form of political control ahead of the parliamentary elections, held later in November, that were characterised by unprecedented levels of fraud. \(^{301}\)

In the online world, control has been exercised through the intimidation of digital activists, rather than through blocking or filtering websites. The latter would generally contradict the government’s ICT investment policy based on openness. The Mubarak era has been famous for three seminal cases of bloggers’ intimidation: Karim Amer was sentenced in 2004 to four years in prison for insulting religion and the president; \(^{302}\) Hani Nazir was arbitrarily detained in 2008 for more than 19 months for an anti-Islamic blog post; \(^{303}\) and Mosad Abu Fagr was arrested in 2007 and detained for more than two years for blogging about human rights violations in Sinai. \(^{304}\)

While there have been no significant moves to filter the internet in Egypt, there were attempts to impose a ban on pornographic sites through a court order in 2009, \(^{305}\) which was at the time feared to signal the start of more extensive filtering. When online social networks became popular among political activists alongside blogs, the general belief was that the then government would refrain from blocking sites such as Facebook because they could use the sites to identify dissidents, and then intimidate them. \(^{306}\) Another example of this strategy (whereby the then-government used technologies to monitor citizens rather than blocking access) is when in 2005 the Ministry of Interior passed a regulation

\(^{299}\) Al-Zalaky, Ehab. Personal interview. 06 September 2011  
\(^{300}\) Sabry, Hossam. Personal interview. 07 September 2011  
\(^{306}\) Ibid
ordering internet cafes to register the names and IDs of all their users. Another example is the excessive tapping of fixed and mobile lines in collaboration with operators.³⁰⁷

On the eve of the 25 January protests, Egypt entered into an historic and unprecedented internet, and eventually overall communications, blackout. Using an article in the communication law that allows the authorities to disrupt communications in cases of a national security threat, Egypt applied what experts call, “the kill switch... a spectacular technical success and a mystifying strategic blunder.”³⁰⁸ The process of blocking communications started with the blockade of Facebook, Twitter and other online social networking sites on 25 January, followed by the complete blockade of the internet access through five of the six main service providers. This was followed by the blockade of mobile lines and SMSs through the three existing operators on 28 January. While the current case against Mubarak and other ministers implicated in the blackout is ongoing, this experience has prompted policy debates about the need to reform any legislation that allowed for such an act. It has also highlighted the importance of decentralising internet services.

Figure 11: Internet traffic to and from Egypt, 27 and 28 January, 2011³⁰⁹

Following the 25 January revolution, openness in media licensing has allowed many new media outlets to emerge. This openness has been received with both enthusiasm and concern from media players. While some think there is no point of return from this new freer ecosystem,³¹⁰ others feel there is a level of volatility associated with this sudden and unregulated openness, given that Egypt is currently going through a transitional period.³¹¹ Despite this evidence of relative openness, certain challenges remain.

For a start, self-censorship continues to prevail in post-uprising times. This is mainly because SCAF is not open to public scrutiny and criticism. Self-censorship became particularly apparent after a wave of reporting which covered on-going military trials of civilians and alleged torture and intimidation of those in military detention. In May 2011, the military summoned Reem Magued, a television journalist, and

³⁰⁷ Ibid
³⁰⁸ Cowie, James. ‘Can the Internet Tame Governments?’; Yale Global [online] 9 February 2011
http://yaleglobal.yale.edu/content/can-internet-tame-governments-part-i [Accessed on 25 September 2011]
³⁰⁹ Source: Arbor Networks, 2011.
³¹⁰ Kassem, Hisham. Personal interview. 22 August 2011
³¹¹ Al-Zalaky, Ehab. Personal interview. 06 September 2011
Hossam al-Hamalawy, a blogger, for publicly criticising military trials on a television show. Also in June, the military summoned journalist Rasha Azab and editor of al-Fajr newspaper Adel Hammouda for publishing the details of a meeting between SCAF and members of the “No to Military Trials” group of activists and lawyers. Local newspaper editors have told foreign journalists and human rights groups that they have received letters from SCAF “warning that all coverage of topics involving Egypt’s military establishment must first be vetted by the SCAF’s public relations and intelligence directorates.”

In early September this year, SCAF expanded the scope of the incumbent emergency law, following massive demonstrations, to include the spreading of false news and information. The decision to amend the law came hand-in-hand with two instances of raiding the offices of al-Jazeera Mubasher Egypt, the live local station affiliated to al-Jazeera pan-Arab network. Their transmitter was confiscated and their chief engineer was arrested. A few days earlier, the Information Minister Ossama Heikal stated that the government will stop licensing new satellite television stations, claiming that many of those channels serve particular electoral campaigns, and thus will not be impartial. Some defend the censorship regime on the grounds of national security, referring to the fact that open media operations like al-Arabiya and al-Jazeera do not cover political issues from their home countries, Saudi Arabia and Qatar respectively. In the meantime, there continues to be a lack of clear legislation, or codes of conduct, covering the operations of media organisations.

Others feel that regulation is needed to limit financial control over the media market, and so limit the ability for the wealthy elite to control public discourse. Heikal mentioned recently that the cabinet is looking into different regulatory options for creating an independent body, similar to those found in some European countries, which would be in charge of issuing licenses and monitoring the performance of television stations in respect to the values of “human dignity, pluralism in thought, public order and the protection of childhood and adolescence.” While this authority wouldn’t have the power to shut down operations, it would impose fines. However, many practitioners vehemently refuse this instrument: “We do not need regulators. The work of a regulator can be compensated for with the law,  

316 Ibid.  
318 Al-Abbatal, Ayman. Personal interview. 08 September 2011  
319 Sabry, Hossam. Personal interview. 07 September 2011  
321 Ibid
both the criminal and civil, along with legislation to protect against commercial fraud. It’s dangerous to have a regulator.”

Control over coverage of military-related issues goes back to a law that precedes the revolution. Egyptian media had to abide by the 1956 Law 313, as amended by the 1967 law 14, which bans reporters from publishing anything about the Armed Forces without the written consent of the latter. It was easier to avoid publishing news about the Armed Forces before the revolution since they weren’t then visibly entrenched in the day-to-day politics of the country. However this is a serious challenge at present as they are the interim rulers.

The online world is not unaffected by the on-going controls on free expression. The politicisation of online social networks and blogs has made them increasingly a target for censorship. A point in case is Asmaa Mahfouz, a renowned activist who is facing charges by the military prosecutor for criticising SCAF and inciting violence against it in her Facebook feed. Similarly, blogger Maikel Nabil was sentenced to three years imprisonment for criticising SCAF in a military court in April 2011. Concerns are growing as SCAF has recently encouraged the debate around a bill to organise electronic publishing, which freedom of expression advocates fear is an attempt to legalise restrictions on the internet, they see this as an ominous development.

7.5. Recommendations

The internet infrastructure in Egypt has been flourishing throughout the past decade with strong commitment from the government - aimed primarily at the economic fruits of such an investment. However, this same government has been actively deploying an array of strategies to block online political expression and freedoms. This contradiction - disconnecting economic development from political development - has put the fragility of the regime on display, particularly with the outbreak of the 25 January revolution. The relatively unregulated space of the internet was wittingly tapped into to unveil information, mobilise and advocate. In the meantime, media practice has been reinvigorated through citizen-driven initiatives, acquiring new meanings on the process of content production. Throughout this study, we have examined both mainstream and alternative citizen-driven media and the

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322 Kassem, Hisham. Personal interview. 22 August 2011
327 Raouf, Ramy. Personal interview. 24 August 2011
ebb and flow that connect those two islands at different times. We accordingly recommend the following:

- **For mainstream media:** The integration of mainstream media with online citizen media on a deeper level is a priority. Editorial policies must be emboldened by online voices and new discourses should be examined and negotiated. This integration needs to transcend the superficial levels of engagement witnessed so far between mainstream media and online social platforms. Instead, an understanding of the communities that thrive around new media, the way they use it and the way they interact with each other is the key to successful integration.

- **For alternative media:** Innovation is vital and alternative business models need to be developed to preserve the independence of content and avoid the polarisation of the business-state duality in media ownership. Journalists, citizen journalists and bloggers must find ways to work together to produce collaborative low-budget media platforms that sustain themselves through community support or through cooperative models.

- **For journalists across the board:** Training of basic journalistic skills is commonly and urgently needed, and it requires a developed and localised curricula specific to the Egyptian context. Training must cater to the promises of convergence in media operations and hence should expose journalists to multiple media production processes and uses of technology.

- **For human rights advocates and researchers:** Empirical research, both qualitative and quantitative, on the real functions and impact of digital media in Egypt, the way it is used, and the forms of communities that thrive around it, is scarce. This is particularly relevant given current grandiose statements such as the uncontested role of social media as a mobilisation tool; while implicated users remain critical of this narrative, and warn of an increasing gap between online and offline due to inequitable access.
8. On the Cusp of Change – The Telecom-Centric Rise of Media in India
by Ramnath Bhat

The media sector in India has had a rather chequered history, wherein it played a nationalistic role pre-Independence and an educational role in the early years after Independence. It is only in the last two decades, i.e. since the 90s, that the third phase of the media sector has come into play – giving the media a new, liberalised face. Commercialisation has had a deep impact, and is still affecting the sector in several ways, many of them at a fundamental level. Digitisation, spectrum allocation, diversity and plurality in content, accessibility are some of the issues, which are affected. While many effects may be interpreted as going against media’s functioning in the public interest, there are several features of privatisation and liberalisation which, in the long term, can also be seen as opportunities for media to become a sector operating for and in the public interest.

This report, while attempting to look at the media sector holistically, draws attention to the overwhelming and meteoric growth of the telecom sector in India, and how it affects the rest of the media and communications sector. With more than 800 million wireless subscribers as of April 2011, it is one of the largest and fastest growing markets in the world. The fact that this technology can support text, voice, and increasingly data, is two-way, interactive, and peer-to-peer can mean only good things for public interest media. However, certain aspects of spectrum allocation, vertical integration, as well as neglect of marginalised communities, especially in rural areas, by telecom service providers remain areas of concern.

The report also examines how new and emerging technologies and media tools such as innovations in mobile telephony and the internet are increasingly being used by human rights groups and activists to bring critical issues to the fore. This serves a dual purpose – not only are they providing content which is absent from the mainstream media, they are also providing precedent; ways for minority and marginalised communities to imagine new ways in which media and communications can be used as agency, tools for emancipation and freedom of speech, expression and opinion – which ultimately will lead to community development and improvements in quality of life.

8.1. Access and Accessibility

The media markets in India have shown steady growth, and access to platforms for media consumption is growing across all sectors. The fastest sectors are mobile telephony, internet and television. Each sector has specific issues regarding accessibility. However, the overall lack in access is concerned with a lacklustre public sector broadcasting which often fails to compete or provide real alternatives to a

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From a media studies background, Ramnath Bhat has been involved in research and capacity building around community media and ICTs. A co-founder of the media and arts collective, Maraa, he is currently working on building capacities and advocating for community friendly media policies, especially spectrum planning and allocation in India. He is also a regular consultant with donors like UNESCO and the Ford Foundation on media related issues both at the national as well as South East Asian level.
heavily commercialised private media. The opportunities to fill in these gaps can arise through mobile telephony and internet connectivity, both of which are growing rapidly in rural areas. Such technologies not only can provide accessibility to local and relevant content, but also have potential to accomplish another goal, mainly equitable access to means of production for all, especially marginalised and minority communities. It is worth noting that community radio, a recent phenomenon in India, is also contributing to public interest media access.

Newspapers – growth only at the top
As of March 31st 2008, India had a total of 69,323 newspapers with an overall circulation of 207 million. The top five newspapers in India in terms of readership are written in Indian languages. Individuals, who are mostly from big business families with substantial capital, own most of the newspapers. The regional dailies dominate, revealing the preference for local language and regional news. India has a strong tradition of oral cultures, and literacy is still low in many areas. The top newspapers are growing as they diversify into new delivery models (such as mobile apps). Smaller newspapers struggle with low literacy in rural areas and dependency on government advertisements for financial survival. Access to these newspapers will be revitalised if they can diversify into emergent sectors like telecom and internet, retaining their local flavour and use of local language.

Radio – a case for reform in programming
All India Radio (AIR) today has a network of 237 broadcasting centres with 149 MW, 54 SW and 177 FM transmitters. It covers 24 languages and 146 dialects as part of its home services. Apart from the public radio service, there are about 250 privately owned commercial FM radio stations and 210 community radio stations, which are operational. The private stations, having paid large sums for spectrum, stick to mostly music and advertisements. Community Radio is still limited in scale and scope due to the lack of awareness of its existence, as well as cumbersome licensing processes. The spectrum allocation process is arbitrary and structurally limits access to communities when number of frequencies available to community radio is reduced. Public Radio needs to utilise airtime and studios better. Private and Community Radio should be allowed to broadcast news and current affairs. Today, radio is available through online streaming, but access will continue to decrease until the programming is reformed in public, private and community radio.

Television – need for diversity, digital vs. terrestrial
Television in India has expanded rapidly due to proliferation of cable operators. According to government estimates, there are about 60,000 cable operators in the country, although the real number may be far higher. Due to today's dominant visual culture, the hardware of television, such as television sets, set top boxes and dish antennae, are getting cheaper every year. There were 515 channels in 2010. Of these about 150 are paying channels and by June 2010, the number of direct-to-home subscribers

was 23.77 million\textsuperscript{331}. DoorDarshan (DD), the public broadcaster, has two channels that are available terrestrially; they are therefore free to air, with low cost homemade antennas sufficient to receive the signal. However, the Planning Commission’s sub-group seems to indicate that in a few years, the terrestrial transmission will give way to digital terrestrial or completely digital transmission, which will in essence make television reception unaffordable to many economically marginalised groups. Television is widely available but largely through digital means, and covers mostly broadcasting entertainment based content. To increase access, there needs to be a strong impetus on keeping low cost options available, such as Free-to-Air terrestrial television. Simulcasting can be explored, provided this spectrum band can comfortably accommodate emergent services like Wi-Max and 4G services. The figure below summarises access to public broadcaster Doordarshan from 2001 to 2008.

\textit{Figure 12: Access to the public broadcaster Doordarshan}\textsuperscript{332}

![Figure 12](image)

The National Readership Studies Council released the findings of the National Readership Survey 2006, one of the most comprehensive media surveys in India. The figures below summarise the access to media scenario in India, which although about five years old, still gives an accurate picture of the growth potential of the Indian media.


\textsuperscript{332} From the Indian Readership Survey 2008, cited in Prasar Bharti’s Annual Report 07-08
Telecom – the need to go rural; transparency in licensing and spectrum allocation

The telecom sector has been one of the fastest growing sectors in India, with over 800 million wireless subscribers by April 30th 2011. The pie charts (all data in millions) below show the breakdown of urban and rural subscribers as well as the gaps in access through difference in urban and rural teledensity. Telecom service providers have still neglected states in the northeast, central India and remote, hilly and rural areas. The government has imposed some roll-out obligations as a pre-condition for licenses, but service providers are opposed to this obligation and maintain that market forces will suffice to increase rural teledensity in the future. Telecom service providers are licensed on spectrum, which is public property. Thus telecommunications needs to be recognised as a service and as media in the public interest. Access needs to be increased through infrastructure and services in rural areas immediately as per the telecom policy mandate.

Figure 14: Total telecom subscribers in millions
Figure 15: Urban vs. rural telecom subscribers in millions

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333 National Readership Survey 2006
Internet – lack of infrastructure, prohibitive pricing

With a monthly growth of 1.17 per cent, the total broadband (>256kbps) subscriber base has increased from 11.87 million in March to 12.01 million in April. However, in terms of the absolute population this only amounts to a penetration rate for of 10-11 per cent. The major issue is that once cities have been covered by broadband infrastructure, service providers are not able to enter rural areas due to multiple reasons. The major problem is that of economic feasibility. Service providers are not assured of a market because they are not confident that rural populations will use internet as much as urban markets. Government agencies as well as the industry need to invest further in infrastructure to enable broadband access. Data rates need to be further reduced, and current users as well as service providers need to invest in creating content in regional languages to encourage rural markets to start using the internet.

Initiatives to promote access – challenges in scalability and sustainability

The initiatives, which have been undertaken by the government to promote access, are the Universal Service Obligation Fund (USOF) where five per cent of the Adjusted Gross Revenue (AGR) is collected from all telecom service providers and is utilised to create and/or enhance telecom related infrastructure in the hilly, rural and remote areas of the country. Donor agencies like UNESCO have helped promote the concept of community radio in the country by supporting pilot projects as well as building capacities of communities who are engaged in such activities. The Ford Foundation has historically played a supportive role in building capacities of public service media, and today is poised to make a significant intervention in the emerging digital media environment by conducting research and policy advocacy on spectrum and new media. The civil society has dabbled in communication too, both in terms of mainstream and community use. One World South Asia have teamed up with British Telecom

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and Cisco to launch Lifelines Project\textsuperscript{337} wherein farmers and teachers can get their queries answered by relevant experts from all over the country, with the help of a mobile phone. A group of Dalit women in Andhra Pradesh are running their own community radio station, called Sangham Radio\textsuperscript{338} talking about issues such as food security, local culture and folk songs.

\textbf{8.2. Media and Public Interest Communication}

\subsection*{8.2.1. Media Ownership}

The main issues plaguing the ownership of the media and communications sector is the trend of vertical integration and expansion leading to monopolisation of the market, increasing financialisation of the media sector through strategic investment and lack of effective autonomy in public media organisations. All these have a strong impact on how media plays out in terms of public interest. The table below shows the dominant broadcasters/owners of media in India:

\textbf{Table 5: Owners of Indian media}\textsuperscript{339}

<table>
<thead>
<tr>
<th>Print</th>
<th>Radio</th>
<th>Television</th>
<th>DTH (Direct-to-home)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dainik Jagran</td>
<td>Adlabs Film Ltd.</td>
<td>Zee Turner</td>
<td>BSNL</td>
</tr>
<tr>
<td>Dainik Bhaskar</td>
<td>Ananda Offset</td>
<td>MSM Discovery</td>
<td>Bharti Airtel</td>
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Concentration of ownership in print and vertical integration in television

In the print sector, business families own most of the biggest dailies. For example, Dainik Bhaskar is owned by DB Corp Ltd, represented by Ramesh Chandra Agarwal and family members who in total own 86 per cent of the company\textsuperscript{340}. Today, it is rare to find similar patterns of individual ownership in television channels. Instead, investment companies increasingly have stakes in these channels and this is symptomatic of the financialisation of the sector. For example, in 2008 NBC Universal picked up a 26 per

\textsuperscript{337} About Lifelines Project [online] Available at http://lifelines-india.net/lifeline/aboutlifelines [Accessed 29th April 2011]


cent stake in NDTV networks for USD 150 million; Walt Disney increased its stake in UTV Software Communications from 14.9 per cent to 32.1 per cent by investing 8.05 billion rupees, almost USD 181 million. It also acquired a 15 per cent stake in UTV Global Broadcasting for about 1.19 billion rupees. Recommendations to limit cross-media ownership, as made by TRAI, need to be implemented across different media, on an urgent basis. Since media is purported to be in the public interest, especially programming such as news and current affairs, their source of money needs to be made public.

**Foreign direct investment – the grounds for financialisation of the media**

As well as the trend of other business enabling investment into media, there is also a trend that shows media companies being increasingly financed through foreign direct investment (FDI). The chart below shows the different FDI caps in various media sectors.

*Figure 18: FDI cap across media*

In November 2005, the FDI limit for telecom increased from 49 to 74 per cent. The total FDI equity inflows in the telecom sector have been USD 1057 million during 2010-11 (April to September). Increased FDI has allowed telecommunications to grow at a rapid rate. However, there is a need for further research in terms of how this FDI has impacted benefits to customers not just in terms of call or data costs, but also in terms of how it has impacted telecom as a public interest medium.

**Political interference in television**

In India there have been instances of television channels being owned, or vulnerable to direct political influence, by politicians who use these channels as propaganda tools. In the 2006 Assembly elections,

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one of the promises in the state of Tamil Nadu (state in South India) was free distribution of colour television sets. The diagram below illustrates the dangerous trend in political links with various channels with two major channels - Sun TV and Jaya TV - supporting the two largest political parties in India.

*Figure 19: Political influence in the television sector*

Ties are often entrenched and familial. Sun TV, for example, has established a near monopoly in the state and is owned by the Maran family, related to Karunanidhi, patriarch and head of DMK party. Coalition politics has resulted in the central government being unwilling to take action against unethical behaviour from regional media channels affiliated to regional or central political parties. Ownership needs to be made transparent, along with funding sources. Regulation in terms of objectivity, accuracy, plurality and diversity, needs to be strengthened, and offenders need to be penalised effectively.

**De-politicising public broadcasting**

As far as public media is concerned, the general understanding is that both AIR and DD are autonomous institutions, which use public money to broadcast in the public interest. Today, although autonomy exists on paper, there are still several issues plaguing the government. The directors of both institutions are political appointments, and the Ministry of Information and Broadcasting decides budgets for both institutions. Every chief executive officer for the last decade has been a former bureaucrat. Sevanti Ninan, a veteran journalist writing on media, for the Hindu, says “when the President’s decision to put the head of Prasar Bharti on the road to removal by permitting a Supreme Court enquiry against him, it marked a very sorry culmination of an experiment begun 13 years ago. One of giving people the kind of broadcasting they were thought to deserve.”

The autonomy of public media needs to exist not just on paper, but in reality as well. There is a need to divorce appointments from politics at all levels. Mechanisms need to be implemented, which effectively make public broadcasters accountable to the general public. There need to be systems in place which assess if and how the public broadcaster reflects the diversity and plurality of the population. In this way, the public broadcaster needs to take into account specific issues of public interest from time to time, without being Delhi-centric.

**The implications of digitisation**

Digitisation of the media is bringing about radical changes to the system, both private and public media, and also has the potential to impact the ways in which media serves the public interest. In 2006, the

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Planning Commission of India constituted a sub-group to deliberate on the topic “Going Digital”\(^{343}\). The report endorses the digitisation of broadcasting. It does this primarily for the public broadcasting sector and television industry, encouraging them to take advantage of the convergence in technology. Convergence, for example, enables television on the internet and internet on television. The commission foresees a total investment of RPS 943.1 billion (RPS 353.1 billion for DD and RPS 590 for AIR) to go digital. It also recommends that analogue transmission should be completely phased out by 2015.

Digitisation is a complex topic and needs to be debated in the public domain. On the one hand, it will improve quality of service and enable more providers to enter the market, and also free up valuable spectrum, like 700 MHz for monetisation. On the other hand, it will also mean that broadcasting will cease to have a terrestrial component, which means it will no longer be free-to-air. Economically marginalised communities will not be able to afford digital reception sets in the near future and public interest media in India will be compromised. Thus, a sunset clause for digitisation needs to be handled in an inclusive way, with the public interest in mind, rather than focusing solely on efficiency or quality or even the amount of revenue the government can earn from freeing up spectrum.

8.2.2. Production and Content

The rise of private television and lack of community/private terrestrial television
The production of content was originally the domain of public broadcasters, who employed professionals to create content. Newspapers had their own system of reporters and stringers who were also on the payroll. In the late 80s and early 90s, public broadcaster Doordarshan started outsourcing production of certain television shows to private production companies. This gave these companies valuable experience as well as opportunities to build their own infrastructure. Many of these companies became private content service providers or television channels once the television industry was liberalised. Not only has it led to an increase in the number of video content producers, but it also gave rise to more than 60,000 cable operators throughout the country; most of whom also produce their own content and piggy back on the existing cable infrastructure. In India, the regulator TRAI had recommended liberalisation of the terrestrial television spectrum way back in 2005\(^{344}\). Unfortunately, the government has not acted upon those recommendations. Today, that spectrum will be sold off to mobile telecom service providers who will use that frequency for 4G standards\(^ {345}\).

Music dominated private radio, community radio for development
The commercial radio system strictly follows the Contemporary Hits format wherein the top few Bollywood hits are played regularly, trying to attract maximum advertising. There is limited participation

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as RJs encourage calls from listeners, but these are restricted to mostly song requests. The community radio stations in India are restricted to NGOs and educational institutions that use the station as a means towards community development. Most stations broadcast between one to four hours even though they have licenses to broadcast 24 hours a day. Thus the community radio sector in India is not articulated as a tool for the freedom of speech and expression. Furthermore, broadcasting of news and current affairs is prohibited on private and community radio. To inject life into programming, the government should lift prohibition on news and current affairs, on both private and community radio. As a fillip to the freedom of expression and opinion, as per the Constitution of India, special groups need to be encouraged to have media space, especially religious minorities, lower or backward castes, tribal groups, people with disabilities, sexual minorities, people with HIV/AIDS etc., as a form of affirmative action.

Public radio – need for institutional and programmatic reform
AIR has a large infrastructure, but is overstuffed and is underutilising studio and airtime. The primary stations broadcast generic programs with a healthy mix of music and talk-based programming. The programmes are more welfare-driven than reflective of current public interest. As such, they tend to be on agricultural counsel, education, environment etc. The smaller stations use more local folk music and thus encourage local culture, but the talk-based programmes are very similar to the primary stations. Most often, the smaller stations relay the programmes from the main stations, as they don’t have the capacity to produce original programming. The chart below shows the division by topic of programmes on the primary channel of AIR.

*Figure 20: Programme percentage for AIR’s primary station (from Prasar Bharti’s Annual Report 09-10)*
Internet and new media – the need for an enabling environment

The content available on the internet is often a real alternative to what is available on the mainstream media channels. The penetration of internet – specifically broadband - stands at 12.01 million subscribers. This means that even though only little more than ten per cent of the population is using new media on a regular basis, the absolute numbers are significant. Social networking sites have shown remarkable growth in India. In 2009-10, Facebook registered a growth of 177 per cent and Orkut, which was once dominant in India, also registered a growth of 35%. In May 2010, Facebook alone attracted 18 million unique visitors in India.346

Social networking apart, all mainstream media companies and channels have recognised the growing market of telecom and internet users and have registered their presence online. This occurs through streaming television, radio/websites, mobile applications, RSS feeds, social networking pages and feeds etc. Further, there have also been niche start-up initiatives by individuals and companies who see a market within the relatively small internet and mobile-internet space. For instance, Medianama347 is a website which deals exclusively with mobile telephony, internet and related policy issues. Similarly, the blog Kafila348 deals with politics, analysis and current affairs. The well-known filmmaker, Onir directed a film called “I Am”, which was a mainstream Bollywood film and perhaps the first film to get financing via crowd sourcing and donations via Facebook (more than 400 people from around the world).349 Although this sector has an active and dynamic ecology it is still nascent, because of there is a lack of infrastructure and low access with limited regional content or content published in Indic scripts. Both government agencies and industry players need to recognise the public benefit of developing infrastructure and access in this sector and their roles to achieve this.

Mobile telephony - possibilities for integration

Mobile telephony has also enabled interesting ways for communities to produce content, which perhaps is not feasible for mainstream media for many reasons. CG-Net Swara is a citizen journalism platform, which uses internet telephony technologies. These emerging technologies are providing them with new means to express and publish their opinions. Today, civil society groups, community media groups or even individuals with limited budgets can take advantage of internet based or mobile telephony based technologies to easily produce content and publish it without barriers at a local, regional, national or even international level.

8.3. Advancing Human Rights and Social Justice through Communication

Human rights in the digital age – the need for further research

347 See http://www.medianama.com/
348 See http://kafila.org/
The use of digital communications to advance human rights is a nascent but rapidly growing area in India and globally. The inherent qualities of digital communications technologies make it a suitable tool for human rights groups and activists, including civil society, to exploit in a strategic way. Many such initiatives use digital media not only to implement field level projects, but also to bring about change at the national or even international level. Digital communications gives human rights groups the opportunity to publish information at virtually no or very low costs and to reach and to interact with global audiences. Furthermore, the nature of these technologies means that information is published straight from the field, often bypassing their governments’ efforts to censor or block information. This is a phenomenon which was not easily achievable with traditional media.

In India, the digital communications sector is a small, with only about ten per cent of the population registered as broadband internet users. However, with a monthly growth rate of 1.17 per cent, this is a sector to watch closely. Given its recent emergence in the country, though there is limited theoretical and field knowledge of the area. There is significant need for primary research to explore the relationship between human rights and digital communications in India. This section, therefore, gives anecdotal illustrations of the challenges and opportunities that digital communications pose for human rights in the country.

**Democratisation, social and economic rights: opportunities and challenges**

In the face of increasing poverty and the failure of the economic trickledown theory\(^{350}\) in India, digital communications has the potential to bring about democratic mobilisation on a mass scale to hold those in power to account.

Digital communications allows these people to be informed and to participate at the same time. Through the use of websites, SMS, digital mapping and other tools, organisations have reached out to the general public, creating an environment of accountability and transparency. In India, the Association for Democratic Reforms\(^{351}\) has been keeping track of financial and educational record of all candidates who stand for election anywhere in the country. This information can also be sent to interested people through toll-free SMS. They have also begun to experiment with digital mapping and visualisation of electoral research. In this way, digital communications has enabled civil society groups to contribute towards democratic participation and increasing transparency in governance.

Another initiative, CG-Net Swara, uses mobile phones and internet telephony to promote citizen journalism in areas where mainstream media fails to penetrate. Digital communications is responsive to local needs. Gaon Ki Awaaz (Voice of the Village) uses local reporters to collect local news in regional languages, and then makes this content available to subscribers by calling them on their mobile phones. Blogs and social networking sites like Kafila (http://www.kafila.org) have been adapted to provide niche content on human rights related content. Traditional human rights groups such as People’s Union for

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\(^{350}\) Wherein money going to the upper classes is expected to trickle down to the lower classes, thereby contributing to an equitable society.

\(^{351}\) Web address: http://www.adrindia.org/
Civil Liberties (PUCL) or National Alliance for People’s Movements (NAPM) have active websites and use SMS to inform people about their local campaigns. Most groups also use Facebook and Twitter, which serve as both tools for mobilisation as well as a site for debate and dialogue. An increasingly informed public is an empowered public, and as the nascent sector grows, it will be increasingly easy for human rights activists to use digital communications and its inherent possibilities to not only democratically mobilise communities, but also empower them to hold those in power to account.

Digital communications is especially powerful in addressing the rights of excluded and marginalised communities. More than just civil and political rights, though, digital communications provides a potent platform firstly to raise awareness of the social and economic rights of these people and then to develop tools to help realise these rights. In India it is the “publicness” of digital communications that often pushes the government and civil society to take action and address social and economic rights. The use of Facebook, Twitter and blogs by online groups has contributed significantly the legitimacy of sexual rights in India, challenging Article 377 which makes homosexuality illegal in India. At a time when mainstream media ignored or refused to publish on this issue, digital communications platforms enabled a strong and organised community to be built. At the same time it allowed the free flow of information between human rights groups to develop an advocacy case for sexual rights. Today, this online space continues to be crucial as groups are developing legal strategies against Article 377. It also facilitates organised and synchronised events such as Pride March across multiple cities in India.

Steps are also being taken in India to develop innovative tools that break down the traditional barriers to development and use digital communications to reach marginalised communities. Initiatives like Mobile and Immersive Learning for Literacy in Emerging Economies (MILLEE) use mobile gaming to improve the grades of children in poorer economic areas with promising results. Mobile banking, e-governance services and open source initiatives give hard-to-reach communities access to governmental services where none existed previously, and in many cases improve the quality of services at the same time weeding out government corruption.

Challenges of using digital communications for human rights
While digital media or communications technologies offer multiple opportunities for human rights activists and civil society groups, there are several challenges which prevent full-scale exploitation and adaptation of these technologies. In India, the main challenge is related to infrastructural access. In rural areas, there is no consistent electricity supply, a lack of power backup, as well as lack of affordable and reliable equipment. And while India has around 27 official languages and many more dialects, the English language unfortunately dominates digital communication. The problem of language is further amplified by the fact that most Indian languages have their own scripts which computers and mobile phones are unable to render, read or playback.

In India, different hardware and software companies frequently produce goods and equipment, and deliver quality of service standards that are not compatible with each other. In the long term this means that costs for individuals and groups who engage with digital communications are unnecessarily high.
Capacity and knowledge of digital communications is also an issue. Many human rights groups have a vague understanding about the potential of digital communications, but do not know how to properly and strategically exploit this potential to the maximum. As such, there is an urgent need to build capacity amongst civil society groups and human rights activists on how to use digital communications in their specific contexts. The worry is that as civil society groups and activists become savvier in using technologies to advance human rights, the more pressured those in power may feel as a result. Ultimately this could lead to a backlash in terms of direct repression or in the form of repressive legislation or regulatory frameworks. In India’s case, trends in traditional media show that freedom of expression could act as a shield against this. The Press has always enjoyed reasonable freedoms since independence\textsuperscript{352} for instance. And politically conscious film makers, such as Anand Patwardhan, have faced consistent censorship of films, but have mostly managed to overturn censorship through the judiciary deciding cases in favour of freedom of speech. In the case of the internet, however, there is some cause for concern with the 2011 April notified rules of the IT Act receiving particular criticism from human rights groups, bloggers, and others actors from civil society. The specific critiques are mentioned in the next section.

8.4. Controlling Media and Communications

Overall, India enjoys freedom of speech and expression not just as a constitutional right, but also in daily practice. The country has mostly had a positive tradition of a free press, which has held those in power to account, as well as been a responsible watchdog to the executive, the legislature and the judiciary. However, in the last two decades, the nature of the communications sector itself is rapidly changing. With liberalisation, and subsequent digitisation, there have been many rapid changes to the sector at a fundamental level. The meteoric rise of wireless technologies, particularly mobile telephony and inevitably the future access to internet through the mobile phone, will be of particular concern to the Indian government, as it stymies efforts at blocking, surveillance or censorship of the free flow of information. Balancing the need for responsible governance and, at the same time, ensuring free flow of information and allowing freedom of expression and opinion for its citizens will be key for India in the future.

Legislative and constitutional framework – Telegraph Act and Union List of 7\textsuperscript{th} Schedule

The Indian Telegraph Act 1885 still applies to control the communications and media sector. In its simplest form, it authorises the government to issue licenses for communication related services to a person or class of persons. The definition of “telegraph” has evolved over the years to include wireless communication forms, and today even a community radio station is licensed through suitable amendments to the Telegraph Act.

\textsuperscript{352} Except for a brief interruption during the state of emergency when Indira Gandhi’s government curtailed virtually all powers of the press between 1975-77.
The Seventh Schedule of the Indian Constitution, Paragraph 31\textsuperscript{353}, states that power is given to the Union Government to control “Posts and telegraphs; telephones, wireless, broadcasting and other like forms of communication.” This effectively empowers the Central Government to control media and communications within a constitutional framework.

Although the Communications Convergence Bill 2000 exists, it has not yet been passed by Parliament. As of today, there is no holistic regulatory or policy framework to control the entire media sector. Instead, individual types of media have specific regulations governing them.

Historically and constitutionally, communications has been given pride of place, but unfortunately has been centralised and, more often than not, excessively controlled. The powers at the central government level need to take cognisance of the convergence in technologies, and the way it has impacted production and consumption of media. Information flow and reception is no longer linear or unidirectional. By creating an enabling environment, with legislation that is up-to date and addresses present technologies and concerns, the public will be able to use the media sector to voice their concerns, as well as democratise governance.

Print – ethics, politics and other pressures
The print sector is primarily controlled by the Press and Registration of Books Act 1867, the Press (Objectionable Matters) Act 1951, and the Newspapers (Prices and Pages) Act 1956. Further, the Press Council of India was also set up in 1976, and was established to preserve the freedom of the press and to maintain and improve the standards of newspapers and news agencies in India. Their report on the paid news scandal was subject to pressure and a watered down version was later published\textsuperscript{354}. The eminent journalist, P. Sainath comments that it was “…a chapter that does grave damage to the image and credibility of the PCI, leave aside for the moment, the harm it has done to the public interest.” Journalists too have been subject to violence from local authorities and anti-social elements. Recently, a journalist was killed, allegedly for his reports on the underworld\textsuperscript{355}.

Public broadcasting – the need for autonomy and transparency
Prasar Bharti controls public radio and television, and the central government has released a content code, which the public broadcaster has to adhere to. Furthermore, the public broadcasting sector is controlled indirectly through political appointments at the top level and a lack of political will to make the institutions truly autonomous. Private FM Radio is licensed through the Ministry of Information and Broadcasting. The actual frequencies are made available by the Wireless Protocol Committee (WPC) wing of the Ministry of Communications and Information Technology, and then auctioned off to eligible

\textsuperscript{353} Indian Constitution Schedules [online] Available at \url{http://india.gov.in/govt/documents/english/coi-eng-schedules_1-12.pdf} [Accessed 2\textsuperscript{nd} May 2011]


\textsuperscript{355} Shahkar Abidi 2011 Jyotirmoy Dey: Killed for exposing crime June 12\textsuperscript{th}, DNA Mumbai [online] Available at \url{http://www.dnaindia.com/mumbai/report_jyotirmoy-dey-killed-for-exposing-crime_1554019} [Accessed 3\textsuperscript{rd} May 2011]
bidders by the Ministry of Information and Broadcasting. These stations are expected to adhere to the same content code followed by AIR.

Community radio also follows the same pattern, except that there is a smaller wattage for community radio (100 watts as opposed to up to 3000 watts for private radio) and the license only applies for five years (as opposed to ten years for private radio). Further, specific frequencies are allotted to community radio stations instead of distribution through an auction system. Previously, when the rules for community radio were announced in 2006, WPC said that six frequencies were available for community radio in a given area. Today, WPC state that only three frequencies are available. Thus arbitrary and opaque spectrum or frequency allocation becomes another way in which community communications is controlled. For this reason public broadcasters, DD and AIR, need to utilise their spectrum more effectively by increasing programming. The content also needs to incorporate different kinds of public interest issues, political and economic analyses, minority groups etc. The driving logic, process and implementation behind all kinds of spectrum allocation need to be made public or be accountable to the public through transparent mechanisms.

Private television – the need to effectively self-regulate

The Ministry of Information and Broadcasting also licenses private television. Since all television channels are uplinking and downlinking through satellite, the permission is granted by MIB as well. The content was initially governed by the Cable Network Rules 1994. In particular Rule 6 and Rule 7 deal with several criteria on which content and advertising is controlled. On the basis of these criteria (which included obscenity, and denigrating women and children), the Ministry of Information and Broadcasting has temporarily suspended broadcasting of certain channels, issued warnings to several television channels, and initiated plans to extensively undertake monitoring of all television in India.

The Ministry of Information and Broadcasting has also set up a media-monitoring centre to monitor programmes shown by broadcasters. The Rs. 16 crore Electronic Media Monitoring Centre (EMMC) can monitor over 150 television channels simultaneously. Further, the EMMC is also a platform for complaints against individual broadcasters who violate code of conduct as per the Cable Television

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Mostly the monitoring and warnings have to do with offensive or obscene content, but occasionally there are channels who have been pulled up for inaccuracy of content, and all channels were given advisory notice regarding inappropriate reportage during the 2008 November Mumbai terror attacks, where the reason cited was "inconsistent with public interest and national security".

Although the industry has been working on self-regulation guidelines, the terror attacks not only expedited the process but also required the industry bodies to put in place specific clauses regarding reportage of sensitive topics like terror attacks. The result was the formation of the Self-Regulation Guidelines for the Broadcasting Sector (Draft) 2008. The Indian Broadcasting Foundation (IBF) recently announced that it has taken up and approved these guidelines, with suitable modifications for non-news channels, including general entertainment, children, and special interest channels. However the News Broadcasters Association (NBA) has its own mechanism, which appears to be more independent in nature, and does not involve the government in regulation.

Rather than an ad-hoc approach, the industry needs to undertake a systematic and motivated approach to self-regulation. The government can suggest effective ways in which broadcasters, especially those who broadcast news and current affairs, can be accountable to the public, and face penalties if found violating their own guidelines. However, the current trend of government being the final tier of self-regulation is not only contradictory to, but also counterproductive for, the industry as well as freedom of speech and expression more generally.

Internet – the need for enabling environment, encourage freedom of expression

The new media legislation, concerning the internet, and indirectly the mobile phone, falls under the Information Technology Act 2000 and its subsequent amendments over the coming years. The IT (Amendment) Act 2008 widened the scope of the original IT Act by including communication devices, wireless, satellite and "any other device used to communicate, send or transmit any text, video, audio or..."
The 2011 Amendments published by the Department of Information Technology (DIT) have also witnessed objections from sections of the public. Most contentious are the Information Technology (Guidelines for Cyber Cafe) Rules 2011, Information Technology (Intermediaries Guidelines) Rules 2011, and Information Technology (reasonable security practices and procedures and sensitive personal data or information) Rules 2011. The Due Diligence Rules in particular have been a matter of concern and has featured in media reports and debates. The IT Act and its amendments, by nature of the vague and broad wording, hold the power to curb freedom of expression on the internet. Due to the nature of convergence, in particular with mobile telephony, this legislation has the power to negatively impact even more people. Thus, the government needs to hold immediate public consultations with diverse communities, such as constitutional experts, lawyers, civil society, bloggers, online service providers such as Google, banks and other traditional businesses who have an online presence. An inclusive approach could allow the authorities to have a sensitive and enabling regulatory framework, not just for a nascent but an active sector, which would support the next million users who will access the internet on their mobile devices.

When Google began reporting government requests for data and content removal in early 2010, India ranked third in the world for removal requests and fourth for data requests. Between July 1, 2009 and December 31, 2009, India had submitted 142 removal requests. 77.5 per cent of these were fully or partially complied with. The requests related to the Blogger blog-hosting service, Book Search, Geo, SMS channels, web searches and especially Orkut. In one case that gained international attention, Google in September 2009 took down an Orkut group on which users had reportedly posted offensive comments about the chief minister of Andhra Pradesh, YSR, who had been killed in a helicopter crash a few days earlier. Indian officials were seemingly concerned that the comments could spark communal violence.

Although on the whole, the media still enjoys considerable freedom of expression in letter and in spirit, the whole nature of digital communications seems to bring about a change in the inherent nature of the regulatory framework. The possibilities of the internet, globally proven, along with the wide access the Indian people can have to it, vis-à-vis mobile telephony, present an opportunity for the Indian

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government to promote democratisation of governance and bring about transparency, rather than adopting a controlling framework which is opposed to the freedom of speech and expression, enshrined in the Indian constitution.

8.5. Scope for Change

Overall, the media scenario in India is promising, with growth across all sectors. With more than 800 million wireless subscribers in India, mobile telephony is one of the fastest growing markets in the world. As a technological innovation or a medium, it has the power to bring equitable access to all sections of the society, in terms of producing, distributing and consuming media content of their choice. Broadband internet is particularly slow in India, with only 10 to 12 per cent of the population registered as users. The quickest and most feasible way to bridge this gap will be through wireless technologies, which means more spectrum needs to be allotted to equitable broadband access, either through BWA (Wi-Max) or through mobile telephony (3G or 4G). Community radio is an emerging sector in India and must be encouraged at all levels. Community video or other forms of community media can also be opened up by the government to promote freedom of expression. Lastly, given the potential of digital communications and inherent possibilities for innovation by human rights groups and activists, the new media technologies such as internet and mobile phone should be regulated in accordance with principles of necessity and proportionality, whereby an enabling environment for democratisation and social and economic emancipation of its people are primary objectives.

Regulatory and policy issues

- **Autonomy for the public broadcasting sector could be made effective by ending the culture of political appointments.** At the same time, the programme and technical personnel needs to be resized in accordance with actual needs, and future appointments based on merit and expertise in the sector.

- **The prohibition on original news and current affairs for community radio needs to be lifted.** At the same time, licensing procedure could be simplified and expedited.

- **Spectrum planning should be made into a more transparent process, with the government publishing all spectrum allocation in an easily understandable manner, as open data, since this information is in the public interest.**

- **The recent amendments to the IT Act, particularly the notified rules published in April 2011, including due diligence for intermediaries, could be subject to intense public consultation, particularly with direct online users as well as other affected stakeholders.**

- **Future regulation and policy relating to digital communications should be identified in accordance with the recommendations of the special rapporteur on freedom of expression and opinion in the Human Rights Council.** This would mean that when a restriction is imposed as an exceptional measure on online content, it must pass a three-part cumulative test: (1) it must be provided by law, which is clear and accessible to everyone (principles of predictability and transparency); (2) it must pursue one of the purposes set out in article 19, paragraph 3 of the International Covenant on civil and political rights, namely (i) to protect the rights or reputations of others; (ii) to protect...
national security or public order, or public health or morals (principles of legitimacy); and (3) it must be proven as necessary and apply the least restrictive means required to achieve the purported aim (principles of necessity and proportionality).\(^1\)

- In 2010, India is ranked 122\(^{nd}\) on the list of press freedom provided by Reporters Without Borders. The country has dropped 17 places since 2009. Overall, rules governing the internet and journalists harassed locally (government officials, police, underworld etc.) do not bode well for press freedom. More emphasis should be given on the health of the freedom of the press, in terms of legislation and security and/or support from the state for the press\(^1\).

**Need for further research, capacity building and consultation**

- The public broadcaster’s programming, both at the national and regional level, could be studied and put to a rigorous test of public interest, followed by series of public consultations to devise strategies on how to address gaps and shortcomings.

- The relationship between the media companies and their investors needs further research, to understand the extent and nature of how financialisation impacts content of private broadcasters. This research could be followed up by consultation and subsequent regulation on appropriate caps on FDI, cross-media ownership and vertical integration.

- Digitisation will affect millions of media viewers at multiple levels. It could remove access to television, but on the other hand, create affordable internet access for many others. This debate on spectrum planning and allocation could be held through inclusive consultation with segments of stakeholders from various parts of the country, before any sunset clause is decided.

- There is need for further research on how the phenomenon of political parties or personalities having direct or indirect links to media companies, such as television channels, distribution networks, telecom companies etc. and how this affects content and access to various consumers.

- Terrestrial television is used only by public the broadcaster, with a chance of remaining spectrum going to telecom companies and ISPs for providing 4G and BWA services. However, there needs to be research and consultation around how some white space in this terrestrial television spectrum could lead to high speed internet access in rural areas, particularly hilly, remote and marginalised areas, where telecom companies have failed to reach despite roll out obligations.
Two main elements that have influenced media in Indonesia since the reformasi in May 1998 are the return of freedom of expression to Indonesian society and the infringement of the market economy on media development. The rejection of the former authoritarian rule of the Suharto regime by Indonesian society was profound. It led to mass support for the concept of political and economic reform, minimising the roles of the state and allowing free market forces to preside over society and the media. This was the socio-political climate in which the privatisation of entire industries, including media, took place. As a consequence, in the last decade since the end of Suharto’s centralised media regime, the media sector has not only undergone a “democratisation” process, but has expanded rapidly and has given way to increasing corporatisation. Meanwhile, digital technologies and converged platforms are making media more ubiquitous. They also offer tremendous opportunities to re-shape the media landscape, especially in the political and cultural spheres. Any discussion on media access and rights in Indonesia needs to be viewed against this backdrop.

9.1. Access/Accessibility

Like most countries, in Indonesia, a country with a population of around 238 million, citizens access the information mostly through the media—including print, television, radio, and, more recently, the internet. In general, television still dominates the media landscape in Indonesia. Over 90 per cent of Indonesians count watching television as one of their main social and cultural activities. Listening to the radio, however, is a waning practice in Indonesia. Only 23.5 per cent of the population listen to the radio; a decline from over 50 per cent in 2003. Meanwhile, only 18.9 per cent of the population are newspaper readers and this is also in decline. But at the same time, accessing the internet, a relatively new activity, has grown popular among the urban middle class population.
Table 6: Percentage of population and media related activities

<table>
<thead>
<tr>
<th>Activity</th>
<th>2003 (%)</th>
<th>2006 (%)</th>
<th>2009 (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Listening to Radio</td>
<td>50.29</td>
<td>40.26</td>
<td>23.50</td>
</tr>
<tr>
<td>Watching Television</td>
<td>84.94</td>
<td>85.86</td>
<td>90.27</td>
</tr>
<tr>
<td>Reading Newspapers</td>
<td>23.70</td>
<td>23.46</td>
<td>18.94</td>
</tr>
</tbody>
</table>

Table 7: Percentage weekly media use frequency for news (2009)

<table>
<thead>
<tr>
<th>Media</th>
<th>2006 (%)</th>
<th>2007 (%)</th>
<th>2009 (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Television</td>
<td>95</td>
<td>97</td>
<td>97</td>
</tr>
<tr>
<td>Radio</td>
<td>50</td>
<td>44</td>
<td>35</td>
</tr>
<tr>
<td>Newspaper</td>
<td>22</td>
<td>17</td>
<td>16</td>
</tr>
<tr>
<td>Internet/Online</td>
<td>2</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>SMS</td>
<td>6</td>
<td>5</td>
<td>9</td>
</tr>
</tbody>
</table>

Table 8: Main sources of political information (2009)

<table>
<thead>
<tr>
<th>Media</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Television</td>
<td>82</td>
</tr>
<tr>
<td>Radio</td>
<td>26</td>
</tr>
<tr>
<td>Newspaper</td>
<td>23</td>
</tr>
<tr>
<td>Internet</td>
<td>4</td>
</tr>
</tbody>
</table>

Television: closing the urban-rural divide
The number of households with a television set has increased from 54 per cent, in 2000, to 65 per cent in 2007. In 2010, 91 per cent of the total population had access to television. While there is a slight disparity of access between urban (96 per cent) and rural (88 per cent) populations, television has successfully made its way to almost every Indonesian living room. Television also maintains its position as the most important source of news, as shown in Table 8. A comparable survey, focusing on political information, also yields similar results.

Generally, accessing television is no longer a problem for regular Indonesians. But that does not imply that television serves various populations equally. Despite the 88 per cent coverage of rural access

384 InterMedia, 2010.
385 Ibid
areas, most of these viewers can only watch the state owned television - Televisi Republik Indonesia (TVRI) - as other stations do not reach these areas.

Subscription-based cable and satellite television services are growing very slowly. In 2009 almost 15 per cent of Indonesian households had satellite television. In the same year, overall household cable access was at three per cent and it only experienced very modest growth in rural areas with less than one per cent.\textsuperscript{386}

Radio: urban decline, rural rise
Although radio broadcasts themselves are highly accessible from most places in Indonesia, household radio ownership has been in decline since 2006. In December 2006, two thirds of households had at least one radio. In April 2009, this had reduced to half of households.\textsuperscript{387} The most severe drop in radio ownership in the past year has occurred in urban areas, from 72 per cent in late 2007 to 58 per cent in early 2009.\textsuperscript{388} In spite of its obvious down-turn, radio still comes second after television as a source of news (Table 8), as well as for information about day-to-day politics. But only one per cent of Indonesians mentioned a radio station when asked about their most important source of news.\textsuperscript{389}

Despite this trend, some segments of society still view radio as an attractive alternative compared to the poor quality of television news reporting which occurs in Indonesia.\textsuperscript{390} Indeed, in contrast to those living in urban areas, Indonesians in remote and/or border areas state that radio is their only source of information and entertainment. The availability of the state-owned radio station - Radio Republik Indonesia (RRI) - in those areas contributes to this. As an example, in Ende, Nusa Tenggara Timur, 85 per cent of the population listens to RRI. And in Bangka-Belitung islands, this is 90 per cent of over 1.2 million residents.\textsuperscript{391} While 85 per cent of Indonesian areas reachable by radio broadcast seems to be a high percentage, more than 40,000 villages are actually left without access to radio.\textsuperscript{392} Over 700 community radio stations have emerged across archipelago to fill the gaps in access and content disparities.\textsuperscript{393}

Print: limited reach and Jakarta oriented

\textsuperscript{386} Ib id
\textsuperscript{387} Ib id
\textsuperscript{388} Ib id
\textsuperscript{389} Ib id
\textsuperscript{390} Santoso cited in Wagstaff, 2010, p.39
\textsuperscript{393} Usodo, 2006 in Birowo, 2006, p.10.
Only 20 per cent of Indonesians read newspapers (Table 6 and Table 7), making them the third most popular medium after television and radio. Only 2 per cent of respondents, however, referred to newspaper as their most important source of news. Compared to television and radio, print media has a far more limited reach. The number of print media organisations has grown significantly since the 1998 reformasi, but overall circulation and readership has not increased at the same rate. In 1997, with only 289 print media outlets, circulation reached 14.4 million copies. Meanwhile in 2010, when the number of print media outlets had quadrupled to 1,076, circulation only increased to 21.5 million copies. Of these, over 60 per cent were circulated in Jakarta. Print media is accessible all over the country, but numbers of available prints and their circulations are highly unequal. The numbers are exceptionally low in Eastern part of Indonesia. For instance, Papua has only 45,000 copies daily, West Sulawesi 15,500, and Gorontalo 10,800.

Internet: urban middle class consumption

<table>
<thead>
<tr>
<th>Table 9: ICT profile (2008-2010)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
<tr>
<td>No. of internet users (‘000)</td>
</tr>
<tr>
<td>No. of broadband internet subscribers (‘000)</td>
</tr>
<tr>
<td>Percentage mobile broadband subscribers</td>
</tr>
<tr>
<td>Percentage of fixed telephone subscribers</td>
</tr>
<tr>
<td>Percentage of prepaid mobile phone</td>
</tr>
<tr>
<td>Percentage of regular mobile phone subscribers</td>
</tr>
<tr>
<td>No. of mobile phone penetration (‘000)</td>
</tr>
</tbody>
</table>

In June 2010, the number of Indonesian internet users had reached 45 million. This is approximately 18.5 per cent of the total population, and is a dramatic increase from only 0.26 per cent in 1998. The number of broadband internet connections has more than doubled since 2008, but remains prohibitively expensive or otherwise unavailable to many Indonesians. Given Indonesia’s archipelagic geography, cable infrastructure has been costly and is mostly confined to urban areas, particularly in Java and Bali. Another factor contributing to the low use of ICTs is the limited knowledge and use of English. Indonesians use Indonesian, the national language, at work and school as well as in daily

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394 AJI, 2010. Ancaman Itu Datang dari Dalam, annual report of Alliance of Independent Journalist, Jakarta, p 51
395 AJI, 2010. Ancaman Itu Datang dari Dalam, annual report of Alliance of Independent Journalist, Jakarta, p 52
396 Compiled by Lim from various sources: ITU, APJII, BMI, ConsumerLab Infocom, Postel.
conversations, while other local dialects and languages are still very important in certain areas. As such the ability to use the internet is limited.

Since most Indonesians have no access to fixed telephones, computers or the internet, and because they cannot afford to own these facilities or pay to use these services (even when access is available), internet cafés, or warnets, have become extremely successful. Warnets provide relatively affordable access, ranging from as low as USD 0.1-2 (depending on the location) per hour any time of day. Currently, there are about 5,000 warnets in Indonesia and 64 per cent of internet users (65 per cent in urban and 63 per cent in rural) gain their internet access from these outfits.\(^{400}\) In addition to warnet, there is also RT/RW-Net. RT/RW-Net is a neighbourhood internet network using wireless technology, an initiative proposed and started by Onno Purbo and his groups in 2004.\(^{401}\) The monthly subscription fee is approximately USD 35-40 plus a start-up fee of USD 50. While there is no data on definite numbers of RT/RW networks neighbourhood networks are likely to continue growing, considering the limited progress government and big corporations have made in providing affordable internet, especially in semi-urban and rural areas.

- **Online media:** With the relatively small internet population, online media is still a minor source of information (Table 7). Accessing online news, however, has become one of the most dominant online activities of Indonesian users. The most popular local news sites are Detik.com, followed by Kompas.com, Vivanews.com and Okezone.com. The most popular websites among Indonesians, however, are global rather than local sites such as Facebook, Google, and Blogger.com.\(^{402}\) Among the top 50 sites, only 19 are local and 31 are global.\(^{403}\)

- **Blogging:** The number of people blogging has exploded in recent years. In 2007, the estimated number of bloggers in Indonesia was around 150,000.\(^{404}\) The most recent source records over five millions blogs in 2011.\(^{405}\)

- **Social media—Facebook and Twitter:** Despite its reasonably low number of internet subscribers, Indonesia has witnessed a rapid growth in social media usage. Facebook is tremendously popular among Indonesian internet users. In June 2011, the total number of Facebook users in Indonesia reached over 38 million making it the second largest nation on

\(^{400}\) InterMedia, 2010.
\(^{401}\) Interview with Onno Purbo, November 2006.
\(^{403}\) Ibid
Facebook in the world, exceeded only by the United States.\textsuperscript{406} Twitter is also increasingly popular. In August 2010, 20 per cent of the 93 million people who visited Twitter came from Indonesia.\textsuperscript{407} Social media users are concentrated in urban areas with over 60 per cent of traffic coming from big cities such as Jakarta, Bandung, Medan, Yogyakarta, Surabaya, and Semarang.\textsuperscript{408} This is reflective of the broader pattern of technological dependency in Indonesia.

\textbf{Gender and age disparities}

\textit{Figure 21: Male-female ratio of Facebook users} \textsuperscript{409}

\textit{Figure 22: Age distribution of Facebook users} \textsuperscript{410}

Despite the growth of internet and social media users, gender and age disparities persist. These are reflected in the demographic of Indonesian Facebook users, where in 2011, 60 per cent of the users are male and 40 per cent female (Figure 21). Users are predominantly 18-34 years old (62 per cent) with only 2 per cent over the age of 55 (Figure 22). These statistics reflect gender/age disparities in access to the internet more generally. Similar disparities are found with mobile web users: 53 per cent are 18-27 years and 82 per cent are male.\textsuperscript{411}

\textbf{Mobile phone as a platform of convergence}

Mobile telephony continues to be the most popular new technology in Indonesia. In 2010, there were approximately 211 million mobile phone users (over 88 per cent) (Table 9). “Mobile telephone ownership is much more widespread and is expanding more rapidly than computer ownership and internet subscriptions”\textsuperscript{412}. Encouraging is the fact that “the urban-rural divide in mobile telephone

\begin{thebibliography}{10}
\bibitem{408} SalingSilang, 2011
\bibitem{409} Socialbakers.com, 2011
\bibitem{410} ibid
\bibitem{412} Intermedia, 2010
\end{thebibliography}
ownership is slowly closing”. In 2009, “mobile phone ownership at the household level in rural areas grew from 24 per cent to 45 per cent in roughly one year”. "69 per cent of urban households have at least one mobile phone”. The growth of internet access via mobile phones has been a positive development, and is down to the relatively affordable prices as well as the lower infrastructure costs compared to cable broadband. The boom in mobile phones as a means of social networking has been apparent. In 2011, 87 per cent of the users accessed Twitter from mobile devices.

Telecom infrastructure: rural neglect, non-transparent spectrum allocation

The telecom sector has been one of the fastest growing sectors in the country, with over 200 million wireless subscribers. However, certain aspects of spectrum allocation, vertical integration, and neglect of marginalised communities by telecom service providers, especially in rural locations, remain areas of concern.

*Figure 23: Percentage teledensity of the telephony system (2006-2010)*

Rural areas lack access to even the most basic telecom infrastructure. Of the nearly 67,000 villages across Indonesia, almost 65 per cent remain unwired and 19 million households (40 per cent of the

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413 Ibid
414 Ibid
415 Ibid
416 SalingSilang, 2011
417 Source: Ditjen Postel, 2010.
population) have no electricity service.\textsuperscript{419} Telecom penetration shows a significant gap between urban and rural areas (Figure 24).

Figure 24: Penetration map of telecom in rural and urban area of Indonesia (2010)\textsuperscript{420}

“To develop access communication in remote and isolated areas”, operators are “obliged to pay an USO distribution of 0.75% of their annual revenues”. But “this contribution is considered too small” and “there is a concern over government transparency in managing this USO fund”.\textsuperscript{421} The existing regulations regarding telecom access provision allows for vertical integration (e.g. PTSN - long distance and international calls - duopoly) and makes it hard to control anti-competition practices.\textsuperscript{422} Meanwhile, the current licensing process for spectrum allocation lacks clarity and transparency and is suspected to be “corrupt, involving collusion and nepotism”.\textsuperscript{423}

9.2. Media and Public Interest Communication

\textsuperscript{422} Rasyid, 2005, p.74
\textsuperscript{423} Rasyid, 2005, p.72
The demise of the Suharto era in 1998 produced several positive developments in media democratisation. The Department of Information—led by infamous Minister Harmoko—was abandoned, followed by several major deregulations that changed the media landscape dramatically. From 1998 to 2002, over 1,200 new print media, more than 900 new commercial radio and 5 new commercial television licenses were issued. Over the years, however, Indonesian media has been “back to business”. Corporate interests have taken over and dominate the current Indonesian media landscape.

9.2.1. Media Ownership

As the media environment is dominated by a small number of large corporations—some of which have obvious political connections—the Indonesian public does not receive an adequate quality or quantity of news and is exposed to the viewpoints and opinions of only a few. This concentration of ownership also leads to a disproportional political control by the media, the public’s decreasing access to important information, and the under-representation of certain groups in the media.

The map of media ownership in Indonesia (Table 10: 10) shows that 12 media groups have control over 100 per cent of national commercial television shares; five out of six most circulated newspapers; three out of four most popular online news media; a majority of Jakarta-flagship entertainment radio networks; and a significant portion of the major local television networks. Additionally, some of these groups also control of digital pay-television services and media related businesses, such as telecommunications, information technology, and content production and distribution.

Television: the concentration of ownership
Currently six groups own ten private national television networks that operate in competition with the state-owned TVRI. This concentration of ownership of television in Indonesia is a result of several mergers (Table 11).

On a regional/local level, ownership is less concentrated. The last five years have seen the growth of local television stations. However, the audience share of local television is very modest compared to national television. It increased from an average of 2.1 per cent in 2005 to 3.2 per cent of the total audience share in 2008. The trend, however, went down to 2.5 per cent in 2010. Of more than 100 local television stations, TVRI still has 27 stations spread in 27 provinces. The rest are owned by at least ten other local television networks.

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425 Bagdikian, B.H. 1997, pp.44-47
Table 10: Indonesian media conglomerates

<table>
<thead>
<tr>
<th>Media Group</th>
<th>Group Leader</th>
<th>Television stations</th>
<th>Radio stations</th>
<th>Print</th>
<th>Online media</th>
<th>Other businesses</th>
</tr>
</thead>
<tbody>
<tr>
<td>Media Nusantara Citra (MNC) Group</td>
<td>Hary Tanoesoedibjo</td>
<td>RCTI, Global TV, MNCTV (ex TPI)</td>
<td>Indovision, Sky Vision, SunTV Network (13 local stations)</td>
<td>Trijaya FM, Radio Dangdut, ARH Global Radio</td>
<td>Seputar Indonesia (Koran Sindo)</td>
<td>Okezone</td>
</tr>
<tr>
<td>Mahaka Media Group</td>
<td>Erick Tohir</td>
<td>TVOne</td>
<td>Jak TV, Alif TV</td>
<td>Radio JakFM</td>
<td>Republika, Harian Indonesia (in Mandarin)</td>
<td>Republika Online</td>
</tr>
<tr>
<td>Kompas Gramedia Group</td>
<td>Jakob Oetama, Agung Adiprasetyo</td>
<td>—</td>
<td>Currently build Kompas TV network</td>
<td>Sonora Radio &amp; Otomotion Radio</td>
<td>Kompas, Jakarta Post, Warta Kota, + other 11 local papers</td>
<td>Kompas Media</td>
</tr>
<tr>
<td>Jawa Pos Group</td>
<td>Dahlan Iskan</td>
<td>—</td>
<td>JTV, BatamTV, RiauTV, FajarTV + others (total: 12)</td>
<td>Fajar FM (Makassar)</td>
<td>Jawa Pos, Indo Pos Rakyat, Merdeka, Radar + others (total: 151)</td>
<td>Jawa Pos Digital Edition</td>
</tr>
<tr>
<td>Media Bali Post Group (KMB)</td>
<td>Satria Narada</td>
<td>—</td>
<td>Bali TV + other local stations (total: 9)</td>
<td>Global Kini Jani, Genta FM + others (total: 7)</td>
<td>Bali Post, Bisnis Bali, Suluh Indonesia, Harian Denpost, &amp; Suara NTB</td>
<td>Bali Post, Bisnis Bali</td>
</tr>
<tr>
<td>Elang Mahkota Teknologi</td>
<td>Eddy Kusnadi Sariaatmadja</td>
<td>SCTV, Indosiar</td>
<td>O’Channel, ElShinta TV</td>
<td>Elshinta FM</td>
<td>Elshinta, Story, Mamamia</td>
<td>—</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>(EMTEK) Group</th>
<th>James Riady</th>
<th>First Media</th>
<th>Jakarta Globe, Investor Daily, Suara Pembaruan</th>
<th>Investor, Globe Asia, Campus Asia magazines</th>
<th>Jakarta Globe Online</th>
<th>Property, hospital, education, insurance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lippo Group</td>
<td>Anindya Bakrie</td>
<td>antv, TVOne</td>
<td>Channel [V]</td>
<td>—</td>
<td>VIVAnews</td>
<td>Telecommunications, property, metal, oil &amp; gas, agribusiness, coal, physical infrastructure</td>
</tr>
<tr>
<td>Bakrie &amp; Brothers</td>
<td>Pia Alisyahbana, Mirta Kartohadiprodjo</td>
<td>—</td>
<td>U-FM Jakarta &amp; Bandung</td>
<td>—</td>
<td>Femina, Gadis, Dewi, Ayahbunda + others (total: 15)</td>
<td>Production house, event management, boutique, education, printing</td>
</tr>
<tr>
<td>Femina Group</td>
<td>Surya Paloh</td>
<td>Metro TV</td>
<td>—</td>
<td>Media Indonesia, Lampung Post, BorneoNews</td>
<td>—</td>
<td>Media Indonesia</td>
</tr>
<tr>
<td>Media Group</td>
<td>Dian Muljani Soedarjo</td>
<td>—</td>
<td>Cosmopolitan FM, Hard Rock FM, I-Radio, Trax FM</td>
<td>Cosmopolitan, Cosmogirl, Fitness + others (total: 16)</td>
<td>—</td>
<td>Holder of several international boutique brands</td>
</tr>
<tr>
<td>Mugi Reka Aditama (MRA) Group</td>
<td>Chairul Tanjung</td>
<td>Trans TV, Trans 7</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>Banking, venture capital, insurance, theme parks, resort, retail, cinema</td>
</tr>
</tbody>
</table>
Radio: growing independent/community radios

In general, radio ownership is more diverse compared to television. Of the estimated 2,800 radio stations in the country around 700 are community radio stations. Radio Republik Indonesia (RRI), the state radio network, has 64 stations.\(^\text{429}\)

The country’s largest radio network is KBR68H, a quality citizen journalism radio. Founded as a news agency in 1999, KBR68H was created as part of the civil society response to the “transition to democracy”. In one decade, the radio news agency has expanded rapidly, becoming a network that reaches 625 stations\(^\text{430}\) with an estimated 18 million listeners, and is available in ten countries in Asia and Australia.

Commercial radio networks are on the rise with the expansion of Jakarta-based and out-of-Jakarta regional networks. There are also an increasing number of commercial networks owned by conglomerates. Yet the investment of big media players tends to be concentrated in big cities such as Jakarta, Bandung, and Surabaya, leaving the rest of the country to smaller independent stations, including hundreds of community radios that populate small towns and rural areas.

Print media: domination of two players

The post-Suharto euphoria and an easing of press restrictions catapulted the number of print media from 289 in early 1999 to 1,881 in 2001.\(^\text{431}\) The euphoria, however, did not last long. Market realities

\(^{428}\) Modified from an original source (AGB Nielsen, 2007) using data from Lim’s research (+ reflected changes)

\(^{429}\) Marsono, 2009

\(^{430}\) KBR68H, 2011

\(^{431}\) Piper, T., 2009. Don’t Shoot the Messenger: Policy Challenges Facing the Indonesian Media p.3
pushed some to go out of business soon after they were established. At the end of 2010, there were just 1,076 print media in operation.\textsuperscript{432}

\textit{Figure 25: 2010 daily circulation of major newspapers in Indonesia} \textsuperscript{433}

Currently, there are two dominant players in the sector. First, is the largest media conglomerate in Indonesia, Kompas Gramedia Group. Its chief outlet, the morning newspaper \textit{Kompas} is Indonesia’s most prestigious daily and the largest “quality” newspaper in Southeast Asia. This newspaper consistently earns more than a quarter of the nation’s newspaper advertising revenue. Second is Jawa Pos Group, well known for its \textit{Jawa Pos} daily. \textit{Jawa Pos} is the nation’s second most read daily. Jawa Pos Group concentrates almost exclusively on provincial markets, with 151 newspapers distributed in more than 20 provinces. The rest of the newspaper market is divided between other media conglomerates, small companies, and \textit{Koran Tempo}. With a daily circulation of 240,000 copies, \textit{Koran Tempo} is the only non-conglomerate-owned newspaper surviving the competition against big players.

\textbf{Online media: diverse with high concentration of global media}

The web has become the largest information source with most of the content provided by millions of Indonesian citizens. One might expect online media to have less concentrated ownership. In reality, the vast plethora of web content has not translated into diversity in terms of what users see or access. On the contrary, despite the vast amount of content, the structure of the web leads to a staggering and unexpected degree of concentration.

Global companies, such as Facebook and Google, dominate as the most visited websites.\textsuperscript{434} The outliers are Kaskus.us, Indonesia’s very own community forum and Detik.com, the largest local online content provider.\textsuperscript{435}

\textsuperscript{432} SPS, 2011.

\textsuperscript{433} Compiled from various sources, including: \url{http://kompas.co.id}, \url{http://id.wikipedia.org}.

\textsuperscript{434} Alexa, 2011.

\textsuperscript{435} Alexa, 2011.
Although no one disputes the lengthening of “the tail”—clearly more blogs are being created every day—“the tail” is extremely flat and is populated by content that originates from, is driven by, or communicates with those in “the head”. Even the number one blogger site IndonesiaMatters.com shares only less than 1.5 per cent of Detik.com’s daily and monthly visitors.

Figure 26: Distribution of Indonesian online media audiences (visitors)\(^{436}\)

9.2.2. Production and Content

The concentration of media ownership and the networked media business model (i.e. a small number of production houses supply most of the programmes) lead to a homogeneity of available content. Various alternative media have emerged—community radios and televisions, independent online content providers, individual blogs, but they are still a long way from being far-reaching.

Television: the domination of urban entertainment

The majority of the content (60 – 80 percent) on national commercial televisions stations is entertainment, in the forms of soap operas, movies, infotainment and reality shows. The goal of

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\(^{436}\) Source: Lim’s research (data from 8 July 2011). The figure includes top 10 Indonesian content websites/portals (excluding subsidiaries of detik.com such as detikhot.com, detiknews.com, and detikspot.com) and 10 top Indonesian bloggers (excluding those who use blogspot.com and wordpress.com)
commercial stations is generally to set the benchmarks for the industry and, thus, frame their programmes for the entertainment-seeking, urban, lower-upper and upper-middle classes. In January 2011, three out of the ten most watched programmes were soap operas. These programmes counted for only ten per cent of the total broadcast time (6,072 hours). However, viewers spent nearly a third of their watching time (29 per cent of the 73 hours) watching them.

Several national television stations devoted to news deliver well-packaged and up-to-date news programmes. However, news programmes are mostly tailored with an inclination to sensationalise the events rather than to provide accurate information. Narratives of the poor, the marginalised, and the lower class are often ignored. When they appear on the screen, they are treated merely as objects.

Radio: promise of diversity

Due to its diverse ownership, the radio sector carries more diversity in content and targets more varied audiences than television. Commercial radio stations populating urban areas are commonly focused on entertainment programmes, particularly music. Of non-entertainment content, there are a number of news and public journalism radio stations in Indonesia, including the network of Radio KBR68H news agency. Community radio is at the forefront, challenging the lack of content diversity by producing and delivering content close to the realities of the communities that they serve, using participatory models of production.

Print: varied but not plural

Print media is at the very heart of the Indonesian content landscape, especially in terms of news production. As a rule of thumb, newspaper readers are far more critical and more active politically than their electronic counterparts. The combination of this and the domination of the newspaper industry by veteran publishers such as Kompas, Jawa Pos, and Tempo make newspaper content in Indonesia much higher quality than other media. While recognising the negative elements of their domination, these three publishers together produce adequate information at the national and provincial levels, as well as with investigative journalism. These print media together also provide “balance” (Kompas), and “aggressive” (Jawa Pos) and “investigative” (Tempo) reporting in Indonesia.

Post-authoritarian development has also witnessed a variety of viewpoints, something that did not exist prior to 1998. Islamic publishing alone represents a wide spectrum of viewpoints. While the Jakarta newspaper Republika is assertively modernist, Media Dakwah makes clear its campaign for an Islamic state. However, viewpoints of marginalised groups are not represented. These groups only appear when they are involved in conflicts, scandals, or other “sensational” events, often with inaccurate portrayals. The Ahmadsis (Ahmadiyah), for example, were never covered until they were violently attacked by the radicals. Even then they still did not receive fair coverage. Media also rarely

437 AGB Nielsen, 2011
438 AGB Nielsen, 2011
439 AGB Nielsen, 2011
441 Yoder, 2009
recognises the diversity of sexual orientation; homosexuality is often portrayed negatively as sexually abnormal or deviant behaviour.

**Online media: many voices but which are heard?**

With the proliferation of blogging, Facebook and Twitter in Indonesia, alternative content is on the rise as content production is no longer the monopoly of the powerful elites. Anybody can tweet, blog, and post on Facebook. The question is, when there are many voices, which ones are heard?

*Figure 27: Trending topics in Indonesian Twitter (March 2011)*

The distribution of audiences in the Indonesian online environment is extremely skewed. Even though there are over five million Indonesian bloggers, posting approximately 1.2 million new items daily, the average blogger has almost no political influence, as measured by traffic or hyperlinks. Moreover, social media usage in Indonesia is still the enterprise of urban elites. The majority of content also represents usage: opinions, expressions, and stories of urban middle class culture, lifestyle and problems. Among the 539 known Indonesian Facebook groups, 193 are about brands, product, services and companies; 188 about media, entertainment and celebrities; and only 66 are to do with campaigns, movements, activities and public information. This reflects the urban middle class preferences and choices.

A similar tendency is also found on Twitter. As the third largest tweet producer after Brazil and USA, Indonesia produces around 15 per cent of all tweets globally. With about eight tweets per account, Indonesians produce a vast amount of content. Still, little of this is devoted to topics other than those reflecting the urban lifestyle and/or driven by mainstream media (Figure 27 – Note the prevalence of English terms here). Tweets reflecting true social and political concerns do exist, but they are usually issue or event driven, propelled by mainstream media, and are short lived.

By and large, the subject matter of Indonesian online media very much mimics the taste and the bias of mainstream media. This is due to content dependency, where mainstream media steers the direction of discourses in other media, including in alternative, online media. Figure 28 illustrates how this bias is reflected in the blogosphere. Among 80 blogs with social and political concerns,

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442 SalingSilang.com, 2011
443 Ibid
444 Ibid
445 Ibid
issues on marginalised communities - such as Lapindo⁴⁴⁶ and Ahmadiyah⁴⁴⁷ - get minimum coverage. Issues closer to the middle-upper class interests—highly propagated by mainstream media—receive much higher coverage. The porn scandal of Indonesian artists Ariel and Luna Maya was picked up in discussions from July 2009 to March 2011, while a deadly attack on Ahmadiyah members was hardly discussed.

Figure 28: Popularity of issues in the top 80 Indonesian blogs⁴⁴⁸

Apart from these problems, social media does provide space for Indonesians to communicate and express themselves in a way unimaginable before. In the last couple years, there has been an emergence of community blogs focusing on important issues and concerns in Indonesian society such as politikana.com, obrolanlangsatal.com, savejkt.org, and akademiberbagi.org. Despite their inherent middle-class oriented tendency, the formation of these communities and other initiatives can be seen as a step towards diversity and pluralism of content in the online Indonesia.

9.3. Advancing Human Rights and Social Justice through Digital Communications

In the midst of the commercialisation of media, digital media and communications provide a novel sphere where alternative content and information can be created and disseminated. The availability of communication technologies has presented Indonesian society with new ways of becoming more conscious about human rights and related issues, particularly the right to freedom of expression.

⁴⁴⁸ Lim’s Blogtrackers research
Digital media also has provided human rights activists with new tools for monitoring, defending, and advancing human rights and social justice.

**Web 1.0 mobilisation**
Past events in the history of Indonesia provide ample evidence that the internet is indeed a “convivial medium” not only for Indonesians to express themselves, communicate and exchange ideas, but also to provide a socio-political affordance for human agency to flourish. It can go even further to act as “cyber-civic space” in which civil society generates collective actions online, and translate these online actions into real-world movements. During the authoritarian era under Suharto, the internet provided a much more democratic media environment compared to traditional media such. The political history of the 1990s shows how the substantially unregulated internet contributed to the civil society movements that led to the downfall of Suharto’s authoritarian regime.

**Web 2.0 mobilisation**
In today’s more open political climate, the internet, particularly social media, continues to be the popular medium and tool for Indonesian urbanites to exercise their freedom of expression and their rights to participate in political decision-making. It is also a medium for them to mobilise themselves around rights, challenging perceived injustices, and to support the “weak” members of society. This is exemplified by the use of blogs, Facebook, and Twitter to mobilise mass movements, such as:

- **Coin for Prita:** In 2009, through an online campaign using blogs and Facebook, hundreds of thousands of Indonesians were mobilised to collect 500 Rupiah coins (equivalent to 6 US cents) to help Prita Mulyasari. In this way they paid the RP 204 million (USD 22,000) fine applied by the court for a defamation suit. This suit was a reaction to an e-mail complaint sent by Prita Mulyasari, 32-year-old mother of two, to her friends and relatives about the bad service she received at the hospital. The hospital sued her and she was held to have violated the Information and Electronic Transaction Law (dealt with in more detail in the following section).

- **One Million Support for Bibit-Chandra:** In 2009, Facebook was used to mobilise public protests against the perceived injustice done by the government towards Bibit and Chandra, members of the Corruption Eradication Committee.

- **“Coin Love for Bilqis”:** Modelled on Coin for Prita, this movement was designed to help a 17-month old Bilqis Pasya who suffered from a life-threatening liver problem. Using social media, the movement successfully collected nearly RP 900 million (USD 96,300) to finance Bilqis’ liver transplant.

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450 Lim, M., 2004. The Polarization of Identity through the Internet and the Struggle for Democracy in Indonesia, Electronic Journal of Communication, 14(3-4)


453 Lim, 2002


The limits of online mobilisation

To a certain degree, the emergence of citizen journalism and reporting through social media has provided a mechanism to uncover social and political injustices that otherwise would not be revealed. But the success of such mobilisations is biased on certain types of narratives and issues.

While these movements started online, they only became very popular after being publicised by the mainstream media, especially television. The cases of Bibit-Chandra and Prita are exemplary. There are many other cases that failed to reach critical mobilisation. These include:

- **The Lapindo case** (2006-present): The Sidoarjo mudflow incident has been ongoing since May 2006 and has affected more than 10,000 people. The biggest mud volcano in the world was created by the blowout of a natural gas-well drilled by PT Lapindo Brantas, a large company owned by a Bakrie conglomerate. Although this case represents larger issues and has impacted more victims than the case of Prita, the attempts to mobilise the Lapindo issue in social media has resulted in only modest participation.

- **Ahmadiyah assault**: The assault of Ahmadiyah members by a militant Islamist group in January 2011 was made public by the availability and dissemination of amateurish videos through social media. However, no there has been no further action as a result of this footage.

- **Many other “Coin” movements have been initiated online** – such as Coin for Minah and Coin for Sumiyati - that never became popular.

Online video activism

The more organised attempts to make use of digital media to communicate human rights and social justice related issues come from media-human rights activists. In response to the need for better, relevant content, media activists have developed various media channels. Some examples include:

- **Kampung Halaman**, a non-profit organisation based in Yogyakarta, whose goal is to foster the use of popular audio-visual media in community-based programming. It is hoped that this will help the marginalised youth understand their role in improving the conditions of their communities.

- **EngageMedia**, a media activist organisation based in Jakarta and Melbourne, uses “the power of video, the internet and free software technologies” and works with independent filmmakers and video activists “to create social and environmental change”.

- **Kalyana Shira Foundation** is a non-profit organisation, established in 2006 by a group of independent film professionals who are concerned with the lack of films advocating women’s rights issues. This organisation produces quality documentary films to spread awareness on women rights and other social issues that have been neglected in Indonesia. Kalyana Shira draws on public screenings in both physical and virtual spaces to disseminate its films.

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459 Interview with Zamzam Zaunafi, director of Kampung Halaman, 20 July 2010
**Channelling sensitive, inaccessible, filtered information**

While the number is very small, there are few independent organisations that utilise digital media to open a channel of information for politically sensitive issues. Some examples include:

- **West Papua Media Alerts** is a non-profit initiative providing independent news from West Papua. Through its online portal, this initiative states that “Papuan campaigns to end human rights abuses and bringing these unreported Papuan issues to the front page” \(^{462}\).

- **Kontras**, is the Commission for “the Disappeared” and victims of violence and provides information on, and support for, victims of human rights violence through its online portal. \(^{463}\)

- **Imparsial** - the Indonesian Human Rights Monitor - makes use of digital networks to monitor and investigate human rights violations in Indonesia. \(^{464}\)

- **Kalyanamitra**, Women’s Communication and Information Centre, utilises digital networks to promote awareness about women’s rights, to fight for oppressed women, and to provide information and knowledge network on women related issues. \(^{465}\)

It is important to note that many human right activist organisations make use not only of digital media technology, but also of other media such as local television and radio networks, and paper-based media - newsletters, bulletins, pamphlets, and magazines - in their content production, development, and distribution.

### 9.4. Controlling Media and Communications

*Reformasi* has forced Indonesian society to encounter, experience, and experiment with the notion of freedom. Freedom House classifies Indonesia as a “free” country with good scores on both political rights and civil liberties. \(^{466}\) When it comes to press freedom and internet freedom, though, Indonesia’s status is classified as “partly free” \(^{467}\) signalling the ongoing struggle of the Indonesian media to remain independent and credible vis-à-vis the increasingly corporatised environment, the more outspoken public, and government’s desire to regain control over the media.

**Post Suharto’s early democratisation and the set back**

Claiming the right to information and communications, freedom of expression and press freedom takes many forms. The first step taken by civil society organisations in 1998 was a legal reform of the press and the broadcasting law. They formed a media coalition and held a successful campaign to endorse new Press Law No. 40 in 1999 and Broadcasting Act No. 32 in 2002. The principle of press freedom is enshrined in the new Press Law. The Broadcasting Act of 2002 - stressing media decentralisation and emphasising accountability and transparency in licensing procedures for public

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service and commercial broadcasting licenses - was created to democratised the landscape of broadcast media. Central to this is the establishment and inclusion of the Indonesian Broadcasting Commission, an independent regulatory body representing the public interest in the licensing processes. These two legal products are the symbol of civil society’s victory in promoting a free and independent media as well as advancing the public interest.

In the following decade, however, other legal products created set-backs in the same area. Just three years after issuing the Broadcasting Act, the government passed a series of administrative regulations for private and community broadcasting that ignore the spirit of the 2002 Act. Under the 2002 Act, the Indonesian Broadcasting Commission has the right to issue and revoke the licenses of broadcasters. The 2005 newer regulations on foreign, private, community, and subscription-based broadcasters, however, grant this power back to the state, giving the government the right to intervene.

The abuse of criminal defamation codes and the Indonesian cyber-law
While official censorship has become rare, criminal defamation codes continue to raise concerns about media freedom and freedom of expression in general. Although in the past few years the Constitutional Court has overturned some clauses in the criminal code that were created under Suharto’s regime - such as two that criminalised defamation of the government through public media - public officials continue to use other articles of the criminal codes in their interest. The Alliance of Independent Journalists in Indonesia reported that “most charges levelled against journalists and media are related to defamation”.

In 2008, the government passed a cyberlaw in the form of the Electronic Information and Transactions (ITE) Law that was originally designed to protect electronic business transactions. Its vague definition of defamation lends itself to be used against individuals and groups who express opinions on the internet and through social media. There were six individual prosecuted in 2009, including the already mentioned Prita Mulyasari. Under Article 27 (3) on the transmission of electronic information with libellous content, she faced up to six years in prison and a penalty of RP 1 billion (USD 85,000). The final verdict handed her a RP 204 million (USD 22,000) fine. At the same time, Prita Mulyasari was also charged under Article 310 of the Criminal Code on defamation and Article 211 of the Criminal Code on defamation in libellous writing. Later the hospital dropped the lawsuit on Article 27 (3) and Prita won a parallel case in the court. But two years after her acquittal, in July 2011, the panel of judges at the Supreme Court sentence Prita to one year of probation for being guilty of defamation charge. In May 2009, the Press Legal Aid Institute (LBH Pers) and the Alliance of Independent Journalists (AJI) petitioned for a judicial review of the Article 27 (3) of the ITE Law. The Constitutional Court, however, rejected the petition.

469 Article 19 and AJI, 2005
470 Freedom House, 2010
471 Ibid
473 Freedom House, 2010
The return of the control: ruling the press, public access to information and public morality

Along with the ITE Law, three other new laws have posed new threats to media freedom and freedom of expression:

- The 2008 Election Law included articles stating that “print mass media must provide fair and balanced space and time for election coverage, interviews, and campaign ads for election candidates” and holds the Indonesian Broadcasting Commission (KPI) and the Press Council (Dewan Pers) accountable for this issue. Critics said that these articles undermine the press and broadcasting laws of 1999 and 2002 and place an unnecessary burden on KPI and the Press Council.474

- The 2008 Transparency of Public Information Law is Indonesia’s freedom of information law. On the one hand, this law offers new legal guarantees for public access to information.475 On the other hand, this law also provides a one-year jail term for anyone who “misuses” that information. The vague definition of “misuse” opens possibilities for abuse of this law.476

- The controversial 2008 Pornography Law criminalises any sex-related material deemed to violate public morality. The law also embodies public discourses on content in the “Asian” and/or even “Muslim” country contexts, where most of the debates around content regulation are framed around public morality and the regulation of the “excesses” of the information/networked environment. Relying on a vague definition of pornography, the law is perceived as discriminating against some populations - for instance the predominantly Hindu Bali, where some cultural traditions could now be deemed pornographic - and as limiting the freedom of expressions of journalists, media, and public in general, especially those that deal with creative visual work, such as filmmakers and video artists and journalists.

Future crime and convergence bills

In the coming years, there will be two media related bills to monitor:

- Informational Technology Crime (TIPITI) bill is considered by the Alliance of Independent Journalists (AJI) as even more repressive and vague than the controversial 2008 ITE Law. Media observers are concerned that the TIPITI bill is as “overly aggressive and not emphasising the investigation of digital evidence enough”477 and carrying heavier penalties for online offenses.

- The Media Convergence bill is meant to consolidate and organise Indonesia’s Broadcasting Act, ITE and Telecommunications law. It will also merge the Broadcasting Commission, the Information Commission, and the Indonesian Telecommunications Regulatory Body into a single commission. The merging of various institutions into a single body might lead to the creation of “a super-body armed with penal provisions that will have the mandate of

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474 Ibid
475 Ibid
476 Ibid
regulating and monitoring the press, broadcast and new media, and various telecommunications platforms.”

Corruption, intimidation, and self-censorship

In addition to problems around control over media and information originating from the regulatory framework, there are some other problems that are more political and cultural.

- Corruption and bribery in journalism still persist.
- State-violence is no longer practiced, but journalists and the media continue to suffer attacks of violence and intimidation when they cover corruption or other sensitive topics. In 2010 alone, AJI recorded 63 cases of violence against journalists and media.
- Journalism practices have been influenced by the political and commercial interests of the media owners, thus unhealthy, new forms of self-censorship from media owners has become the norm.

9.5. The Way Forward

Current situation

- Access to media in Indonesia has generally increased. There are some persistent, negative issues, however: uneven distribution of the infrastructure, an urban-rural divide, Java-centric development, and gender imbalance.
- Concentration of media ownership and the networked media business model have led to a lack of diversity in production and subsequent content. Online alternative production is on the rise, but still suffers from the domination of urban middle class issue, dependency on mainstream media, and the supremacy of online global players.
- Indonesian media operates in a relatively free environment. But newly created regulations have hindered Indonesian media in the continuing process of democratisation. Meanwhile, criminal defamation codes continue to raise concern with persisting violence and intimidation against journalists and media, bribery, and self-censorship that serves the vested interests of media owners.

Civil society engagement—opportunities

- The Indonesian media landscape is vibrant and dynamic. Historically, Indonesia’s media has always been rife with innovative technologies that have provided easy and affordable access solutions.
- Various small, independent initiatives that address the internal digital divide are present and, seemingly, will continue to grow.
- Indonesia is witnessing the expansion of independent media and the soaring potential of the production of rich alternative content.

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479 AJI, 2010. Ancaman Itu Datang dari Dalam, annual report of Alliance of Independent Journalist, Jakarta: AJI
• Community radio in Indonesia, in particular, demonstrates promising prospects in local content production.
• Digital media, particularly social media and online video, has become an effective medium for activists in mobilising social movements and advancing human rights and social justice.

Regulatory and policy issues
• Telecom policies and regulatory frameworks in general need reform. The PSTN (international and long distance calls) duopoly must be terminated, a conducive and more competitive investment policy is needed, and the licensing body needs greater independence and professionalism.
• The spectrum licensing environment needs to be more transparent. The government should make information on spectrum allocation accessible to and comprehensible by public.
• Recent developments in the digital communications-related regulatory framework have raised the possibility of increased censorship. Laws tend to be “vague” lending themselves to abuse and misuse. Future regulation should be made in accordance with the recommendations of the Special Rapporteur on Freedom of Expression and Opinion in the Human Rights Council.
• Discourse around the content regulatory framework has been hijacked by the “public morality” and “excesses” debates, with a disproportionate emphasis on “negative content”. There is an urgent need to shift the debate from “morality” and “excess” to one about “access” and “diversity”.

Mapping sympathetic stakeholders and allies
• Many independent Indonesian organisations, especially media activists, are apparent partners, sympathetic stakeholders and allies to work in addressing a range of media challenges and problems. Very few civil society organisations (CSOs), however, work specifically on media rights in terms of pressuring and/or lobbying for a more open regulatory sector.
• Among CSOs, there is an apparent lack of systematic effort to actively monitor the development of media related draft laws and a lack of technical expertise to offer viable policy alternatives vis-à-vis the government’s push for the proposed new laws.
• The corporate sector, particularly internet service providers, could be “won over” to protect public interest by employing strategies that emphasise consumers’ interests.
• An Indonesian Internet Governance Forum (ID-IGF) can be a future partner for the advancement of media access and rights. In its establishment, ID-IGF has involved representatives from the private sector and civil society, as well as some governmental low ranking officials from the Ministry of Communication and Information. It is crucial to ensure that ID-IGF is responsive to public interests and allows for citizen participation.
• The Indonesian public is energetic and embraces a participatory culture, especially through social media. How to take advantage of this popular, participatory culture and transform its energy into meaningful, civic engagement is a future task.

Mapping strategies for intervention and changes
• Indonesian CSOs can benefit hugely from the insights and experiences of open regulation lobby initiatives elsewhere in the world and; international organisations that focus on related issues.
As well as the “lobby” approach, the “back-door” approach to regulation is worth consideration. This strategy refers to the collective effort to put local, national and international pressure on the government to change or amend regulations.\textsuperscript{481}

The public and communities need to be engaged in media access and rights initiatives through various activities such as grant competitions, workshops and trainings. The Cipta Media Bersama (CMB) project - launched by the Ford Foundation Indonesia in collaboration with ICT Watch,\textsuperscript{482} AJI, and Wikipedia Indonesia - is a good example of this.\textsuperscript{483}

For Indonesians to participate and be engaged in the global dialogues and initiatives around the internet and media governance, local capacity needs to be developed immediately. Local and international institutions can provide meaningful support. They can do this not only by influencing discourse, assisting with resources and skills development, and supporting infrastructure expansion at the local level, but also by influencing global discourses and initiatives towards the needs of the people and the conditions of media environments in the countries of the Global South such as Indonesia.

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\textsuperscript{481} One of the glaring examples is Onno Purbo’s (and his group’s) struggle to liberate the 2.4GHz broadband. As part of his strategy, Purbo spread the knowledge and access (of 2.4 GHz band) all over Indonesia reaching the point where it was impossible to regulate. Purbo also brought the international partners, such as IDRC and CERN, into play to put pressure on the Indonesian government. This approach was a success, resulting in the signing of the Ministry Act liberating 2.4GHz in Indonesia on 5 January 2005 (Purbo, 2011).

\textsuperscript{482} \url{http://ictwatch.com/id/} [Accessed 28 July 2011]

\textsuperscript{483} CMB is the grant competition to engage communities in pursuing (a) equal and just media access, (b) media pluralism and content diversity, (c) open, free, and ethical media practices, and (d) fair and democratic media. For further information on Cipta Media Bersama, see: \url{http://www.ciptamedia.org/} [Accessed 28 July 2011]
10. Technological Advancement: New Frontiers for Kenya’s Media?
By Grace Githaiga

The media in Kenya has grown tremendously in the last two decades more or less in parallel with the expansion in democratic space, which in itself evokes the close linkage between media and democratic tenets. It is true that both broadcast and print media were severely constrained before the 1990s. It is also true that the number of broadcast outlets and the quality and vibrancy of print media have risen steadily since then. For instance, the Kenya Broadcasting Corporation, founded in 1928, remained the sole operator of television and radio stations up till 1989 when Kenya Television Network (KTN) was established; a development that was a precursor to a flood of new broadcast stations. The print media scene has, on the other hand, been dominated mainly by The Nation Media Group and The Standard, with other publications surfacing and disappearing at various times.

There have been constant concerns over the balance and quality of content from KBC. But, generally, the media in Kenya, with KBC included, has been instrumental in informing and educating the public over the years. The struggle for an expanded democratic space in the 1980s and 1990s benefited from the media’s enormous support, sometimes at very high costs. While the government had maintained a tight grip on the media back then, the existing outlets braved the odds to take on weighty social, political and economic issues, even if only sporadically. This partly accounts for the high levels of public confidence in the media. A 2010 survey found that the majority of Kenyans trust media more than other public institutions including the judiciary, police and parliament.

This chapter, while anchored on Kenya, draws perspectives from global experiences when tackling policy and reform challenges for the media environment. It finds that the entry of new media, largely in the 1990s, and its continued expansion, has provided new avenues and opportunities for growth, both in terms of the financial health of individual media houses and also in terms of the multiplicity of outlets, and content diversity. Besides, the passage of Kenya’s new constitution in 2010 promises even higher prospects for growth, access, freedom and diversity. The chapter also notes that press freedom now enjoys constitutional protection, which may provide opportunities for dealing with the challenges such as censorship that undermined editorial content. Online communication and widespread use of mobile telephony is another avenue through which distortions of information access, especially in the rural areas, can be corrected.

10.1. Access and Accessibility

Grace Githaiga, an Associate of KICTANet is also affiliated to the Media, Empowerment and Democracy in East Africa (MEDIeA) Research Programme. She is the immediate former President of the African Chapter of the World Association of Community Broadcasters (AMARC), and a former Director of EcoNews Africa. Grace is a Fulbright/Humphrey Fellow, and currently is a PhD candidate in a sandwich programme between the University of Nairobi and Roskilde University in Denmark. Her study focus is Communication and Digital Inclusion.


The last two decades have been definitive for the media in Kenya. Firstly, the operating environment has become freer, liberalised and more competitive. Secondly, the broadcast media, partly as a result of the liberalisation policies, has grown in leaps and bounds as the number of radio and television outlets has multiplied significantly. But print media, while it faces fewer possibilities of external interference today, has not grown at the same pace as the broadcast, in particular at mainstream level. It remains dominated by The Standard and The Nation, although The Star also joined the market in 2006. This was tempered by the winding up of The Kenya Times in 2010, which had been founded in 1984 by the then ruling party, Kenya African National Unity (Kanu). While it is possible that lack of expansion in print media can be attributed to the high investment costs, it is notable that the three or so major publications have had to battle for an average market share of 350,000 readers per day for the last thirty years.

A critically important opportunity for Kenyan media came in 1998/99 with the introduction of telecommunications sector reform. Then the government disbanded Kenya Posts and Telecommunications Corporation (KP&TC), replacing it with a new telecommunications policy and laws. The reform had three components - separation of roles in sector management (policy and regulation), creation of a multiple operator environment (liberalisation) and the reduction and eventual elimination of government operational role in the telecommunications sector (privatisation). The outcome split the KP&TC into three entities – Telkom Kenya Limited, Postal Corporation of Kenya and Communications Commission of Kenya.

This shift in policy and administration has had some positive effects on the regulation regime and even increased the number of content producers. Today demand for broadcasting frequencies outstrips availability, especially in urban areas. To date, 372 FM frequencies have been issued to radio stations nationally. Of these, 233 are on air and 139 are dormant. At the same time, 109 television frequencies have been allocated; of these, 71 frequencies are on air and 38 are dormant. Liberalisation of the airwaves has transformed broadcasting, with numerous new stations now serving as platforms for information and public discussion, allowing citizens to debate issues perceived to be important to them through call-in programmes and talk-shows.

Radio is the most accessible and affordable broadcasting medium in Kenya. A survey from 2008 revealed that some 7.5 million homes have radios and 3.2 million have television sets. Of the homes with radios, 5.5 million are in rural areas and 1.9 million in towns. Further, 1.8 million television set owners are in rural areas while 1.4 million are in urban centres.

New media, internet and cell phones are growing rapidly in terms of consumers and service providers. From October to December, 2010, mobile subscriptions grew 12 per cent from 22.3 million to 24.96 million subscribers, which was the highest growth rate recorded that year, as evidenced by Safaricom’s huge profits. This subscriber base is equivalent to one mobile phone per

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489 It was not clear how many homes were targeted for this survey.
adult\textsuperscript{492} served by Safaricom, Airtel, Yu and Orange. The growth became pronounced when services providers reduced calling rates, introduced low denomination calling cards, and cheaper telephone handsets became available. But the four mobile providers have shifted attention to data services, by which this chapter means telecommunications services transmitted via high speed data rather than voice\textsuperscript{493}, which includes popular mobile money transfer services.

The mobile phone subscriber base has wide ramifications for traditional internet service providers. For example, most Kenyans now access the internet using mobile phones as opposed to personal computers - whether at work, home, or internet café. The Digital Life Survey, a report by TNS Research International\textsuperscript{494}, found that 60 per cent of respondents use their handsets to access the internet, compared with 29 per cent using PCs at home, 33 per cent using PCs at work and 41 per cent accessing the internet in cyber cafés. The leading activities on mobile internet are social networking (67 per cent of users) and accessing e-mails (54 per cent). 14 per cent use it for administrative work like filing tax returns and conducting internet banking.\textsuperscript{495}

**Radio**

Figure 29: National reach for Kenya’s radio stations, 2011\textsuperscript{496}

![Radio Stations Chart]

KBC, for a long time the largest and only broadcasting organisation in Kenya, is a state agency and one of the just three radio stations with a nationwide reach. As well as this nationwide reach through its Swahili and English channels, the Corporation also broadcasts in 19 different languages, including those of marginalised communities that would not ordinarily make economic sense for commercial broadcasters to serve. As a national broadcaster, which also has loosely been passing for a public broadcaster, KBC has been mandated to air public interests programmes including

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\textsuperscript{494} *Kenya turns to phones for Internet browsing*. 2010. Daily Nation, 3 December.
\textsuperscript{495} *Kenya’s mobile revolution bucks international trend*. 2010. The Standard, 3 July.
\textsuperscript{496} Own compilation based on KARF Audience Research. 2011. First Quarter. Synnovate.
educational and cultural programmes. But the changing market has meant that KBC no longer enjoys an audience monopoly. A 2011 audience survey by Synnovate research\(^{497}\) shows that, despite KBC having long enjoyed state protection, which shielded it from open competition by refusing to license other players, Citizen Radio today has the widest audience reach (54 per cent). KBC’s Swahili service is a distant second with 25 per cent and QFM with 20 per cent. All three stations broadcast in Swahili.

The report also finds interesting listenership patterns by gender. Each of the three stations – Citizen, KBC Swahili and QFM – have a higher male audience than female, partly because, in the patriarchal nature of most communities, the radio is under the care of the man. This was also true for the other stations, except for Inooro and Kameme, both of which broadcast in the vernacular Kikuyu and are listened to by more women.

\textit{Figure 30: Access of radio stations by men and women, 2011\(^{498}\)}

\begin{figure}[h]
\centering
\includegraphics[width=\textwidth]{access_of_radio_stations_by_gender.png}
\end{figure}

\textbf{Community broadcasting}

Community media has been in Kenya since the 1980s with support from UNESCO and the government. It is recognised as a third sector of broadcasting alongside public and private/commercial broadcasting. Kenya was the home of the first community radio station in Africa – Homa Bay Community Radio, and civil society, the most dependable anchor of community media, is quite vibrant and more established in Kenya than in other parts of the world where community radio has grown and developed\(^{499}\). Despite the importance of this market, community media growth in Kenya has been stunted as it is perpetually grappling with sustainability issues such as finance, human resources and content generation.

This chapter uses a broad definition of community media including any form of media that is created and controlled by a geographical community or a community of identities or interests\(^{500}\). This includes print media, although the focus in Kenya has been broadcast media. But most important the Communications Commission of Kenya seems to have taken on this broad definition as

\begin{itemize}
\item \textsuperscript{497} KARF Audience Research. 2011. First Quarter. Synnovate.
\item \textsuperscript{498} Own compilation based on KARF Audience Research. 2011. First Quarter. Synnovate.
\item \textsuperscript{499} Githethwa, N. 2010. \textit{Milestones, Challenges, and Proposals in the Development of Community Radio in Kenya}. A Discussion Paper presented at the AUF – ACDM meeting on 21\textsuperscript{st} February, 2010 as a framework of discussions and a guide to further action.
\end{itemize}
evidenced by the various stations it has classified as community\textsuperscript{501}. With the exception of Mangelete, the first to be licensed, all community radio stations have been limited to within a radius of 3km. This is to ensure that they remain focused on local issues and remain relevant to the audiences living and working in close proximity.

Aside from institutional community media - that supported by institutions such as universities - community media in Kenya clearly requires state support including infrastructure provision and tax rebates. The other challenge is a lack of data about the sector - what has been done, what has worked, what has failed and what needs to be done. There is need to secure and further develop community media in Kenya with regard to changes arising from technological advancement.

Private television

Private television, alongside private radio, has experienced phenomenal growth in the past decade, but there are genuine concerns about patterns of ownership. Until 1989 state-owned KBC was the only television station but now the dominant players are private stations, with KBC now a distant fourth. The key private players are NTV, KTN, and Citizen TV. The stations are owned by Nation Media Group (NMG), Standard Group Limited (SGL) and Royal Media Services (RMS) respectively, all of which also own radio stations, newspapers, or both. The question of cross-ownership dominated public debate around the Kenya Communications (Amendment) Act, 2009. Private media fought hard, and due to their immense clout, were able to prevent the imposition of any limits on cross-ownership. There are other television stations, EATV, KISS TV, Family TV, GBS and K24; however ownership of these stations is concentrated among a small number of political and economic elites whose interests are not necessarily in sync with public interests.

The quality of content produced is varied. The main players (NTV, KTN and Citizen) have the resources to recruit competent professionals and correspondingly produce high quality programmes, especially news. The other television stations, not owned by the three key players, are clearly limited in terms of quality. But the difference in quality between the mainstream and alternative television stations is not replicated with regard to content; the general trend is for stations to emulate, or even replicate, popular material from the competition. The result is that Kenyan domestic television is dominated by foreign material such as Nigerian movies, Mexican soaps and American pop music and movies. There are a few high quality and popular local productions\textsuperscript{502} on Citizen TV, most of them drama series that other stations have attempted to copy, but these are far too few to match the regulatory requirements\textsuperscript{503}, and even public demands, for local content.

\textit{Figure 31: Kenya’s main television reach and viewership, 2011}\textsuperscript{504}

\textsuperscript{501} The CCK list includes Mang’elete Community (Kibwezi), Koch FM (Korogocho), Pamoja Development (Kibera), SIDAREC (Pumwani), Bondo Community Center (Ndori), Maseno University (Maseno), Daystar University (Athi River), St. Pauls University (Limuru), Baraton University (Eldoret), Masinde Muliro University (Kakamega), Kenyatta University (Thika Rd) and KIMC (Nairobi).

\textsuperscript{502} The draft Broadcasting Code, which requires 40 percent local content for radio and TV [online] Available at http://www.cck.go.ke/links/consultations/current_consultations/draft_programme_code_rev_2_nov_2010.pdf [Accessed August 25, 2011].

\textsuperscript{503} Kenya Communications (Broadcasting) Regulations 2009. Article 26 (1) and (2).

\textsuperscript{504} Own compilation based on KARF Audience Research. 2011. First Quarter. Synnovate.
Newspapers

The print media presents some notable contrasts. As with all media in Kenya, it has benefited from the expansion of democratic space. However, its growth in terms of number of outlets and audience has been limited. The scene has for decades been dominated by two mainstream publications, The Nation – which owns several other titles – and The Standard, together with their sister publications on Saturdays and Sundays. There are other publications, such as The People and The Star, but it remains to be seen if they can mount a credible challenge for a reasonable share of the rather stagnant readership. Stagnated market growth is partly caused by uneven and low purchasing power. However there is untapped growth potential in parts of the country, such as North Eastern Province, which remain under-served by mainstream newspapers. The fact that an alternative press, has been mushrooming in various urban centres and is attracting readership even in Nairobi, suggests that some sections of society are not well served by mainstream media.

Table 12: Newspapers circulation in Kenya, 2008

<table>
<thead>
<tr>
<th>Publisher</th>
<th>Publication</th>
<th>Frequency</th>
<th>Circulation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nation Media Group</td>
<td>Daily Nation</td>
<td>Daily</td>
<td>180 000 (PE)</td>
</tr>
<tr>
<td>The Standard Group Ltd</td>
<td>The Standard</td>
<td>Daily</td>
<td>110 000 (PE)</td>
</tr>
<tr>
<td>Mediamax</td>
<td>The People</td>
<td>Daily</td>
<td>65 000 (PE)</td>
</tr>
<tr>
<td>Nation Media Group</td>
<td>Taifa Leo</td>
<td>Daily</td>
<td>44 000 (PE)</td>
</tr>
<tr>
<td>Nation Media Group</td>
<td>Business Daily</td>
<td>Daily</td>
<td>15 000 (PE)</td>
</tr>
<tr>
<td>Radio Africa Group</td>
<td>The Star</td>
<td>Daily</td>
<td>10 000 (PE)</td>
</tr>
<tr>
<td>P.G. Kariuki</td>
<td>The Financial Post</td>
<td>Weekly</td>
<td>60 000 (PE)</td>
</tr>
<tr>
<td>Coast Week Newspapers Ltd</td>
<td>Coast Week</td>
<td>Weekly</td>
<td>12 000 (PE)</td>
</tr>
<tr>
<td>Nation Media Group</td>
<td>The East African</td>
<td>weekly</td>
<td>40 000 (PE)</td>
</tr>
<tr>
<td>Nation Media Group</td>
<td>Sunday Nation</td>
<td>Sundays</td>
<td>280 000 (ABC)</td>
</tr>
<tr>
<td>Standard Group limited</td>
<td>Sunday Standard</td>
<td>Sundays</td>
<td>150 000 (PE)</td>
</tr>
<tr>
<td>Media Max</td>
<td>The People on Sunday</td>
<td>Sundays</td>
<td>38 000 (PE)</td>
</tr>
<tr>
<td>Nation Media</td>
<td>Taifa Jumapili</td>
<td>Sundays</td>
<td>46 000 (ABC)</td>
</tr>
</tbody>
</table>

505 Kenyan term for the sensational brand of newspapers, mainly published on A4 size sheets of papers, whose editorial quality is low; the physical address is lacking contrary to legal requirements, and are famously derided as scandal sheets.

New Media

As discussed, new media in Kenya is experiencing rapid growth. New media is beginning to challenge traditional media (radio, television and print) as the preferred platform for accessing news and information. The information society is now inseparable from communications media which enables interactive communication through the internet and mobile telephony. There are 22.3 million mobile subscribers in Kenya, and an estimated 8.69 million internet users. Fixed broadband subscriptions increased from 18,626 subscribers to 84,726 between 2010 and 2011. However a whopping 99 per cent of the internet traffic in Kenya is through mobile operators, mainly through 3G, as well as Edge or GPRS. This suggests that mobile phones are the leading platform across board for information access in Kenya, enabling users to access voice, text and the internet on one platform.

The impact of new media has not yet been clearly established. However, it is becoming clear that new media has enhanced journalism and altered modes of information access. Internet-based applications allow for user generated content and blogging. This has decentralised information-sharing at unprecedented level and made it potentially feasible for every citizen to act as a broadcaster, creating, modifying and sharing content with a large audience. This is blurring the line between traditional and new media, electronic and print media.

It can be argued that, compared to other forms of mass media, the internet offers low barriers to access and was designed to work without the kind of gatekeepers that exist in traditional print or broadcasting media, unless of course the service provider opts to intervene. A computer and an internet connection are far less expensive than a printing press, or other mechanised media for reaching large audiences offline. Radio and television technology are limited technically by the capability to exploit the electro-magnetic spectrum. Government regulation of airwaves has generally been found necessary as a way of managing this scarce resource. The internet, by contrast, can accommodate essentially an unlimited number of points of entry and speakers.

Nevertheless, the cost of accessing the internet remains prohibitively high for the majority of Kenyans. This is despite the commissioning of the fibre optic cable, which had been expected to bring down charges. Rather than reducing prices, data market players are demanding that the Communications Commission of Kenya (CCK) reduce spectrum prices, enact a vandalism law, and accord them access to the National Fiber Backbone Infrastructure (NOFBI) before they reduce prices.

The standoff between CCK and data market players has kept the costs of internet connectivity in Kenya high and thus unavailable to wide audiences. Additionally there are gaps in availability - of 7,
149 sub locations in Kenya, for example, voice telephony is inaccessible in 1,100 of them, and just 893 sub locations have access to broadband data/internet services.\textsuperscript{513} Much as the figures speak for themselves, these gaps can potentially distort the market in ways that sometimes cannot be directly discerned from the figures. For example, even in some of the locations with access to telephony, services might still experience limitations to access due to the absence of other requisite infrastructural facilities like electricity.

**Accessibility to the spectrum**

In Kenya’s history of liberalisation of the airwaves, the question of spectrum access has been a difficult one. When KP&TC was still in charge of licensing and frequency allocation, there were many accusations that authorities allocated frequencies on the basis of political expediency and cronyism.\textsuperscript{514} There have been many changes since, including the splitting of Kenya Posts and Telecommunications Corporation in 1998, aimed at correcting this situation. Statutes have since been passed to streamline the industry and include the Broadcasting Regulations 2009, which, in section 6 (1) (c), requires CCK to “develop a frequency plan which sets out how the frequencies available for broadcasting services in Kenya will be shared equitably and in the public interest”. The process however is still devoid of clear mechanisms of scrutiny and accountability, and this has resulted in disaffection among industry players, augmented by the exhaustion of spectrum in some locations. The transition from analogue to digital broadcasting could provide some remedies.

The frequency plan has also come under criticism from different stakeholders. A report on Spectrum Development\textsuperscript{515} argues that the current model puts the country at risk of running out of spectrum. “Right now, 20 million Kenyans use GSM mobile communications. Many day-to-day activities require the use of WiMax. Data runs on WiMAX, e-government, telecommunications and rural internet access. So running out of frequency would bring the country’s development to a halt, especially in rural areas, which would be the hardest hit.” It further notes that, the measures introduced by the government to alleviate the frequency shortfall are only aimed at addressing the immediate concerns. The measures proposed include auditing whether frequencies are being used, and migrating government-allocated frequencies to other frequencies and so releasing part of that spectrum for commercial use. The report also notes that the current system puts rural communities at a disadvantage because it is expensive for telecommunications companies to operate where population density is scarce.

**Convergence**

There are various examples of convergence in Kenya. Some mobile phones enable users to access radio, television and the internet. Accessing the internet allows users to access online newspapers. And digital television (DTV) was launched on December 9, 2009. Thus current trends in technological convergence, especially digitalisation, point to the possibility of communication media being available on a single multipurpose device or platform.\textsuperscript{516}

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\textsuperscript{515} Mureithi, M. 2010. Open spectrum for Development: Kenya Case Study. Nairobi. APC.

\textsuperscript{516} Gustavo, G. 2008. Digital Television and Radio. APC.
The concept of convergence is not well entrenched, or understood, within traditional Kenyan media. A number of media houses have set up convergence desks, or appointed senior managers tasked with convergence. However implementation of the concept as a journalistic practice remains sporadic and irregular. At present, media houses still have different teams for each platform. The old definitions that provided separation between radio, television, cable and newspapers still holds. The rise of digital platforms presents enormous opportunities to better inform citizens and opens greater access to information. Given the desire to cut costs, it is inevitable that media organisations will embrace the reality of convergence journalism in the foreseeable future.

Initiatives to promote access

There have been concerted attempts to promote access, although access rates remain low in the least developed regions such as North Eastern Province. Such initiatives include the establishment of the Universal Service Fund under the Kenya Communications Amendment Act, 2008, “to support widespread access to, support capacity building and promote innovation in information and communications technology services.” The Fund is to be sustained through levies from licensees and “monies as may be provided by Parliament for that purpose”. However stakeholders have expressed doubts about whether the Fund will be implemented. ICT specialist, Washington Akumu, has argued that the Universal Access Policy has been misunderstood, as even cell phone providers seem to think that total coverage of Nairobi and its environs is all that Universal Access Policy (UAP) is about.

Ensuring universal access is extremely challenging encompassing many dimensions. These include lowering costs, widening access, promoting technology-neutral frameworks to enable innovation and low cost delivery, as well as promoting competition at all layers of communication. Universal access should mean access to the internet, mobile telephony, television and radio content at an affordable cost.

The undersea fibre optic cable has contributed to improved access by reducing internet costs. Heightened competition and price wars between cell phone service providers have significantly reduced calling and data costs. Furthermore, the government is also establishing ‘digital villages’, i.e. public access internet points, in various parts of the country. But the most significant change is likely to be the implementation of the National Optic Fiber Backbone Infrastructure (NOFBI). The NOFBI is intended to cover 80 per cent of the districts enabling more communities to connect. Access rates are also expected to improve with the ongoing expansion of physical infrastructure such as roads.

10.2. Media and Public Interest Communication.

10.2.1. Media Ownership

517 Interview with Otsieno Namwaya, Media Researcher, June 2, 2011.
520 Ibid.
Media ownership in Kenya is an important but complex issue. The most powerful media, in terms of reach and readership, is the print media. The most influential section of print media is either owned by, or under the control of, groups that are closely linked to key members of the three post-independence regimes. The Standard is owned by former President Moi and his allies, The People is owned by the family of former President Kenyatta, The Star is partly owned by individuals close to the regime of former president Moi. The Nation is owned by the Aga Khan; however its credibility was tested in 2005 and 2007 when top management was accused of having ties with the Kibaki administration. The same applies to the radio and television stations – KTN, K24, Kiss TV and NTV – that are owned by the same media houses.

KBC is owned by the state, and both Citizen TV and a host of its radio outlets are owned by an individual known to have close ties with the present government. This leaves only Family TV, EATV and GBS TV outside of political control/influence, meaning that, despite the much touted independence of Kenyan media, it is largely in the hands of the ruling class.

The situation is slightly different with FM stations, but even then, most FM stations are still owned either by politicians or individuals associated with the political elite. The number of radio stations has grown significantly – there were 98 FM stations on air as of December 2010. However Figure 32 demonstrated that ownership of these radio stations is dominated by just six groups. The other stations, as already mentioned elsewhere, are part of community broadcasting. In addition to geographically defined community broadcasters, there has also been a proliferation of religious-based broadcasters, on both radio and television. These stations are difficult to categorise since they do not qualify as ‘community’. Yet, they are also not commercial stations since they do not make profits and survive on donations\textsuperscript{521}.

\textit{Figure 32: Commercial radio market, 2011\textsuperscript{522} - number of radio stations owned by each company.}

A number of international broadcasting services (BBC, VOA, Radio France, Radio China) have been granted FM frequencies, and Al Jazeera holds a television license. During the days of information deficit - when the government had a stranglehold on the media with KBC as the sole broadcaster - these broadcasters filled that important gap. Most Kenyans would turn to them for news and information about key political events that KBC could not report freely on.

\textsuperscript{521} Ibid (page 36).
\textsuperscript{522} Own compilation based on KARF Audience Research. 2011. First Quarter. Synnovate.
10.2.2. Production and Content: The Transformation

The new media landscape has transformed the media environment, pushing traditional media into finding new ways of repackaging content or adopting new trends. There has been an emergence of exclusively online media outfits that compete with traditional media houses, which are also extending their services to online channels. This has led to fears among print media, that online services would undermine demand for their services. But thus far there is no evidence that this is the case in Kenya. Traditional media has responded by establishing a presence on the web (with which to raise more revenue) and repackaging print products in terms of content and outlook. Nation Media Group for instance, have digitalised the print version of their newspapers and made them available online by subscription. Digital communications also allow media houses to extend their reach to fresh territories without the need for frequencies, regulator involvement, physical points of presence or the bureaucracy of setting up shop in a new country. Internet radio, for instance, allows traditional FM stations to reach global audiences with minimal investment and without a change of editorial policy. It is also notable that the broadcasting sector has integrated social media platforms in to their broadcasts with nearly every station setting up Facebook and Twitter accounts to interact with their audiences.

The changing technological environment has not only forced a shift in priorities but also introduced new services. The government’s attention at present is on preparing for the switch from analogue to digital broadcasting expected in 2012. The ministry has also stood firm on the provision of local content, since the digital switch will allow for more channels and thus greater avenues for access. But at another level, mobile phone users are now subscribing to news alerts on cell phones or RSS feeds. Journalist Dennis Itumbi has noted that technology has transformed the news industry into a participatory process. Television stations have moved a step further and are now accessible on YouTube as well. Various TV stations – K24, NTV, KBC, KTN and Citizen – have uploaded their most popular programmes onto YouTube. This has thus changed the way audiences interact with news outlets and sources. Blogs and social sites are regularly the platform on which events are quickly shared, discussed and opinions shaped.

The debate among communicators and media practitioners now centres on the question of what the actual place and role of bloggers should be since they are helping to democratise information, production and dissemination. The traditional media organisations are also using web-based and mobile technologies to turn communication into interactive dialogue. Other sites and services have served well as platforms for reporting, circumventing government censorship, raising awareness, enabling democratic participation and engaging with the broader public. Forums such as Ushahidi and the Kenya ICT Action Network (Kictanet) are good examples. Ushahidi mapped reports of violence in Kenya during post election violence in 2008 and has since become a great resource for journalists. It has provided an option for communities to share real time information using text messages, emails and social networks.

522 Interview with Muchiri Nyagah, Principal Partner, Semacraft Consulting Partners.
523 Address by Dr. Bitange Ndemo During the Kenyan Internet Governance Forum, Nairobi, July 22, 2011.
524 Interview with Dennis Itumbi, May 3, 2011
Existing initiatives that address content production

The government has taken a number of measures to improve production of local content. In January 2011, the Ministry of Information and Communications set up a Task Force to look at the possibilities for leveraging local talent into the information technology, animation, film and music sectors. The Task Force, which has just started to work, is to establish a mechanism to tackle the sector’s bottlenecks and to review areas that require interventions by the Kenyan government. The work of the Task Force notwithstanding, there have been various pieces of legislation, among them the Broadcast Regulations of 2009, aimed at addressing the matter, although there has been concern over the slow pace at which the regulations are being implemented and enforced.

10.3. Human Rights and Social Justice on Digital Media

This chapter has argued that the development and impact of digital media, has pervaded all sectors in Kenya. The human rights sector is no exception, although the penetration and usage of digital communications by the human rights community has been fairly slow. This can be attributed to a number of factors. Firstly, by their very nature, the NGO human rights organisations are donor funded and it therefore takes time, sometimes even years, for the NGOs to negotiate with the donors to allow and fund usage of the latest communications technology. Secondly, until recently digital media has been cost inhibitive for most individuals and groups in Kenya. This scenario is replicated across the East African region. Human rights researchers criticise the highly commercialised nature of the internet environment in East Africa which, they rightly point out, is not in the public interest. However, the human rights community in Kenya is responding to the changing communications technology very well, having already adopted the usage of new platforms such Facebook and Twitter, even if it has often lagged behind in taking up the latest technologies.

Democratic participation and mobilisation

In the aftermath of the Arab Spring, the role of digital media – internet, mobile phones and social media such as Facebook and Twitter – in the expansion of democracy and in the mobilisation process, has dominated discussion in democracy forums online and in academia. The debate continues, but the Kenyan human rights community in particular has been abuzz with talk about the potential for using digital media to mobilise citizens. There have been attempts to mobilise the public around common concerns such as the rising cost of living and insecurity. For example, the so-called ‘Unga Revolution’ (Flour Revolution) protests were largely organised through Twitter, Facebook and other websites. The use of digital platforms to organise demonstrations is a departure from the scenario of the 1990s when advocates of the new constitution were at the mercy of the traditional media. The demonstration in July against Kenya’s Minister of Education over the Free Primary Education Fund scandal (when significant portions of the ministry's funds

531 Ibid.
could not be accounted for), for example, was organised through text messages, Twitter and Facebook. This is a new frontier that is yet to be fully exploited by the Kenyan democracy and human rights sector.

Digital media has revolutionised the way that human rights groups in Kenya network and share information. Groups, such as Bunge La Mwananchi (Peoples Parliament), which used to meet physically to organise events, today largely organises its members and debates issues through Listserves and Facebook. The group has a website, Facebook group, and uses Twitter and YouTube platforms. The use of multiple social media platforms is an emerging trend among civil society groups. Another notable example is the Kenya Young Voters Alliance which is largely based on Facebook, with a membership of 10,000. Since the Alliance was founded in 2009, it has provided a platform for debate on key national issues.

But, away from the civil and political rights action front, there have been other initiatives such as Ugatuzi, which is the Swahili word for devolution. Ugatuzi was founded by the Social Development Network (SODNET) as a budget-tracking tool that acts as platform for grassroots communities to participate in public resource management. This web-based tool seeks accountability from government and parliamentarians by enabling communities to access information with which they can make informed decisions and hold their leaders accountable.

**ICT and human rights**

The human rights movement in Kenya has generally been slow to realise the value of websites and the internet as tools of mobilisation and information exchange. Most NGO websites were, and still are, dull and rarely updated, showing that they do not attach much value to them. Part of this can be attributed to fear of legal and security implications.

Most civil society organisations only migrated from fixed to mobile phones around 2005 and, even then, did not fully appreciate the potential that mobile phones had for their work. Yet there is no doubt that digital media has had an impact, for better or worse, on a variety of human rights, be they social and economic or even civil and political. In particular, writers and commentators on social and economic rights in Kenya hold the view that digital media has, indeed, contributed to social change. But it was not until 2007, during Kenya’s post election violence, that CSOs begun to appreciate the significance of this mode of communication, let alone the challenges that are attendant on it. Text messages were widely used, and this time not just by CSOs but by all Kenyans, to communicate information about the election, and the resulting violence. But most importantly, civil society has found the mobile phone very useful in protecting human rights defenders (HRDs), as faster, secure lines of communication have been easy to establish between HRDs and protection agencies.

Another challenge for civil society organisations is IT security, i.e. the security of data in computers, and storage devises and even the security of information exchanged by email and text message.

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Some of these have in the past exposed human rights defenders, in need of protection, to even greater risk537, as the government has on occasions been able to retrieve mobile text messages that reveal the location of these human rights defenders.

But these changes are widely being viewed as double–edged. It is positive that people communicate, share information and engage interactively, but such opportunities bring with them the potential for abuse. Danger lurks in a situation where there is such enormous space and opportunity for the entire public to share and disseminate information without a clear definition of the ethical parameters and how they can be enforced. Such a situation is replete with many problems. Firstly, interpersonal communication is today being exchanged as though it is truthful and factual. Such information is also being posted on blogs – such as Jukwaa – and circulated through personal e-mails, especially as witnessed during the campaign period and also during Kenya’s post-election violence period in 2008538. But this does not take away the positive aspects of this new trend. Digital communication has opened up a space, giving members of the general public the opportunity to participate and express themselves in a variety of governance debates.

10.4. Controlling Media and Communications

Various industry analysts have acknowledged the Kenyan media as being among the most vibrant in Africa. While the media sometimes faces charges of being sensational on delicate national issues, it has nonetheless been the most powerful and consistent public watchdog, often prodding the political leadership and demanding public accountability539. This freedom was not granted to the media easily. Rather, media and other interest groups have had to fight for it, demanding legal and later constitutional, protections. The new constitution unequivocally provides for an elaborate Bill of Rights, which includes freedom of expression and media540. The constitution also provides for public participation in all public processes including policy making, and this can be interpreted to mean that, henceforth, major decisions that will affect the ICT and media sector will benefit from public input. The legislation that will implement Kenya’s constitution includes a statute on the Media and ICT sector. According to the constitution, the industry players have an opportunity to input and shape the final product, not as a privilege extended by the authorities but as a constitutional right.

Privacy and security

This is a difficult area for the media not just in Kenya but throughout the world. Privacy in media is not just a problem for the law; it must also be dealt with through ethical guidelines of the media profession541, an issue the Media Council of Kenya has grappled with for a couple of years. And, save for the aberrations of the alternative press and a section of the FM stations, the media has generally done well on this score. There have not been overt intrusions by the media, for instance, into the privacy of individuals or generally the lives of private – as opposed to public – citizens.

537 Interview with Otsieno Namwaya, July 26, 2011, Nairobi.
538 Ibid.
539 Interview with Patrick Ochieng, Nairobi, August 28, 2011.
State security, on the other hand, was once regularly used to excuse government clampdowns on the media, despite the fact that Kenya has not had major security concerns. Nonetheless, the two issues have been well dealt with by way of legislation. Under the current constitution, Article 31, the right to privacy is guaranteed. Further, the Kenya Communications Amendment Act (KCA) of 2008 in Article 46 (f) and (g) requires all broadcasters to respect the individuals’ right to privacy. The Act criminalises unauthorised access to data in a computer. But includes an exception allowing acts carried out under any statutory power for obtaining information, or taking possession of any document or other property for legitimate purposes, such as national security.

Cybercrime and filtering

Seen as a controversial national regulatory issue, net neutrality discussions have mainly focused on the kind of policies required for broadband access at the national level. But with increased access to the internet, this debate now goes further to address the right of internet users to access services, content and applications without interference. It also includes the issue of the rights of network/infrastructure operators to be free of liability for transmitting applications and content considered illegal. The debate is now on whether net neutrality is going to become a global internet governance principle combining concepts of universal access and rights to communication and innovation.

Owing to the opaqueness of the practice, there is no public information on filtering or blocking, even though there has been widespread concern that the National Security Intelligence Services has a facility for this. Whether this is a reality remains uncertain - there has never been a tangible case of filtering and blocking at the Kenya government level. Blocking at the level of service providers is a real danger given that the government has been pushing for such measures. During the post-election violence in 2008, the government, after seeking the consent of media owners and managers, banned live broadcasts and even considered closing down the SMS messaging system. This could mean that the Kenyan government lacks the capacity to filter or block content on mobile and internet communication in the absence of the collaboration of the service providers. Alternatively it could mean that the government is reluctant to use blocks and filters – although the latter seems highly unlikely. The then Safaricom CEO, Michael Joseph, said in a subsequent interview that mobile phone providers convinced the government to refrain from shutting down the short messaging service, allowing the providers to send out messages of peace and calm instead. There is evidence that the names of more than 1,700 people who created or forwarded text messages inciting ethnic violence were compiled by the government. The purpose of this compilation of names was not specified. The assumption was that those individuals would be prosecuted but to date they have not been.

Kenya is already witnessing various forms of cyber crime e.g. website hacking, copyright infringement, email account hijacking etc. In terms of cyber law adoption, Kenya has passed relevant regulation though there may still be outstanding issues that will require revision as a result of the ever-changing cyber world. The Kenya Communications Amendment Act 2009 addresses transactions, electronic signatures and authentication, consumer protection and computer crime.

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There is also a Kenya CERT (Computer Emergency Response Team) and though it is still at the initial stages of the set up, it is seen as a step towards combating cybercrime.

10.5. Conclusions and Recommendations

The media environment in Kenya is changing rapidly and this poses major challenges to traditional media. Even if it has the capacity or the resources, the media simply has to adjust to the changes if it is to stay afloat and remain relevant in light of the emerging consumption trends. There are many exciting options ahead, and this is an area whose potential is yet to be fully exploited in the country. There is a need for constant research and analysis of the industry in order to keep pace with the changes, and develop policies that are in sync with the public’s needs. The priority areas for action are:

Regulation

- Media stakeholders will need to take advantage of the prevailing mood of inclusiveness – there have been widespread consultations in the recent past, and the constitution now require greater levels of public participation in the legislative process. For example, stakeholders have been asked to input into the draft Broadcasting Code of Practice for free to air radio and television as well as an updated ICT amended policy. There are many other pieces of legislations that will have to be created in the next five years as the constitution is implemented and this should be seen as presenting an opportunity to redress past mistakes, particularly in the broadcasting sector.
- Consultations and public participation in this regard should not be allowed to mean the inclusion of just a few urban-based stakeholders. Rather, it should include as wide a selection of stakeholders as possible, including rural, community radio stations.
- There is also an opportunity to develop legislation to address some of the most glaring industry issues including market gaps, high levels of media concentration, and cross-media ownership; for example through the introduction of laws against monopolistic tendencies to safeguard the public interest. The role of the KBC as a public broadcaster will also need to be re-examined with the view to making it more effective and responsive to public needs and the changing social, economic and political environment.

Local content quotas:

- All media houses should be required to produce a minimum percentage of Public Service Remit. There is already a proposal that calls for both radio and television stations to ensure 40% of programming is Kenyan. However further debate is needed on how to achieve this.
- Training in quality content production in light of digitisation of broadcasting will be needed.

Bloggers and social media

- Professionalisation of bloggers must be debated and agreed, to clarify their ways of working with the traditional media whilst they collect, analyse and impart information. Training of

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Bloggers should also be considered so that they provide alternative perspectives on mainstream media. Media personnel will also need training on how to take advantage of new media.

Community media
- To secure its growth and development, community radio requires an enabling environment, an assessment of what has worked and what has failed, and what needs to be done; all in light of technological advancement.

Convergence
- Training of all media personnel will be needed to facilitate multitasking. They will need to develop skills in the packaging of content in digital formats that can be delivered simultaneously through different platforms such as radio, television, print and online.

Human rights
- The human rights movement should establish effective ways of reaching and mobilising the masses through new technologies so they can demand their human rights.
11. Pretending the People come First: Human Rights, Media and Digital Communications in Post-Apartheid South Africa

By Rebecca Zausmer

The state of democracy and human rights in South Africa is in decline. Politicians are seemingly more accountable internally to one another than externally to their voters. Many South Africans at the grassroots level - who were denied a voice during Apartheid - are still being marginalised from the public conversation and genuine political participation. The rights so explicitly enshrined in South Africa’s progressive constitution – including the right to access information and freedom of expression – have not yet been translated into reality for the majority of the population. And while South Africa is an economic giant on the African continent, it is also the second most unequal country in the world with huge economic, social, and racial disparities. 24 per cent of the population still remain illiterate, and a quarter of South Africans are unemployed. Socio-economic rights are clearly not being realised either.

In any democracy, media and communications are crucial spaces for public debate, where politicians are held to account. They are a means for citizens to exercise their rights by accessing and imparting information and expressing themselves freely. And digital communications opens up the space even more. In short media and communications are both a facilitator and an indicator of human rights. And in South Africa, where democracy and human rights are struggling, the need for them to be in free and healthy spaces is even greater.

This chapter explores how far media and communications are succeeding in promoting the civil and socio-economic rights of South African citizens. The potential is huge: nearly all South Africans have access to some form of offline media. Mobile penetration has boomed with infrastructure reaching remote areas of the country. Activist groups and social movements are increasingly using digital communications to organise, mobilise and inform. The mobile internet could ensure universal access to the internet. Innovation in the ICT sector is impressive with technologies being created by and for South Africans. And these are being adapted and used at a local level. Also the mobile phone offers a cheap and personal means to deliver services to people across the country: the government, NGOs and civil society are using ICTs as a means of hurdling traditional barriers to development.

545 Rebecca Zausmer works for Global Partners and Associates’ human rights programme as a researcher and project coordinator. She also has expertise in open government and access to information issues. Her background is in international development and previous experience includes working for Pambazuka News.


547 Ibid


550 Ibid
But where there is potential there are also challenges. The media faces an atmosphere of increasing hostility towards itself, being generated from the top; the state is increasingly in control of the public broadcaster; and there has been a recent drive towards draconian legislation that seeks to limit freedom of expression and access to information. Inequality also plagues the media and communications sector and the government seems to be focusing more on its economy than its people. Access to the internet remains a privilege of the wealthy minority. Infrastructure to remote areas is weak. Prices are high. And where people do have access, they often lack the skills and educational levels to properly participate. But beyond problems of access and skills, there is a deeper issue of empty citizenship. South Africans are not actively engaged with issues and have a weak relationship with their government. Digital communications may be a means of addressing this, but they have not yet to become an interactive means for dialogue between government and citizen and cannot single-handedly create a culture of citizenship.

At the moment, it seems the potential of media and communications is being undermined by these challenges. The focus needs to be on reversing this.

11.1. Access

Access to information is a right enshrined in Section 32 of South Africa’s constitution. How far, though, has this been translated into genuine access to information for the country’s people? The answer is ‘not enough’. Social and economic divides affect access to all media and communications in the country. Today, most South Africans remain reliant on traditional, offline media for their information (Figure 33). At a time when “access to information technology is no longer a luxury, but a basic human need”551 - the majority of South Africans are still excluded from the online world and it looks like a very long road to inclusion, indeed.

11.1.1. Offline media: still the main means of accessing information

Figure 33552: Broad media consumption in South Africa 2009-2010

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The chart above gives a broad overview of media consumption in South Africa (Figure 33). In the last five years, access to all media has clearly increased. The most striking increase is in access to mobile phones which has nearly doubled. Television and radio remain the most accessible media in South Africa. In contrast, print media is accessed by only about half of the population. What stands out most, though, is the extent to which internet access is lagging in comparison to all other media: the internet is clearly a minority privilege. More detailed analysis of these access trends and what they mean for the rights of South Africans is discussed now.

**Broadcast media - highest access rates**

The chart highlights how important traditional, offline media remains as a source of information for South Africans. Radio has the broadest reach in South Africa (Figure 33). In 2010, public broadcast stations were accessible to 91 per cent of the population. The extent of reach is not surprising. Radio is a low cost medium: stations are free to access and radio sets are relatively cheap with over 76 per cent of households owning one. In 2009, South Africa had 18 public broadcast, 13 commercial, 3 low-powered and over 100 community radio stations.

The problem is that not all of these stations are accessible to South Africans, particularly in poor, rural areas. This is in a large part due to language and geography. All commercial stations are based in the major cities of Johannesburg, Cape Town, Durban, Polokwane, Nelspruit and Mafikeng. They also broadcast mainly in the English language. There are dedicated public broadcast stations for all eleven official languages and some Khoi San languages. The limited number of stations available in each language, though, reduces the diversity of content and opinion available to these language groups. Community radio is seen as a means of countering this. Initially, community radio stations existed mainly in towns and cities, but the network is now much broader after the regulator began to target licenses geographically and on poor and disadvantaged areas in the country. Stations broadcast in all official and other languages and dialects. But community radio in South Africa has problems around sustainability, with the majority of stations unable to generate any substantial revenues through advertising. There is also a lack of skills and knowledge around operations and programming. These factors mean that community radio is a floundering sector in South Africa and has limited capacity to give communities meaningful access to information.

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556 These are: English, Afrikaans, isiZulu, isiXhosa, Sesotho, Sesotho sa Leboa, Setswana, Tshivenda, Xitsonga, isiNdebele, and siSwati

Television is also accessible by a majority of South Africans. In 2010, 84 per cent of households owned a television set and 89 per cent had access to television. 7 out of 12 television channels are free to access.

Table 12: Licensed television stations in South Africa

<table>
<thead>
<tr>
<th>Public</th>
<th>Private</th>
<th>Subscription</th>
<th>Subscription satellite</th>
<th>Community</th>
</tr>
</thead>
<tbody>
<tr>
<td>SABC 1</td>
<td>E.TV</td>
<td>M-NET</td>
<td>DSTV</td>
<td>Soweto TV (Johannesburg)</td>
</tr>
<tr>
<td>SABC 2</td>
<td></td>
<td></td>
<td>Super 5 (was Telkom Media)</td>
<td>Cape Community TV (Cape Town)</td>
</tr>
<tr>
<td>SABC 3</td>
<td></td>
<td></td>
<td>On Digital Media</td>
<td>Bay TV (Richards Bay)</td>
</tr>
</tbody>
</table>

| Walking on Water (religion) |

The 2013 plan for migration from analogue to digital is an issue that threatens television access levels. Part of the strategy does include increasing the number of public channels available to create more diverse content. The costs to government may be extremely high, but there are also considerable costs for households themselves. Half of the households who do have access to television - an estimated 4.5 million - do not have the money to buy new or additional equipment required for the switch over. Criteria and application details for a promised subsidy scheme have to date still not been published. And the migration will do nothing to give access to the remaining 11 per cent who do not have access: remoteness, low electrification and low incomes will remain barriers whether television in South Africa is analogue or digital.

Print media - some barriers to access

Compared to broadcast media, access to print media in South Africa is relatively low (Figure 33). In 2010, newspaper readership stood at nearly 48 per cent; just over half of the reach of broadcast media. Literacy is of course a barrier to universal readership of print media. But if all ‘literate’ South Africans were reading, readership would be just over 86 per cent. The problem, therefore, appears to be one of cost. Aside from free material, the cost of newspapers and magazines exceeds the cost of basic foodstuffs. This means that there is high readership per copy with up to 14 different people reading one copy of a print publication (included in the 48 per cent statistic above).

There are over 54 daily and weekly newspapers in South Africa, but English dominates the country’s most popular papers (Table 13). The main dailies are also clearly targeted at the South

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558 SAARF, 2011. SAARF AMPS Presentation 2010
560 Lloyd and Duncan, 2010, p. 24
563 SAARF AMPS 2009 in Lloyd and Duncan, 2010, p. 20
Africa’s more affluent provinces (Table 13)\textsuperscript{565}. All of these factors limit access and accessibility of print media for poor and remote South Africans.

Table 13: Top daily and weekly newspapers in South Africa by percentage readership\textsuperscript{566}

<table>
<thead>
<tr>
<th></th>
<th>Penetration 2005 (% adult population)</th>
<th>Penetration 2010 (% adult population)</th>
<th>Region</th>
<th>Language</th>
</tr>
</thead>
<tbody>
<tr>
<td>Daily newspapers</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>All</td>
<td>22.7</td>
<td>24.9</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Daily Sun</td>
<td>9.8</td>
<td>14.8</td>
<td>Gauteng</td>
<td>English</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Free State</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Eastern Cape</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>KwaZulu-Natal</td>
<td></td>
</tr>
<tr>
<td>Sowetan</td>
<td>5</td>
<td>4.5</td>
<td>Gauteng</td>
<td>English</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>KwaZulu-Natal</td>
<td></td>
</tr>
<tr>
<td>Son</td>
<td>4</td>
<td>3.1</td>
<td>Western Cape</td>
<td>Afrikaans</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Eastern Cape</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Northern Cape</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Central SA</td>
<td></td>
</tr>
<tr>
<td>Isolezwe</td>
<td>1.6</td>
<td>2</td>
<td>KwaZulu Natal</td>
<td>isUZulu</td>
</tr>
<tr>
<td>Weekly newspapers</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>All</td>
<td>30.5</td>
<td>33.4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sunday Times</td>
<td>10.7</td>
<td>11.2</td>
<td>National</td>
<td>English</td>
</tr>
<tr>
<td>Soccer-Laduma</td>
<td>5.7</td>
<td>8.6</td>
<td>National</td>
<td>English</td>
</tr>
<tr>
<td>Sunday Sun</td>
<td>6.2</td>
<td>7</td>
<td>National</td>
<td>English</td>
</tr>
<tr>
<td>City Press</td>
<td>6.4</td>
<td>5.5</td>
<td>National</td>
<td>English</td>
</tr>
</tbody>
</table>

11.1.2. Digital communications – access is a barrier to realising human rights

The landscape - internet lag but mobile boom

South Africa’s performance on access to the internet is unimpressive. In terms of total number of users it appears to do relatively well compared to the rest of Africa (Figure 34). But internet penetration in the country stands at a paltry 12.3 per cent\textsuperscript{567}. South Africa – the country with the highest GDP on the continent – falls to fourteenth place behind several North African countries and Uganda\textsuperscript{568}. And this is not a close fourteenth either. Morocco’s internet penetration, for example, is

\textsuperscript{568} Calculated based on data for 57 African countries in Ibid
49 per cent\(^{569}\); approximately four times greater than South Africa’s. And internally progress has been limited too, with penetration rates only increasing seven percentage points between 2000 and 2010 (Figure 35).

**Figure 34**\(^{570}\): Africa’s top 10 internet countries

<table>
<thead>
<tr>
<th>Country</th>
<th>Percentage penetration</th>
<th>Million users</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nigeria - 1</td>
<td>44</td>
<td>20.1</td>
</tr>
<tr>
<td>Egypt - 2</td>
<td>13.2</td>
<td></td>
</tr>
<tr>
<td>Morocco - 3</td>
<td>6.8</td>
<td></td>
</tr>
<tr>
<td>South Africa - 4</td>
<td>4.7</td>
<td></td>
</tr>
<tr>
<td>Algeria - 5</td>
<td>4.2</td>
<td></td>
</tr>
<tr>
<td>Sudan - 6</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>Kenya - 7</td>
<td>3.6</td>
<td></td>
</tr>
<tr>
<td>Tunisia - 8</td>
<td>3.2</td>
<td></td>
</tr>
<tr>
<td>Zimbabwe - 10</td>
<td>1.4</td>
<td></td>
</tr>
<tr>
<td>Morocco - 1</td>
<td>49</td>
<td></td>
</tr>
<tr>
<td>Seychelles - 2</td>
<td>41</td>
<td></td>
</tr>
<tr>
<td>Tunisia - 3</td>
<td>36.8</td>
<td></td>
</tr>
<tr>
<td>Cape Verde - 4</td>
<td>30</td>
<td></td>
</tr>
<tr>
<td>Nigeria - 5</td>
<td>28.43</td>
<td></td>
</tr>
<tr>
<td>Egypt - 6</td>
<td>26.74</td>
<td></td>
</tr>
<tr>
<td>Mauritius - 7</td>
<td>24.9</td>
<td></td>
</tr>
<tr>
<td>Kenya - 8</td>
<td>20.98</td>
<td></td>
</tr>
<tr>
<td>S. Tomé &amp; Príncipe - 9</td>
<td>18.75</td>
<td></td>
</tr>
<tr>
<td>Senegal - 10</td>
<td>16</td>
<td></td>
</tr>
</tbody>
</table>

Percentage penetration, though, is based on subscription statistics and does not necessarily suggest real access numbers. South Africans without subscriptions can access the internet in the work place, internet cafés and an increasing number of information centres – Thsong Centres – set up by the government across the country. Still, though, estimates of actual access are only slightly higher at 18 per cent (Figure 33). More startling than internet penetration, though, is the broadband situation in the country. In 2010, just 1.5 per cent of the population had fixed line broadband subscriptions (Figure 35).

A striking and positive contrast is the mobile phone boom in South Africa. Network coverage extends to 90 per cent of the country\(^{571}\). Since 2004, access has almost doubled with nearly 77 per cent of South Africans having access to a mobile phone, whether it belongs to them or not (Figure 35). And with the advent of the smart phone, mobile platforms are increasingly being heralded as the answer to South Africa’s internet access problem. More people now access the internet via mobile phones that they do by computers: an estimated 19 per cent\(^{572}\).

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\(^{569}\) ITU ICT EYE, 2010. *Estimated Internet users, fixed Internet subscriptions, fixed broadband subscriptions*  
\(^{570}\) Millions of users taken from: Internet World Stats, 2011.  
\(^{572}\) Ibid, p. 7
The lines of disparity

It is not hard to guess where the disparity lies in access to digital communications. The socio-economic inequalities that define South Africa, define its digital communications sector too. Internet infrastructure is concentrated in urban areas, putting South Africa’s rural population at an immediate disadvantage. Figure 36 clearly shows that disparities also run along educational, racial and gender lines: access to internet is highest for South Africans with tertiary education, for males and for the white population.

Only four per cent of those with less than Matric level education (completion of secondary school) have access to the internet. The full meaning of this is emphasised when we consider that in 2006, 65 per cent of the entire population were educated to less than Matric level\(^574\). And then there is the substantial gender divide with more than double the men accessing the internet than women. Pro Wilson.xlsional statistics also give an indication of how income affects internet access. 77 per cent of South Africa’s highest income earning group live in Gauteng, Western Cape and Kwazulu Natal\(^575\). These are the three provinces with the highest proportion of internet users (Figure 36).

In South Africa today, racial disparity is synonymous with income disparity. For example, 79 per cent of South Africa’s highest income households are white\(^576\). As far as race/wealth is concerned, Figure

\(^{573}\) Internet and broadband subscriptions taken from: ITU ICT EYE, 2000-2010. Estimated Internet users, fixed Internet subscriptions, fixed broadband subscriptions


\(^{576}\) Bureau of Market Research, 2009
36 only gives half of the picture when you consider that the white minority has majority access to the internet. Figure 37 puts the racial and wealth inequality of internet access into better perspective.

**Figure 36**: Internet use and demographic divide

![Internet use and the demographic divide](http://s3.amazonaws.com/data.tumblr.com/tumblr_lofzt6I33o1qiuwg7o1_r1_1280.png?AWSAccessKeyId=AKIAJ6IHWSU3BX3X7X3Q&Expires=1314446946&Signature=JqgMp43aVCTRs4WLRbgDGZjEGek%3D) [Accessed: 25/08/2011]

The mobile boom may be encouraging in terms of the numbers with access but for the poor, penetration levels are still comparatively low. The majority of phone owners are in the upper income bracket. Only half of people in the lower three income quartiles own a phone^578_. There is also an urban-rural divide with only 49 per cent of the rural population having access to mobile phones^579_, although this divide is not nearly as extreme as with internet.

**Explaining the barriers and challenges to accessing digital communications**

So what is holding back access to digital communications in South Africa? Significantly, limited access is not the result of an oppressive government. The issue, therefore, is ‘weak access to technology’ and infrastructure^580_. And the major driver of this is cost and affordability for the majority. South Africa has had inflated telecommunications prices for a long time. Internet data services are high in comparison to income^581_ and are some of the highest on the continent^582_. The OECD Telecoms Price

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579 *Ibid*, p. 32


581 *Ibid*, p.6

There are similar issues around the usefulness of mobile platforms as a way to hurdle the problems of internet access. First, the cost of smart phones gives rise to affordability issues for most South Africans. Although the quality of internet access via mobile phones is not the same as via computers. Costs of services and smart phones may drop, but “the size and functionality of mobile handsets means that people will not spend as much time browsing online or accessing the same kind of content as they do via PCs”.

Policy for universal access – the fundamental flaw

Government policy and regulation point to a commitment to universal access:

- The Universal Services and Access Agency of South Africa (USAASA) has a specific mandate around universal access to communications, seeking to promote networks and services, facilitate schemes and find new ways of attaining universal access.
- The Electronic Communications Act, 36 of 2005 (ECA), amongst other things, set out to legally open up the telecommunications market to competition in order to drive down prices. This saw the entry of some new entrants into the market. In 2010, the communications regulator - the Independent Communications Authority of South Africa (ICASA) - also enforced cuts in interconnection prices.

583 Internet users by race from: Afrographique, 2011
587 Under the Electronic Communications Act, 36 of 2005 (ECA).
588 Esselaar, S. et al, 2010, p. 3
In June 2010, the government released a national broadband policy that affirmed its commitment to universal access to broadband by 2019\(^589\).

In the next couple of years three sub-Saharan African undersea cables will be completed. One already exists. The extra bandwidth that these provide is expected to significantly reduce the costs of broadband and boost South Africa towards universal access\(^590\).

A joint government and private sector fund, The Media Development and Diversity Agency (MDDA)\(^591\), targets historically marginalised groups to redress their exclusion and marginalisation from access to the media. In 2009-2010, MDDA granted a total of nearly R25.2 million (US$ 3.6 million) to 36 community and small commercial radio, television and print media organisations\(^592\).

But as we’ve seen the government has so far fallen short in its quest to create universal access. This sheds doubt on the likelihood that the government will be able to bring about universal broadband access by 2019. What is more, the government has so far not stimulated enough competition into the sector to bring prices down enough.

A major source of the problem is that universal access finds itself competing with another government priority: the economy. After Apartheid, the government inherited a relatively mature business sector that needed a competitive and advanced telecommunications system to drive and support it.\(^593\) South Africa’s media and communications sector has, therefore, undergone a process of massive liberalisation. Economic liberalisation and universal access, though, don’t necessarily go hand in hand. A big mistake that the government is making, therefore, is in assuming that a public-private relationship will succeed in driving universal access. The private sector is unlikely to invest in poor, rural areas because they are not considered lucrative markets. Until people replace the markets as a central concern – the right to access to information for all will not be realised.

### 11.2. Public Interest Communication

South Africa has highly concentrated media and telecommunications sectors. Control is in the hands of a few big players, including the state itself. This has significant ramifications on the rights of South African citizens. Concentrated ownership of the media means that South Africans are exposed to limited diversity of opinion and content. It also gives the power to the few, to ultimately control an important space for freedom of expression. In the telecommunications market, concentration means limited competition which drives high prices. This is a core factor contributor to the low levels of access to and use of digital communications which we saw in the previous section. This in turn means that citizens are unable to use digital communications to create and generate content and participate in public debate.

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\(^{590}\) Esselaar, S. et al, 2010, pp. 13-16

\(^{591}\) Established under the *Media Development and Diversity Agency Act*, 14 of 2002


11.2.1. Media ownership

Telecommunications – competition and state vested interests

The Electronic Communications Act, 2005 – an attempt to facilitate and organise the rapid convergence of the broadcast and electronic communications sector - was a legal step towards opening up the telecoms sector to competition and restructuring it. In practice it has had little effect on the market. The government has only permitted a few new entrants and these have struggled to gain traction in a sector dominated by a few, vertically integrated players.

South Africa’s fixed-line market has been dominated by Telkom giving rise to prohibitively high prices. Neotel, entered into the market in 2006, but it has struggled to gain even 15 per cent of the market share and registered a loss in 2010.

Figure 38: Market share of mobile operators in South Africa

As operator of the only undersea cable SAT3, Telkom has also had a monopoly on broadband. The arrival of Seacom, EASSy, MainOne and WACS in the last three years now puts Telekom in competition with mobile operators who have begun to provide broadband services. Competition in the mobile market is not significantly different, with only three major operators in South Africa’s mobile market: Vodacom; MTN and the relatively weak entrant Cell C.

Until recently, the state also had increasing interests in the telecommunications sector. The government owned 37.7 per cent of the dominant fixed-line operator Telkom which in turn owned 50 per cent of the major mobile operator Vodacom. In 2009, though, the state reduced involvement and altered ownership structures. While it shed its 30 per cent ownership of fixed-line operator Neotel, the government still retains its stake in Telkom, with a reduced 14 per cent stake in

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Vodacom\textsuperscript{598}. It also actively increased its interests in the sector by creating Broadband Infraco to provide wholesale broadband services to service providers like Neotel.

\textit{Figure 39: The state’s percentage stake in the telecommunications and media sector}\textsuperscript{599}

To put it simply, the social worth of digital communications is being directly undermined by a lack of competition and a number of vested interests in the telecoms sector. As already seen, the lack of competition has resulted in high prices that are preventing the majority of the population from accessing the internet with even less hope for broadband access. Mobile penetration may be high, but these high prices limit how much South Africans can actually use their phones. Social policies around universal access will not be given the precedence that they need so long as the government continues to have commercial interests in a telecoms market focused on profits.

\textsuperscript{598} Esselaar, S. et al, 2010, p. 11
\textsuperscript{599} Adapted from ibid, p. 12
Concentration across the traditional media sector

South Africa’s public broadcaster, the South African Broadcasting Corporation (SABC), is owned solely by the state and dominates the broadcast sector (Figure 40). The print sector in turn is dominated by four large groups who publish several newspaper and magazine titles: Avusa, CTY, Naspers and Independent Newspapers.

There is also substantial cross ownership across the traditional media sector. Naspers – with substantial ownership of print titles - also owns pay-TV stations MNet and DSTV, internet service provider MWeb, and social media platform MXit.

Political ties and influence are also evident: Avusa Ltd – who leads in the daily and weekly newspaper market – is majority owned by ANC minister of human settlements, Tokyo Sexwale, through Mvelaphanda Holdings⁶⁰¹.

Concentrated ownership of South Africa’s media is having two profound effects on the media as a tool for accessing information and free expression. Firstly, it is threatening the existence of alternative voices in the media. Small independent commercial papers and free community newspapers find themselves in a daunting market, competing with South Africa’s large daily and weekly papers. This is a constant threat to the sustainability of these community papers which frequently go out of print for this reason⁶⁰². The commercial arm of the SABC has meant that the SABC now not only dominate audience numbers, but advertising too. It takes half of the overall advertising pie for broadcast and uses this revenue to subsidise the SABC’s public wing⁶⁰³. This is a threat to smaller commercial and community broadcast media. Soweto TV, one of three fledgling community television stations, is struggling to capture advertising revenue from government and corporate companies. Private community radio stations have seen audience numbers boom in the last five years, but are experiencing similar problems⁶⁰⁴.

Secondly, concentrated ownership of the media limits the diversity and quality of content that South Africans are able to access⁶⁰⁵, which we will deal with in detail next.

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⁶⁰¹ Ibid
⁶⁰² Z-Coms, 2009
11.2.2. Content Production

The crisis of diversity in South Africa’s traditional media

There is certainly not reluctance to project diverse views, though: South Africa has a number of critical voices such as the Mail and Guardian or the Sunday Times. But concentrated ownership structures and a ‘cosy relationship’ between the media and vested interests, means that the media has a reputation for giving a large amount of coverage to conservative or reactionary views.\(^{606}\)

The dominance of a public broadcaster is also worrying for media diversity. Especially given that the media accessed most by the majority of the population are radio and television. True, there is regulation of the public broadcaster around language and educational programming.\(^ {607}\) The aim of this is to create content that is diverse and relevant to the needs of all South Africans. But the profit-driven private media and the commercialisation of the SABC have meant that most content now caters for the needs of South Africa’s more lucrative market – the minority middle class representing less than 15 per cent of South Africans.\(^ {608}\)

What this all signals is a clear need for alternative voices in South Africa, an issue that is not being helped by concentrated ownership. The need for alternative voices is recognised, though, and there has been a big drive by both the government and civil society to stimulate community radio across the country. But the problem of sustainability and a lack of skills to operate or contribute to community radio undermine its potential to be an alternative voice.\(^ {609}\) And then there are digital communications – widely seen as facilitators of these alternative voices. But in South Africa the question is – to what extent is it proving to do this?

Digital communications – new ways of producing content in South Africa

Digital communications do provide exciting spaces for citizens to create, impart and access a plethora of content and to engage in public debate. In this way, technology has opened up the bounds of what has been dubbed ‘citizen journalism’ allowing people in theory to expose those issues neglected by traditional media.\(^ {610}\)

South Africans are employing a range of new, individual mediums to create content. YouTube and South Africa’s own MyVideo are being used by people to share content. The internet is allowing South Africans to create content for international as well as domestic consumption. South Africans,

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\(^{607}\) Lloyd and Duncan, 2010


\(^{609}\) Association for Progressive Change, 2009. *ICTs for Democracy*

for example, regularly contribute to Pambazuka News, a Pan-African platform dedicated the opinions of Africans at home and in the diaspora.

Social media is also an extremely active arena. Over 4.2 million South Africans are now on Facebook, but more successful than Facebook is South Africa’s indigenous social networking site MXit, which has over 15 million users. The relatively small number of Twitter users - 55,000 – still generates 1.5 million tweets every year. South Africans are also number one in Africa’s blogging sphere. Afrigator and Gatorpeeps are the country’s own blogs, while micro-blog aggregators generate blogs from personal thoughts (JNB Princess); to the kitchen (CookSister!); to news and opinions (Thought Leader, Woonkie Cartoons) to entertainment and hobbies (Running Wolf’s Ran). Convergence of media combined with the advent of smart phones and cost-saving browsers for phones like Opera Mobile and Opera Mini, means that mobile phones are becoming the predominant mode for producing and engaging with these platforms.

And beyond this, digital communications are actually positively strengthening South Africa’s traditional media. Online publication - and the advertising revenues that comes with it – has allowed new business models for print media. This is particularly important for the struggling, independent publications that are not associated with the state or the big conglomerates like Avusa or Naspers. In 2009, business magazine, the Maverick closed its doors as a result of the global recession. Its editors turned their attention to publishing news and opinions online and set up the Daily Maverick, a quality, free online publication funded entirely by advertising revenues. New media has also positively changed audiences’ relationships with traditional media. The convergence of media platforms means audiences can access news and entertainment in different ways. They are also able to interact with content as most of the big newspapers in South Africa now have websites and mobile sites where readers can comment on articles. MyVideo also allows users to create channels for others to subscribe to, a feature increasingly being utilised by South Africa’s bigger news publications.

But are they really promoting an alternative voice?

In a developing country like South Africa, citizen journalism and the role of digital communications to enable is inhibited by a series of factors. Access, skill, political consciousness, critical culture, all of this impacts on the ability of South Africans to become citizen journalists. Mainstream media outlets have co-opted ‘citizen spaces’. Naspers media house, for example, owns blogs.news24.com, the largest blog platform in South Africa. It also owns MXit. The lines between citizen and mainstream are blurred, therefore, and there are few digital communications platforms that actually belong entirely to citizens.

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614 Sarrazin, 2011.
616 Ibid.
Then there are the issues around access and skills. The hub of activity described above is the activity of the minority of middle class South Africans living in South Africa’s large metropolises. The cost and infrastructure of digital communications, combined with the lack of technical skills and know-how to use them, has created a significant digital divide in the country. The majority of South Africans, therefore, don’t have the actual ‘means to production’\(^{617}\). As with other media, social media activity is most concentrated in Johannesburg and Cape Town, for example, which combined, produce nearly double the tweets than the rest of the entire country\(^{618}\).

There are valuable initiatives in the country aimed at overcoming this barrier to citizen journalism. Voices of Africa trains mobile reporters in countries across the continent including South Africa and a partner company provides them with second hand mobile and camera phones\(^{619}\).

But one specific project demands attention: lindaba Ziyafika (The News is Coming) is a project run by Rhodes University in Grahamstown in collaboration with Grocott’s Mail, South Africa’s oldest independent paper. The aim of this project is not just to promote the use of citizen media, but to promote a relationship between traditional and citizen media for greater diversity and a genuine culture of citizenship. At one level the project trained young South Africans in a range of different citizen journalism methods using a variety of platforms such as MXit. At another level, it created channels between Grocott’s Mail – an English publication with a cover price that confined it to middleclass readers – and a local community radio station. These became outlets for the material generated in both English and isiXhosa by the young participants.

What the project showed is that a small amount of participation created a significant and diverse content that was relevant to a broad constituency. It also emphasised a considerable challenge. The quality of citizen journalism and desire to participate depended very much on people already being engaged with the issues. The fundamental challenge in promoting genuine alternative voices in South Africa, then, is not just to create access and build skills, but to deepen the ‘consciousness of citizenship’\(^{620}\).

### 11.3. Digital Communications – Opportunities for Human Rights?

It has been clear so far that for the majority of South Africans, digital communications remain a ‘potential’ tool towards realising their civil and political rights. Barriers to access have already been discussed. As have the challenges for alternative voices. This section now looks at developments and initiatives that use digital technologies to further human rights. And the question goes back to – how far do and can they succeed in this context?

#### 11.3.1. Homebred Innovation for Change

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\(^{617}\) Ibid.


\(^{619}\) Sarrazin, 2011

\(^{620}\) Berger, 2011
South Africa’s innovation drive is perhaps its most promising asset in terms of empowering its citizens and hurdling development challenges. What is striking is that this innovation is not just at the level of technological development, but in the way that this technology is being both adopted and adapted by South African society. A variety of different actors – the private sector, government, South Africa’s most technically savvy, academics, civil society – are all contributing.

The open source wave in South Africa

To promote ICT innovation and entrepreneurship, the government and private sector have established a number of technology incubators and hubs including: Silicon Cape, Cape IT Initiative (CITI) and the Bandwidth Barn. South Africa is now a world leader in software development. From a social perspective its open software contributions are particularly important. South Africa is now a close contender in open source contributions with other emerging economy countries like India and Brazil (Figure 41). Just as important as the free and open source software (FOSS) itself, are the initiatives to proactively distribute this software and to make it accessible for as many South Africans as possible. Translate.org.za works on the localisation of FOSS into the 11 official languages of South Africa. Translations include: GNOME, KDE, OpenOffice.org, Firefox and Thunderbird. Freedom Toaster - funded by the Shuttleworth Foundation, the same man behind the open source operating system Ubuntu - is a means of getting FOSS out to as many South Africans as possible. Freedom Toaster is ‘a content vending machine-like kiosk’ allowing users to burn FOSS onto CDs or DVDs.

Figure 41: Open source software contributions around the world

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624 Ibid

Tools and platforms – by South Africans for South Africans
There are also a number of other indigenous platforms, applications and tools including: mobile video platforms Zoopy and MyVideo; Yola, a free web-site building platform; and blogging and micro-blogging platforms Afrigator and Gatorpeeps. The country’s social networking platform MXit is versatile and well-suited to the South African context. It had an early focus on instant messenger (IM) chat giving South Africans a cheaper option than SMS to send messages. It also relies on phones and not computers, thus making it more accessible for more South Africans.626 Because of its membership base, the platform is also being used by organisations to deliver services and provide drug counselling to users and HIV/AIDS services.

11.3.2. Towards Voice and Socio-Economic Rights being realised in South Africa

Voice on the internet
The internet creates an enabling platform for exercising a variety of rights including: the right to access information; the right to freedom of expression; the right to freedom of association. As such it is a space with the potential to empower and give voice to marginalised groups in South Africa. The internet allows them a way to access relevant information and knowledge; connect to people via virtual communities and networks; to create their own content and stories in their own ways; and to build skills and capacity. The aim of Women’s Net in South Africa is to empower women by doing all of these things. Its project, ‘Women and Elections’, set out to inform women about the election from a gender perspective through a number of different online activities. In South Africa one particular group being given voice and space is the LGBTI group. A study of transgender and lesbian South Africans highlighted the significance of the internet as a space to inform on LGBTI issues. It has also enabled a community in which transpeople can develop and perform their identity, free from judgement in a society where they feel the need to hide themselves.

The internet has significant potential for activists and marginalised groups to transcend their national borders and strengthen their voice by connecting with the rest of the world. It has enabled Women’s Net to advocate on an international scale. South Africa is one of the most progressive countries in Africa on gay and transpeople rights and so in this respect the internet has enabled them to connect to the strong LGBTI international movement, and to advocate and connect with the fight for LGBTI rights in African states where homosexuality remains illegal.

A mode of service delivery for realising socio-economic rights
In South Africa the delivery of services via ICTs, particularly mobile phones, has been a stronger focus than initiatives to promote voice and participation. The government has attempted to use ICTs as a means to jump the infrastructural barriers to development. NGOs, CSOs and community organisations have in turn used ICTs to plug the large gaps in government service delivery. The

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plethora of projects highlight the extent to which technologies can and are being used and adapted to reach poorer South Africans with vital services.

- **Education**: The Department of Education’s draft white paper on e-education in 2003\(^{628}\) has brought about a series of e-education and e-learning initiatives in South Africa. There has been a big drive to get ICT infrastructure and internet access to schools across South Africa at all levels of education. Projects include: Telkom Super Centres, SchoolNet South Africa, and Gauteng online. A recent initiative includes eKhaya which is running a pilot in Eastern Cape with the vision to establish ICT centres in village schools\(^{629}\). Research into ICTs for education, such as that done by the Meraka Institute, is also being undertaken to complement and inform these initiatives.

- **Health**: South Africa has both a poor health infrastructure and high rates of HIV/AIDS and other infectious diseases. This reality, combined with high mobile usage means that mobiles are a prime tool for assisting in more effective delivery of health services to the poor. Appointment reminders via SMS by Project Masilekule have led to a drop from 30 to 4 per cent in missed appointments. Cell-life, which collaborates with the National AIDS Helpline, connects nurses and carers with HIV/AIDS patients in their own homes. One of their services is to send reminders to take anti-retroviral drugs (ARVs), which is particularly important in ensuring the effectiveness of ARVS. In a country where there is still enormous stigma around HIV/AIDS, mobiles also provide a personal and private means of counselling people cheaply. MXit is increasingly used as a counselling and information platform on various health and social issues. One example is the Drug Advice Support (DAS) which has now expanded to other issues such as rape and child abuse. Red and RedChatZone are Cell-life initiatives which use MXit to provide information on HIV/AIDS and counselling. Between September 2009 and April 2011, 1.6 million pages of content were viewed and 59,000 people had Red as a contact on their profiles.

- **Employment and income**: The Small Enterprise Development Agency (Seda), an agency of the South African Department of Trade and Industry, uses Freedom Toasters to distribute business information, templates, software and success stories to assist small and medium enterprises. Uusi gives members of the mobile network access to employment and education opportunities.

- **Mobile Banking**: There are 13 million ‘unbanked’ in South Africa. Mobile banking provides them with the ability to deposit, transfer and withdraw funds via their mobile phone. In South Africa, mobile banking is frequently used for the transfer of money to the rural poor\(^{630}\). Wizzit, compatible with early generation phones, is used by low-income households, and issues account holders with a Maestro card which can be used in shops and at ATMs to withdraw funds. South Africa now has a wide variety of mobile-banking products with MPesa, a product developed by Safaricom in Kenya, launched in the country in 2010\(^{631}\).


\(^{629}\) eKhaya, About Us, ekhayaict.com [online] [http://ekhayaict.com/About-Us](http://ekhayaict.com/About-Us) [Accessed 14/09/2011]


\(^{631}\) Tande, D., 2011
Inequalities mean digital communications have limited use for social movements

There is a recurrent theme in this chapter of chronic social inequality and a lack access to digital communications and the skills to use them. As long as fundamental inequalities are a barrier to the use of digital technologies, we must be realistic about how far digital communications can help to bring about social change. Social movements are using digital communications to mobilise, organise themselves and make demands around a variety of civil-political and socio-economic rights. Two prominent and relatively successful social movements in South Africa are Abahlali BaseMondjolo (Shackdwellers Movement) and the Treatment Action Campaign (TAC). Abahlali campaigns around housing and land rights employing a strategy of road blockades and marches. The TAC is a campaign for the right to health and equal access to HIV/AIDS prevention and treatment services. It uses a combination of litigation, human rights education, HIV/AIDS treatment literacy and demonstrations as its mobilisation tactics. Both have been successful in achieving some of their aims. These movements use digital technologies to communicate their agendas and news, to raise awareness in domestic and international quarters, to advertise activities and demonstrations, and to share stories. But while the internet, social media platforms and SMS are clearly important tools, they are not the central backbone. The core membership of these movements is at the bottom end of the digital divide without access to sanitation let alone digital technologies. It also highlights that mass and spontaneous informal movement for change as in the Arab Spring is unlikely to happen soon in South Africa.

E-participation – the need to foster meaningful engagement with government

The example of political parties in South Africa using SMS and social networking to communicate with their supporters ahead of the 2009 elections is much flaunted. But e-participation and e-democracy initiatives have proven limited in their ability to stimulate real and meaningful participation in political processes.

There are a number of reasons for this. The concept of engagement is neglected from the start: national and local e-governance initiatives use ICTs for service delivery rather than collaborative and interactive dialogue - `a one-way transfer of information`. In fact, many officials interpret direct

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engagement with citizens as undermining local government rather than as a way to strengthen democracy and accountability. At the citizen end, there is also a limited participatory culture particularly with the poor and marginalised. And as we have already seen an existing sense of citizenship is important. E-participation has also been hampered by the recurrent problem of access and literacy. The 24 worst connected municipalities in South Africa have only 3 per cent internet penetration and 6 per cent computer use. Until recently, many of the government’s more remote Thusong Centres (information centres) had no internet connectivity. At the beginning of 2010, 20 per cent remained unconnected. As well as a large degree of ICT illiteracy, there has been little done to make the actual content of government information accessible. Poor and marginalised South Africans do not have sufficient levels of education or language skills. And finally, e-participation does not work where local government lacks the institutional capacity and maturity to respond to citizens. Investment cannot just be into the technologies and skills building, but needs to be put into municipal institutions as well.

Identity and culture do not always fit

It cannot be assumed that South Africans will necessarily be keen to embrace digital communications. There are other factors around power and identity that can limit how far digital communications can be used as a tool to promote and protect rights. The failed UmNyango SMS campaign is an example of why these factors need to be considered. The campaign was aimed at empowering women through SMS by raising awareness about domestic violence and land exclusions and encouraging women to report abuses of their rights using SMS. But the project failed to increase women’s participation because there was general distrust in the technology and an unwillingness to confide in strangers. The financial costs to both the NGO and to local women were also high. Other forms of activism more suitable to the local context could have had greater success.

No concrete evidence

What is striking is how little is actually known about the extent to which digital communications can empower in South Africa. There is anecdotal evidence, but there is no proper measurement of what the impacts on empowerment are. This dearth of knowledge needs filling. The recent Siyakhula Living Labs project is a concerted effort to do this. It is a multi-stakeholder initiative involving South Africa’s academia, public and private sectors and South Africa’s users themselves. The project is seeking to generate user-driven innovations that are relevant in rural contexts and using a variety of


636 PCRD and eKhaya ICT, 2011.

637 Ibid.

638 Razool, F. 22 March 2011, Thusong centres can’t tackle ICT, ITWeb, [online]


640 PCRD and eKhaya ICT, 2011.

641 Horner, 2011

communications technologies. Empowerment to realise socio-economic rights is the ultimate end of the project. The project recognises that marginalised communities do not just need access to the internet, but a combination of specialised services as well so that the internet can match community needs. Services include micro-financing, transport, collection and preservation of indigenous knowledge. At the same time, the project is focusing on finding models that make this infrastructure sustainable, important when considering economic empowerment. The Living Labs method is based around constant collaboration, research and trial and error, and long-term commitment. This approach gives us a much deeper understanding of what peoples’ needs actually are and how far digital communications can and is helping to deliver on them.

E-services should complement service delivery

While the plethora of projects using digital communications to deliver services is exciting, there is also a chronic lack of coordination and comprehensive strategy between the various stakeholders. There is scope for a more targeted and consolidated approach based on what is actually working. Also the costs and therefore sustainability of these initiatives are high. There is, of course, also a danger that the hype and innovation may focus attention on e-services rather than investment into a permanent and efficient service infrastructure for the country. E-services must complement not replace traditional service delivery.

Economy over the people... again

The government’s commitment to innovation is clear with a several policies to facilitate and utilise it, such as the: 1996 National System of Innovation in 1996; the 2002 National Research and Development Strategy; the Technology Innovation Act 2008; the National Innovation Plan 2008-2018; the Information Society and Development (ISAD) Strategic Plan 2010-2013; the Meraka Advanced Institute for Information and Communication Technology. The overall aim is to “establish South Africa as an advanced information-based society in which information and ICT tools are key drivers of economic and societal development”. But as is the case elsewhere, there appears to be a large discrepancy between vision and policy, and delivery and implementation. In June 2011, for example, ISAD – which aims to establish South Africa as an ‘advanced information society’ - had been rolled out in only two provinces, showing limited uptake of the strategy. In some cases policy is also contradictory. In 2010 the government somewhat undermined its 2007 open source policy with a teacher laptop initiative that excluded open source options in favour of Microsoft products. What is more, national strategy around innovation seems to primarily focus on becoming a world leader in technological innovation. And the primary objective of this is economic. Socio-economic development is expected to be spurred on by this economic growth. In short, the government’s

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646 Ibid

647 Ibid

commitment to innovation once again seems to have an economic focus rather than a direct focus on its people.

11.4. Controlling the Media

Media freedom - down a slippery slope
The foundations of post-Apartheid South Africa lay very much in its very progressive and democratic media legislation and policy based on the right to freedom of expression. This was the work of civil society organisations, media NGOs and the ANC itself over a period of decades\(^\text{649}\). Less than two decades on South Africa’s media finds its freedoms are being curtailed. In 2010, the country dropped in the Freedom House Press Freedom Index from ‘free’ to ‘partly free’\(^\text{650}\). Hostile official rhetoric against critical voices in the media is increasing; the SABC is fast losing its ‘independent’ image; and there are a number of dangerous and draconian legislative efforts threatening the media. The ANC’s treatment of the media in recent years looks more and more like ‘a return to the era of draconian censorship’\(^\text{651}\).

The power to silence
The relationship between the government and media is increasingly negative. This is highlighted by a recent drive for self-serving and restrictive legislation by the ANC.

Since 2007, the government has been threatening to establish a Media Appeals Tribunal (MAT) for monitoring the media despite the fact that there are a number of self-regulatory and working bodies to do this\(^\text{652}\). The proposed MAT would introduce formal censorship to print media. It would be answerable to parliament and would have the power to imprison or fine journalists for inaccurate reporting\(^\text{653}\).

A more urgent worry, though, is the Protection of Information Bill (POIB), dubbed the ‘Secrecy Bill’. The POIB makes it a punishable offence - of up to 25 years in prison - for the media to possess or publish any ‘classified’ document\(^\text{654}\). After several redrafts in response to mass media and public outcry, it still – as the A2K campaign puts it - ‘fails the Freedom Test’\(^\text{655}\). In September 2011, the ANC

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\(^{651}\) Fourie, 2010

\(^{652}\) Including The Press Council, the Press Ombudsman, SANEF, the Broadcasting Complaints Commission of South Africa (BCCSA) and the various government regulatory bodies


\(^{654}\) Alternative Information Development Centre, 2010


Both MAT and POIB, if seen through, will substantially undermine the role of the media in ensuring transparency and accountability in South Africa. They would also act to curtail free media and the rights to access of information and freedom of expression for all South Africans\footnote{Fourie, 2010}.

There are a number of other less draconian laws that also undermine South African’s right to access information. The 2004 Law on Antiterrorism allows authorities to compel journalists to reveal sources, and to restrict information about the police, national defence forces, mental institutions and prisons\footnote{Freedom House. 2010. \textit{Freedom of the Press: South Africa}, Freedom House [online] \url{http://www.freedomhouse.org/template.cfm?page=251&year=2010} [Accessed 26/08/2011]}. The hurried draft amendment to the Promotion of Access to Information Act, 2 of 2000 (PAIA) has failed to respond to calls to gain access through a regulatory body rather than the courts. Using the courts is a costly and time consuming process that the majority of South Africans cannot afford\footnote{Esselaar et al, 2010, p. 15; and South African History Archive, 26 January 2011. \textit{Amendment to the Promotion of Access to Information Act}, SAHA [online] \url{http://www.saha.org.za/news/2011/January/amendment_to_the_promotion_of_access_to_information_act.htm} [Accessed 16/09/2011]}.

\textbf{Political interference}

There are concerns that the several examples of political interference and attempts by the government to increase its legal control over the SABC signal a threat to media freedom. In 2009, the SABC’s board was dismissed and replaced with an interim board in attempts to restore its independence and fix the US $100 million loss from the previous financial year. But it remains accused of being a voice piece for the government\footnote{Ashton, 2011}. And in early 2011, the South African high court ruled that ICASA relaunch an investigation into political interference in the SABC in 2006 to blacklist four critical commentators from the SABC’s news and current affairs programmes\footnote{The Citizen, 27 January 2011, \textit{Cosatu welcomes SABC ruling}, The Citizen [online] \url{http://www.citizen.co.za/citizen/content/en/citizen/local-news?oid=167759&sn=Detail&pid=146864&Cosatu-welcomes-SABC-ruling} [Accessed 16/09/2011]}. The Act that was eventually passed requires ‘due inquiry’ by the National Assembly before a dismissal is made\footnote{Alternative Information Development Centre, 2010}.

The 2009 Public Service Broadcasting Bill gave considerable power to the Minister of Communications over the day-to-day management of the SABC\footnote{Freedom House. 2010. \textit{Freedom of the Press: South Africa}, Freedom House [online] \url{http://www.freedomhouse.org/template.cfm?page=251&year=2010} [Accessed 26/08/2011]}. In the same year, the then president, Kgalema Motlanthe refused to sign the Broadcasting Amendment Act because it gave Parliament the power to dismiss SABC board members and the entire SABC board\footnote{Esselaar et al, 2010, p. 15; and South African History Archive, 26 January 2011. \textit{Amendment to the Promotion of Access to Information Act}, SAHA [online] \url{http://www.saha.org.za/news/2011/January/amendment_to_the_promotion_of_access_to_information_act.htm} [Accessed 16/09/2011]}. The Act that was eventually passed requires ‘due inquiry’ by the National Assembly before a dismissal is made\footnote{Freedom House. 2010}.
still giving the government an amount of power. It is very clear that its legal grip on the SABC is tightening. Whether intentional or not, it is also worth noting that the government is increasing its control of a dominant public broadcaster which was made dominant by the government’s own regulation and policy in the sector.

**A culture of hostility towards the media**

Freedom of expression is also being challenged by the intolerance and intimidation of the media in South Africa, particularly by political figures. The media has found itself the victim of a number of gagging orders and court interdictions. At least three gagging orders have been brought against the Mail and Guardian since 2005 to prevent reporting on corruption scandals. In 2010, Sunday Times journalist Mzilikazi wa Afrika was arrested the day after he wrote a story alleging irregularities in tender proceedings by the police. Political cartoonist Jonathan Shapiro was also taken to court for defamation over his critical representations of President Zuma. In a positive bid for freedom of expression, the court ruled in favour of Shapiro, saying that, “his cartoons expressed ‘free, open, robust and even unrestrained criticism of politicians by a journalist’ and had stimulated ‘valuable political debate’.” But the case symbolises the extent to which the president respects freedom of expression in his country.

Aside from attacks in the courts, other tactics against the media have been used, including government threats to cut advertising in papers reporting on corruption. ANC Youth League, Julius Malema and his spokesperson Floyd Shiyambu are well known for their anti-media tirades. Shiyambu led a targeted smear campaign accusing specific journalists of bribery. And Malema’s supporters also recently took to throwing stones and bottles at journalists and assaulting female journalists who were reporting on protests around his disciplinary hearing.

**Censoring digital communications**

The government’s control of the digital sphere is also an important indicator of threats to citizens’ freedoms. In South Africa, digital communications are actually a relatively uncontrolled space for people to exercise their rights to access information and free expression. Unlike its press freedom status, South Africa’s internet freedom status is ‘free’. There is currently no blocking and filtering of content other than for pornography, but there is still scope for concern.

In terms of surveillance, there is legislation that gives potential to extensively monitor digital communications. To date this has not been implemented, but the concern remains. ISPs are required

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665 Freedom House. 2010

666 Reid, J. 2010. *A war on media freedoms in South Africa? Why must we worry about the Media Appeals Tribunal and the Protection of Information Bill?* Royal African Society [online]


668 Leadership Online, 6 September 2011. *SA politicians, officials set tone for public animosity*, [online]

to retain customer data indefinitely under the Regulation of Interception of Communications Act 2002 (RICA). And the same act bans internet systems that cannot be monitored. Building monitoring capabilities like this into the system is dangerous because it also leaves users’ personal data more open to attackers. In addition to surveillance legislation, there has also been some monitoring of SMS and conversations on mobile phones. The National Communications Centre has the ability to intercept and record domestic and international conversations using keyword monitoring. And the Regulation of Interception of Communications and Provision of Communication-Related Information Act (RICA), requires ISPs to register identities and addresses of all SIM card users. While the aim of these exercises is to protect South Africans from national security threats, citizens are subject to having their conversations listened to without a court order and this can leave activists and human rights defenders vulnerable to harassment and persecution. In doing this, it may also create a chilling effect where people are afraid to use mobile phones to speak out freely.

There is also the increasing potential for censorship. The 2009 Film and Publications Amendment Act, for example, requires any non-recognised publisher to submit any broadcast material for censorship. This applies to digital as well as traditional spaces and affects content created by non-mainstream citizen journalists and broadcasters giving scope for censorship of these alternative voices.

While there is no blocking and no real political censorship of content, there is increasing concern that threats to freedoms in the traditional media realm have the potential to extend to the digital realm. Social-networking sites could be particularly susceptible to defamation cases, for example. Cases in the traditional media might set a precedent that would limit free speech online. Civil laws are already being applied to online content. In the case of Natasha Tsichlas - a South African football team manager who sued Touch Line Media for defamatory comments posted on their website Kick Off – the courts ruled against Tsichlas on the basis that monitoring and censoring material on the host’s site would be a curtailment of the right to freedom of expression. In this respect, the South Africa courts so far have demonstrated a balanced regard for protecting individual rights at the same time as leaving freedom of expression intact.

The above case highlights how the issue of intermediary liability can encourage censorship. As in the USA, South African ISPs are held liable for content only where they have knowledge and control over it. The Electronic Communications and Transactions Act (2002) requires ISPs to respond to and take-down content once a take-down notice is received, but does not oblige them to monitor activity.

670 Ibid
674 Freedom House, 2010
676 Ibid
Protection from liability may protect ISPs, but it also puts them under substantial pressure to remove content without exploring the truth of allegations. In South Africa, this could lead to indirect political censorship by powerful players especially given the current attacks on critical media.

The Law Commission is still considering a bill to regulate pornography on the internet and cell phones. Consensual adult pornography is legal in South Africa, but the bill in its current form will makes any ISP or mobile operator guilty of an offence if they distribute or allow the distribution of pornography. Furthermore, the bill is drawn up by the Justice Alliance of South Africa (JASA) - an anti-gay, anti-choice organisation - and it promotes state censorship along those lines.

It is clear that while the internet might be considered the freest medium in South Africa at the moment, there is built-in potential for both surveillance and censorship so that this freedom is precarious balanced. As access increases, the internet as a free space will become increasingly important and as such it needs to be kept free.

11.5. Conclusions

Media and communications have a significant role to play in facilitating the civil and socio-economic rights of South Africans. The majority of South Africans, for instance, have access to some form of offline media and it remains a vital source of information. There is also clear potential in the realm of digital communications. The internet currently provides the freest space to express opinion and access information and mobile phone penetration has boomed. At the same time, there is homebred innovation drive that is exciting both in terms of what is being created and how it is being used at the local level. Civil society and activists are using digital communications increasingly to inform and mobilise. And mobile phones are a providing cheap and personal means for filling service delivery gaps.

But at the same time, the potential of media and communications is being undermined by some serious challenges. South Africa’s media is being attacked from all sides with hostile political rhetoric from the top; increasing state control over the public broadcaster; and legislation that threatens freedom of expression and access to information. The power of digital communications to empower is also weakened by low levels of access to the internet and prices that limit the extent to which mobile phones can be used. With state vested interests in the communications sector, government policy and regulation have so far failed to bring prices down or stimulate infrastructure investment in remote areas. There is also a clear need for alternative voices: a concentrated media is impinging on diversity of content and opinion, community radio currently remains weak and access issues restrict digital communications as a viable space. And low levels of education and ICT skills mean that even those with access to digital communications are limited in their ability to actually use

them. South Africa, though, also faces a larger problem: a crisis of citizenship. For digital communications to properly contribute to overcoming this problem, they must become more than a mere one-way channel of communication between government and citizens.

The way forward

- **Continuing investment in important offline media:** while rates of access to the internet still remain low, offline media are crucial sources of information for the majority of South Africans. Digital communications provide exciting opportunities for funders, but continued investment in offline media remains important.

- **Developing internet and broadband infrastructure to increase access:** the government and regulators need to create a series of fiscal incentives to encourage the private sector to develop infrastructure in less lucrative, remote areas. There first needs to be research into the most appropriate fiscal incentives for the South African context.

- **Driving costs down:** civil society needs to take up South Africa’s high internet, broadband and mobile costs as a human rights issue, putting pressure on the government, the independent regulators and the private sector.

- **The government and regulators also need more proactive measures to bring prices down, rather than relying on competition.** Again, there needs to be research into the various options including: bandwidth sharing between mobile operators; lowering duties on devices; and cross-subsiding tariffs. If the government lacks the initiative, research could be commissioned by civil society and the private sector.

- **Changing attitudes to engagement:** if digital communications are to provide an effective two-way channel of communication between government and citizens, the focus needs to be on more than the citizen. Local government needs training on modes of dialogue and to understand the benefits of meaningful engagement with their constituents.

- **Making the information relevant:** alongside government and civil society digital initiatives, there should be a focus on the accessibility of the information itself and not just the tools. Relevant websites need to be translated into local languages. Alternative ways of presenting information, such as audio and visual tools, should also be used especially in areas with low literacy. Information needs to be made locally relevant too.

- **Pro-poor innovations:** despite more exciting advances in technologies, investors and developers must continue to create platforms and applications for older, second generation phones still used by the majority.

- **Both government and civil society should also ramp up efforts to distribute FOSS and make them accessible in languages other than English.**

- **Understanding the effectiveness of digital communications:** there needs to be rigorous and long-term research into how far digital communications are leading to socio-economic empowerment and how effective they are in service delivery.

- **Investment into digital communications literacy:** any digital initiatives need to go hand in hand with skills and training to use digital communications. These skills also need to be easily adaptable as technologies and applications change and advance.

- **Making space for alternative voices:** rather than treating alternative voices as a separate to the media, new ways of integrating alternative voices into traditional media systems need to be found. As with Indaba Ziyafika, projects should work with citizens as well as established
media outlets. And they should combine citizen journalist training, awareness-raising around specific issues, and digital communications to foster these alternative voices. This kind of initiative requires contributions from civil society organisations as well as the South African media and its academic institutions.

- To strengthen community radio, media development initiatives still need to focus on skills training. But community radio stations should be understood as businesses and new models of income generation need to be found. There is a role for the private sector here to share experiences and expertise.
Concern about the ability of the media in the United States to meet public interest needs has been a recurring theme amongst civil society for several decades. Highly concentrated media ownership and rampant commercialisation facilitated by US deregulatory policies, together with a lack of adequate public oversight, increasingly threaten the fundamental elements of free expression essential to a truly democratic society. Activists have fought aggressively against such developments, and have gained broad support from the civil society and governmental (since Obama’s victory) sectors. However, in a political environment where economic resources have a dominant role in policy and media distribution, public interest concerns are often overpowered by the commercial interests of big business.

Efforts to promote alternative distribution and media outlets (such as public media and citizen media) are ongoing and are expanding with new technology. The explosion in internet access and use - including the rise of mobile internet devices - is lowering barriers to entry and an increasingly diverse group of people and organisations are able to communicate on a mass scale. Indeed, more and more of the population are empowered to produce, share, edit, re-edit and moderate information for the public sphere. This is a tremendous opportunity not only to contest the outdated hegemony of commercial news giants, but to democratise the production, dissemination and consumption of information and ideas. However, it is unclear whether at present these alternatives can adequately match the power of commercial media and communications.

As the inherent tensions between commercial and citizen media continue to play out – they are shaped by dynamics at the international level (as outlined in the “Global Internet Policy” Chapter), and national policy is also having a significant impact outside of US borders. Most obviously the post-September 11 policy reaction in the US has been widely laundered in other parts of the world where it has opened the door to greater censorship and surveillance. Furthermore, many of the dominant global digital companies are US companies, such as Google, Facebook and Twitter. This calls for US advocacy to align with global advocacy, and to consider the global implications of domestic policy positioning.

One framework heavily relied upon in the rest of the world but largely absent from the US debate is the framing of communications and media public interest values as a fundamental element of the human rights movement. Although many civil society groups working in this field do identify with broader human rights issues, they seldom frame the debates as human rights struggles, and often do not draw the broader human rights advocacy institutions into the heart of these battles. A human rights approach to the media and communications environment has much to offer in addressing a range of concerns from access to the internet, to the openness of the digital ecosystem, to citizen participation and empowerment.

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12.1. Access and Accessibility

Over the past ten years patterns of media use have changed dramatically in the US. Statistics show that the numbers of people who get their information over traditional platforms - newspapers, television, radio – are either stalling or falling. The internet is fast becoming the central platform for accessing information and ideas. Newspaper, television, and radio content are increasingly being delivered to the general public over the internet. On the internet they compete more directly with one another and with new content sources which are developing rapidly due to low barriers to entry. In this new context universal internet access is becoming crucial to achieving a well-informed public.

Figure 42: Where do citizens report obtaining most of their news about national and international issues?

Newspapers
Since the 1940s heyday of the newspaper industry, there have been thousands of newspapers in the US. But, across the board, they are suffering from declining circulations. Newspaper circulation fell by an estimated 30 per cent between 2001 and 2011, making newspapers the hardest hit of all traditional media platforms. Big city newspapers are experiencing the worst circulation losses. Circulations of Newsday, the San Francisco Chronicle, and the Houston Chronicle, for example, all fell by more than 10 per cent between 2010 and 2011. In response to these difficulties some titles have closed, others have shrunk their delivery areas, and many have reduced the number or size of their publications. For instance, the two major newspapers in Detroit, The Free Press and The News, have

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both limited weekday home deliveries to Thursday and Friday only, and a slimmer version of the newspapers is available to buy at newsstands on other days of the week.\footnote{682}

A growing number of newspaper titles are turning to the internet to reach their audiences. In May 2011, to reflect America’s evolving media consumption, the Audit Bureau of Circulation (a non-profit circulation-auditing organisation) introduced a new tool to take account of online audiences and other changes in audience behaviour.\footnote{683} Given the rule changes, the latest circulation figures cannot be compared directly with those of one year ago. However, even taking into account the rule change, weekday circulation was lower than last year for all but seven of the 25 largest US newspapers.\footnote{684} The only newspaper to report increasing circulation is the Wall Street Journal (WSJ). The WSJ actually increased its daily circulation in 2010 by 1.8 per cent. This is partly due to the high number of paid online subscriptions. The WSJ has 449,000 online subscriptions, far more than their nearest online competitors, the Detroit Free Press with just under 100,000. The New York Times is third with 72,000.\footnote{685}

\textbf{Television}

Television is the most widespread media platform in the US: 99 per cent of households have at least one television, and a TV is on for 6 hours and 47 minutes per day in the average American home.\footnote{686} 21.6 million Americans on average still watch one of the three network news programmes each night.\footnote{687} While overall television viewing figures remain high, the most popular shows are entertainment rather than public interest programmes. For example, in the week ending on June 19, 2011, only one of the top fifteen most watched shows was predominately an informative programme (“60 minutes” by CBS).\footnote{688} For news programming, audience numbers are declining slowly but steadily across both broadcast and cable. Network news audiences have been falling steadily for 30 years, and local television is also experiencing continuous audience losses.\footnote{689}

Over the past ten years, as the only significant growth sector amongst traditional media platforms, cable television has been the exception. However, there are signs that audiences here too may have peaked; audience numbers fell between 2010 and 2011. Median audiences for cable news programmes were down by 13.7 per cent between 2009 and 2010 across all three channels: CNN, \footnote{682}Ibid.
\footnote{685}Pew Research Centre, 2011a.
\footnote{687}Pew Research Centre, 2011a.
\footnote{688}The top fifteen (in descending order) were: America’s Got Talent; The Voice; NCIS; NHL Stanley Cup Final; The Mentalist; NCIS: Los Angeles; The Bachelorette; So you think you can dance; 60 minutes; Hawaii 5-0; Miss USA; CSI; Blue Bloods; The Big Bang Theory; and Blue Bloods (again). Nielsen Media Research, 2011. \textit{TV Ratings}. [online] Entertainment Weekly. Available at: \url{http://www.ew.com/ew/tv/} [Accessed 19 June 2011].
\footnote{689}Pew Research Centre, 2011a.
Fox News and MSNBC. Overall, the aggregate television news figures fell in 2010 for the sixth consecutive year.

Radio
Radio audiences, on the other hand, have changed little over the past decade, and overall listening levels are high with 93 per cent of Americans listening to AM/FM radio at some point during the week in 2010. This number is high, although evidence suggests that the radio is mainly for entertainment with Pew Research Centre reporting that all-news radio programming has become less common over the last decade and only 16 per cent of Americans stating that their main source of news is the radio.

As commercial radio stations abandon news content, audiences for National Public Radio (a non-profit membership media organisation) have grown steadily to 27.2 million weekly listeners in 2010. A growing trend shows the public accessing radio over the internet, and particularly new internet-only radio stations. In 2010, for the first time, Americans reported listening to more online-only content - such as Slacker Radio - than streams from traditional AM/FM stations. This trend is set to continue, particularly with the introduction of widespread access to the internet in cars, which is expected imminently.

Internet
Despite significant declines in audiences to offline media, overall media consumption is growing and this can be attributed to the tremendous growth in online audiences. The internet can be used to access a wealth of information, far more than was available in the offline world. For example, more video is uploaded every 60 days on YouTube alone than the three major US television networks produced in 60 years. The internet is also increasingly becoming one of the main platforms for accessing information about current affairs. The percentage of Americans who reported obtaining most of their news from the internet more than trebled between 2001 and 2010 to 41 per cent. As can be seen in Figure 42, the internet has now surpassed newspapers in popularity as a source of news and is closing the gap with television. In fact, in 2010 the internet surpassed television for the first time as the main source of news for people aged 30 or under.

Mobile phones are ubiquitous in the United States; the penetration rate is an estimated 91 per cent. A growing number of phones have internet access and a recent trend has been the growth in people using mobile devices to access digital news. In 2010, nearly half of surveyed adults reported accessing news on their mobile phones, compared with only 26 per cent the year before. As smartphone and tablet ownership increases in the US, mobile devices are considered likely to become one of the most important platforms in the future.

690 Ibid.
695 Freedom House, 2011.
The Digital Divide

According to the Federal Communications Commission (FCC), 78 per cent of US adults were internet users in 2010\(^696\). This figure includes people who access the internet at home or outside of the home, and those who access the internet using broadband or a dial-up connection. While on a global scale these numbers are high, they lag behind broadband penetration rates in many industrialised countries, such as Japan, South Korea, Norway, and Sweden\(^697\), and a significant percentage of the population still does not use the internet.

The main dividing lines between those with access, and those without, are socio-economic. Internet use is not uniform across all demographics. Figure 43 explains how some different factors have impacted on broadband adoption. Some clear trends emerge. Those who are more likely to use the internet are younger, have more education, higher incomes, and are based in urban areas. Ethnicity is also a factor – African-Americans and Hispanics have less access to broadband than White people. According to the FCC the three primary reasons people give for not adopting broadband at home are (in order): price; lack of digital literacy; and the feeling that broadband is not sufficiently “relevant” to them\(^698\). Another factor is presumably access, given that broadband services, in fact, are not yet available to between 5 to 10 per cent of US citizens, most of who live in rural locations\(^699\).

Figure 43\(^700\): Broadband adoption by American adults by socio-economic and demographic factors.

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\(^697\) Freedom House, 2011.

\(^698\) Ibid.

\(^699\) Ibid.

\(^700\) Horrigan, J., 2010.
The National Broadband Plan

In the US, the internet is rapidly becoming critical infrastructure for the 21st century. It is central not only to media but to all realms of life; from work, to education and communication. In a country where access is so high, those without access are increasingly marginalised; highlighting that access to the internet should be a key issue for human rights activists. As asserted by Julius Genachowski, chairman of the FCC, “the costs of digital exclusion grow higher every day”\(^{701}\). For citizens to benefit from the internet to the maximum extent possible, access to broadband (either wired or wireless) is the requisite standard. Because of this, on March 16, 2010, the FCC launched the National Broadband Plan (NBP). The plan is a roadmap for achieving, amongst other things, “affordable access to robust broadband service, and the means and skills to subscribe if they so choose” for every American. The six goals of the NBP are shown in Box 5.

Box 5\(^{702}\): National Broadband Plan - Long-Term Goals

**Goal No. 1:** At least 100 million U.S. homes should have affordable access to actual download speeds of at least 100 megabits per second and actual upload speeds of at least 50 megabits per second.

**Goal No. 2:** The United States should lead the world in mobile innovation, with the fastest and most extensive wireless networks of any nation.

**Goal No. 3:** Every American should have affordable access to robust broadband service, and the means and skills to subscribe if they so choose.

**Goal No. 4:** Every American community should have affordable access to at least 1 gigabit per second broadband service to anchor institutions such as schools, hospitals and government buildings.

**Goal No. 5:** To ensure the safety of the American people, every first responder should have access to a nationwide, wireless, interoperable broadband public safety network.

**Goal No. 6:** To ensure that America leads in the clean energy economy, every American should be able to use broadband to track and manage their real-time energy consumption.

The NBP has been hailed as a necessary and valuable first step. Civil society groups, however, such as Free Press and the New America Foundation, have raised serious concerns about both the goals contained within the plans, and the process of achieving them. The plan aims to guarantee universal access to speeds of 4 Mbps and access by 75 per cent of the population to speeds of 100 Mbps by 2020. This is said to be too long a time frame, to deliver speeds which are not fast enough – particular concerns have been raised that, even after 2020, 25 per cent of the population may still

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only have access to speeds of 4 Mbps\(^\text{703}\). A human rights-based approach to promoting access would, instead, oblige policy makers to focus on the needs of the most marginalised.

A fundamental issue that the NBP fails to address is the lack of significant competition in many major broadband markets; the market is dominated by a cable and telephone duopoly. This duopoly can be traced back to a 2005 decision by the FCC to classify the internet as an “information service” thereby removing the common carriage and interconnection requirements of incumbents\(^\text{704}\). Increase competition, for example by promoting local ownership of the infrastructure through municipal broadband initiatives, are often blocked by incumbents seeking state level restrictions\(^\text{705}\). The issue of ownership is discussed in greater detail below.

Another problem is that the FCC has been unable to free up the amount of spectrum expected by the NBP. Here too there is evidence that incumbents are blocking reforms to preserve artificial spectrum scarcity. Importantly, the plan contains little detail concerning how freed up spectrum will be allocated. US civil society groups are concerned that auctions will not serve the public interest given the relative purchasing power of incumbents, and that the FCC must update their spectrum policies to take account of new realities. For example, regulation could allow competing users to operate in the same band of spectrum without interfering with one another, and could increase the opportunities for unlicensed spectrum use.

\textbf{12.2. Media and Public Interest Communication.}

\textbf{12.2.1. Media Ownership}

\textbf{Commercial ownership}  
News media in the US is highly dominated by the private sector. Media consolidation has been a dominant trend over the past three decades facilitated by - and in turn amplifying corporate lobbying power to push for - relaxed media ownership rules. Today, ownership is concentrated among a small number of giant companies - General Electric, Walt Disney, News Corp, Time Warner, Viacom and CBS - which operate in essentially monopolistic or uncompetitive market conditions. More information about these media giants can be seen in Table 14. In many cases, these giant companies are vertically integrated, controlling everything from initial content production to final distribution.

Media consolidation continues to be a problem – in the last year Comcast, the largest cable TV company, took control of NBC Universal. And in recent months AT&T announced its intention to purchase T-Mobile. If approved the combined entity would serve around 43 per cent of all wireless subscribers. That would mean that 80 per cent of wireless subscribers would be served by just two


\footnote{The requirement to grant “nondiscriminatory” access to their wire networks to other ISPs.}

Table 14: Who owns the media?\(^{706}\)

<table>
<thead>
<tr>
<th>Markets</th>
<th>2009 Revenues</th>
<th>Ownership</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>General Electric</strong></td>
<td>$157 billion</td>
<td>General Electric’s media-related holdings include: Television networks NBC and Telemundo; Universal Pictures; Focus Features; 26 television stations in the US; and cable networks MSNBC, Bravo and the Sci Fi Channel. GE also owns 80 per cent of NBC Universal.</td>
</tr>
<tr>
<td><strong>Walt Disney</strong></td>
<td>$36.1 billion</td>
<td>The Walt Disney Company owns: The ABC Television Network; cable networks including ESPN, the Disney Channel, SOAPnet, A&amp;E and Lifetime; 277 radio stations; music and book publishing companies; production companies Touchstone, Miramax and Walt Disney Pictures; Pixar Animation Studios; the cellular service Disney Mobile; and theme parks around the world.</td>
</tr>
<tr>
<td><strong>News Corporation</strong></td>
<td>$30.4 billion</td>
<td>News Corporation’s media holdings include: The Fox Broadcasting Company; television and cable networks such as Fox, Fox Business Channel, National Geographic and FX; print publications including the Wall Street Journal, the New York Post and TVGuide; the magazines Barron’s and SmartMoney; book publisher HarperCollins; film production companies 20th Century Fox, Fox Searchlight Pictures and Blue Sky Studios; numerous websites including MarketWatch.com; and non-media holdings including the National Rugby League.</td>
</tr>
<tr>
<td><strong>Time Warner</strong></td>
<td>$25.8 billion</td>
<td>Time Warner is the largest media conglomerate in the world, with holdings including: CNN; the CW (a joint venture with CBS); HBO; Cinemax; Cartoon Network; TBS; TNT; America Online; MapQuest; Moviefone; Warner Bros. Pictures; Castle Rock and New Line Cinema; and more than 150 magazines including Time, Sports Illustrated, Fortune, Marie Claire and People.</td>
</tr>
<tr>
<td><strong>Viacom</strong></td>
<td>$13.6 billion</td>
<td>Viacom holdings include: MTV; Nickelodeon/Nick-at-Nite; VH1; BET; Comedy Central; Paramount Pictures; Paramount Home Entertainment; Atom Entertainment; and music game developer Harmonix. Viacom 18 is a joint venture with the Indian media company Global Broadcast News.</td>
</tr>
<tr>
<td><strong>CBS</strong></td>
<td>$13 billion</td>
<td>CBS Corporation owns: The CBS Television Network; CBS Television Distribution Group; the CW (a joint venture with Time Warner); Showtime; book publisher Simon &amp; Schuster; 30 television stations; and CBS Radio Inc, which has 130 stations. CBS is now the leading supplier of video to Google’s new Video Marketplace.</td>
</tr>
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</table>

companies – the merged AT&T and T-Mobile, and Verizon. Fortunately, it now looks as though this merger may be blocked as the US Justice Department has filed a suit alleging that such a merger would “substantially lessen competition, or tend to create a monopoly”\(^{707}\). By contrast, the rate of newspaper ownership consolidation has slowed to a stand-still over recent years, highlighting uncertainty over the future of that medium. Several significant papers have gone into bankruptcy and been taken over by private equity firms. Seven of the top 25 newspapers are now owned in this way\(^{708}\). This is a new trend and the implications are not yet clear.

The US’s highly commercial media sphere represents a considerable risk to the public interest given that the primary incentive for private companies is profit rather than providing a quality public service. Robert McChesney points out that in the 1990s - when profits were large - news companies were already cutting newsroom jobs in order to maximise profit\(^{709}\). News companies have also shown a marked tendency towards partisan news in recent years with cable TV, for instance, dropping relatively impartial news shows in favour of highly biased opinion-driven talk shows\(^{710}\).

The assumptions that made market-supported news possible are being undermined as the digital revolution, coupled with the recession, has destabilised traditional media’s main income generating tools: advertising and classifieds. This has brought to the fore the danger of overreliance on a commercial model. Commercial publications are scaling back their productions in order to remain profitable. An alarming consequence is high levels of journalist job losses; around 13,400 newspaper newsroom jobs have been lost in just the past four years\(^{711}\), critically undermining the ability of US media to investigate and scrutinise current affairs in the public interest.

**Non-commercial media**

Non-profit media only constitutes a minuscule part of the overall media field. It has a crucial role to play, however, in targeting those areas that are neglected by the commercial sector to ensure that public interest needs are met. The non-commercial media sector includes public broadcasting; state public affairs networks; low-power FM stations (LPFM); public access, educational, and governmental channels; and now, a burgeoning world of non-profit websites.

In the offline world, the non-profit sector is made up of public broadcasting over television and radio, together with new forms of non-profit programming including state public affairs networks and low-power FM stations. These models continue to bring alternative content to the media sphere, but their sustainability is highly dependent on support from commercial media giants and regulators. For example, small scale community-based television has largely gone out of business over recent years due to activities by the cable television sector. Media Alliance, a civil society group,

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\(^{708}\) Pew Research Centre, 2011a.


\(^{710}\) Pew Research Centre, 2011a.

explains how AT&T’s U-Verse system makes it difficult for consumers to access public, education and government television (PEG) by lumping them together on one channel and requiring viewers to scroll through additional menus in order to access that content. Alternatively, the increase in LPFM stations, an exciting development in recent years, is in large part a result of work by the FCC to enable and promote LPFM. These are small, community-based radio stations with a broadcast radius of two to four miles. Today, there are around 860 stations on air.

By contrast, the rise of digital communications is undermining these gatekeepers as everyone with access to the infrastructure is, in theory, able to publish their thoughts and opinions and thus exercise all dimensions of their freedom of expression. Recent years have seen the explosion of non-profit websites. It is not possible at present to quantify this emerging phenomenon, but as an illustration, the field of community news sites has grown significantly over the past five years and there are now “upwards of a couple of thousand” These sites cover a huge diversity of models and aims, and respond to gaps in mainstream coverage. These can be geographic (hyperlocal sites are driven by the neglect of local news by traditional news media); audience-based (such as military families); or interest based (such as health). Other sites such as voicesofsandiego.org and Pro Publica are emerging to fill the gap left as commercial media abandons investigative journalism.

While a hugely significant phenomenon, audiences for these sites are still small. Non-profit sites tend to be characterised by “lean editorial staffing, very little marketing, and limited readership”. The Poynter Institute estimated that cuts in traditional media constituted a US$ 1.6 billion drop in journalism spending per year. On the other hand, J-Lab (a “journalism catalyst” civil society group) has estimated that foundations have put over US$ 180 million into local non-profit journalism outlets since 2005. While this is a significant amount, it is far less than what has already been cut. The online environment is very “darwinian”, as Karen Dunlap, president of The Poynter Institute, noted: new websites “offer solid ground for citizens to get information that they need, yet they operate under the glaring question of sustainability”. A significant number of these websites are not updated regularly and many lie derelict shortly after the initial excitement of their launch. This is a problem given their increasingly important role in the US media ecosystem.

The commercialisation of the internet
The online media environment is often described as “a long tail world”; there are thousands of websites offering news information however the top 7 per cent most visited news websites receive 80 per cent of the overall traffic. While the format of traditional media is declining in the face of new media, the majority of online news consumed, in fact, comes from traditional media. More than 72 per cent of the most accessed online news sites are tied to traditional media organisations including cable networks - CNN, Fox and MSNBC are all in the top six, network news including ABC and CBS; newspapers including NYTimes, Washington Post, USA Today, LA Times; and radio including

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713 Schaffer, J., 2011. JLab [Skype Interview on 16 May 2011]
NPR. Of the seven online-only sites, five generate the majority of their traffic by aggregating traditional media content. Thus, the internet environment is not immune to the creeping influence of large conglomerates.

Users are able to create their own websites, but the most common form of content creation and dissemination is over user generated platforms, and many of the most popular platforms are commercial. Facebook is now the fourth largest US website and reaches 73 per cent of the all American internet users. Other popular social media platforms include Myspace, and LinkedIn which each received more than 33 million unique visitors in May 2011. Twitter is becoming increasingly important for accessing information about current events - Twitter traffic jumps considerably during mass events. 13 per cent of adults in the US now use Twitter, up from 8 per cent in November 2010.

The most popular online-only sites are new giants like Google, Yahoo and AOL who are showing the same patterns of acquisition and business collaboration that have created reduced competition in the offline world. Notable examples include Google buying YouTube in 2006; and more recently the US$ 315 million acquisition of the Huffington Post by AOL. The latter demonstrating the danger that successful independent online voices may simply be consumed by the corporate elite.

### 12.2.2. Production and Content

A key trend that is emerging in the media field is that technological developments are determining the way in which content is made and distributed. In the past content was generally made by professional content creators such as journalists, film makers, writers and musicians. These were backed up by specific gatekeepers such as editors, publishers and investors. In that model, the end user was a receiver of content, a consumer. Today the model is changing. There has been a “cultural shift to widespread participation in media production, which is now the norm in our society”. The commercial model - which paid for investigative journalism - is failing. On the other hand, digital communications are allowing more people than ever to participate in the media environment on an unprecedented scale. Through blogging, crowd sourcing tools and social networks, users are empowered to comment on existing stories, write stories, share information and spread stories that they think are important.

Many traditional media organisations share their information online, and there is evidence that the relationship between the journalists and the readers is becoming more symbiotic as consumers are increasingly contributing to narratives through participating in comment forums, sending in audio, video and image content and by actively disseminating news through their social networking.

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sourcing and other collaborative efforts. For example, in June, 2011 - following the release of 24,000 emails to and from Sarah Palin - the New York Times and The Washington Post both posted the whole body of documents on their websites before they had gone through them, and enlisted the help of their readers to process the information.

There are also numerous examples of new media enabling citizens to set the news agenda which is then delivered by traditional media. JLab have identified numerous examples of community media stories being picked up by mainstream media, for instance, Madison Commons broke a significant story on brown water in one of the neighbourhoods that the local paper developed into a major report on deteriorating pipes. Commentators also believe that some of the major, non-US news stories that have been reported in mainstream media in recent years received that level of attention due to online citizen support. Examples of the latter include the Iranian protests in 2009 and the 2011 “Arab Spring”.

Essential debates are today ongoing in the US about the future of the news and how to ensure that good quality information is made and is accessible. New media’s role in supporting and promoting public participation is not only important to realising human rights; it can also go some of the way towards addressing the challenges inherent in the breakdown of commercial journalism. However, consensus is that it won’t be enough on its own and much work needs to be done to discover how to make the most of the opportunities afforded by the internet, and to support content creation.

Figure 44: An example of a word cloud by MediaCloud

The relationship between citizen participation and the broader media focus also needs to be studied further to determine who really has the power to set the agenda and shape public debate. There are a number of initiatives being developed to track the media ecosystem. MediaCloud - a tool developed by the Berkman Center for Internet & Society - allows users to create pictures of what journalists and bloggers are writing about by counting the words used in recent stories (see Figure 44). Memetracker, by Cornell University, maps the daily news cycle by collecting quotes that are repeated across one million online sources. And at Pew Research Centre, a team has been established to sample leading news reports and analyse how and where the stories develop. These initiatives are still young and the environment is fast changing, so no concrete trends have yet emerged.

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12.3. Advancing Human Rights and Social Justice through Communication

Digital communications are having no less of a transformative effect on civil society in the US. The ease with which information can be shared with large groups is giving rise to new possibilities for collective action; new advocacy and campaigning tactics; new tools for revenue raising and lowered overhead costs. However, this is also a fast-changing area and the full implications have not yet emerged. There is need for further research to examine the relationship between digital communications and advancing human rights in the US. As such the discussion in this section will be mainly anecdotal. A key question is whether digital technologies are merely a useful tool for facilitating political action and other social actions, or whether technologies are changing underlying power imbalances and going some way to tackling underlying causes of social problems. This is much harder to measure as any patterns of social behaviour change will only reveal themselves over the long term, and will be the result of many competing factors.

Given the central importance of digital communications to all areas of life in the US, together with the actual and potential value the internet in particular has as an enabler of human rights, digital policy should be a key area of concern for the broader human rights movement. Media policy groups have recognised the centrality of digital issues to their existing mandates and are adapting their activities accordingly. Over the last twenty years a number of digital rights groups – such as the Electronic Frontier Foundation – have emerged to focus on creating an open environment. However, in general traditional human rights activists have been slower to engage in governance issues in this area; furthermore a holistic human rights framing of internet issues is something which is still lacking. It is necessary to build for relationship of digital communications with human rights to be conceptualised not only as a tool (i.e. the internet is a valuable tool for raising awareness about issues), but also as a space (i.e. the shape of the internet space can further, or hinder, the ability of citizens to exercise their human rights).

Digital communications as a tool: mobilisation

The 1999 protests against the World Trade Organisation in Seattle are widely considered the watershed moment for digital activism in the US. While it was the fact that protestors were on the streets that made the impact – it is undeniable that without new digital technologies allowed so many people from many diverse communities (church groups, environmentalists, labour unions etc.) to mobilise. Today new social web tools (such as Twitter and Facebook) are proving particularly useful for creating large communities of interest at low cost. Moveon.org, for instance, has 5 million members across the USA. As a community they vote on issues to see where there is consensus about a particular petition, and when communal action is decided upon members can take small actions both online (such as signing a petition or donating money) and offline (such as protesting on the street). Digital communications facilitate mass mobilisation on a level which would not be possible using traditional media – notable for its speed, geographical spread and low financial cost.

The popularity and spread of online mobilisation is remarkable. Today, virtually all civil society groups and campaigns in the US have an internet presence, and developing digital skills and strategies are high up on the agenda of groups seeking to effect change. Indeed, one of the key challenges for civil society groups in the US is how to compete effectively in the crowded online market for public attention. On-going research, experimentation and skills development are crucial
to ensuring that human rights and social justice groups remain ahead of the curve and are able to effectively harness potential in this area. Groups like Tactical Technology Collective and Movements.org are emerging to provide capacity building training and materials to assist civil society in using new technologies to effect social change.

Perhaps one of the areas where online activism has shown most promise is in generating new funding streams, facilitated by easy online payment systems. Scores of websites have developed to assist civil society to fundraise online including: Causes, Crowdrise, Network for Good and FirstGiving. The possibilities are amply demonstrated by the use of crowdsourcing to fund Obama’s 2008 election campaign. Until then, most election campaign relied on large donations from a small number of wealthy benefactors. However, Obama’s election team was able to raise more than half a billion dollars from millions of small online contributions.

The key challenge in this area, however, is channelling large online communities towards achieving effective change. It is easier than ever for people to display their support and solidarity for issues of concern in the online world, through signing online petition, posting tweets and “liking” Facebook groups. For instance, during the 2009 protests in Iran, over a million people became friends with Mir Hossein Moussavi on Facebook, and thousands turned their Twitter icons green. The worry is that such engagement may remain shallow, and not translate into any action or change. Much more research, and creative thinking, is needed to understand how to use harness the mobilising capabilities of digital communications in an effective way. In particular to work out how to define, sustain and communicate coherent demands to those with the influence to produce change.

**Digital communications as a tool: engaging with hard to reach groups**

Access and digital and political literacy are vital issues to address if the potential for advancing social justice is to be achieved. A 2009 Pew Report found that the socio-economic character of civic engagement in the US was unchanged by the introduction of the internet; “Just as in offline civic life, the well-to-do and well-educated are more likely than those less well off to participate in online political activities.” Nonetheless, there are many promising examples of civil society groups using digital communications to reach those who are more difficult to reach using traditional media. Many of these examples show the particular value of digital communications for raising awareness and sharing information.

Mobile phones have particular value as they are nearly ubiquitous and portable. For example, Rock the Vote and Voto Latino were two SMS campaigns during the 2008 elections which reminded young people to register to vote; the first aimed at youth generally, and the second targeting Hispanic youths. “I know” uses texting, together with online social media tools, to educate young African Americans about HIV and AIDS and engage them in discussion. Another example is Community VoiceMail (CVM). CVM works with people who are living in poverty and either lack, or have unstable, housing, helping them to find work, housing and social care through sending out voicemail messages to them with relevant information. This is one of the few examples that have been comprehensively evaluated. In 2010 the statistics show that the service was used by 52,000 individuals from 418 cities across USA, and that 67 per cent successfully completed one or more of their goals (including seeking employment, housing and social care).
Technology can be used creatively to engage with the most vulnerable groups. For example, online and mobile phone games have been used to promote education about important social issues amongst the young. ICED (I Can End Deportation, a play on the acronym of the Immigration and Customs Enforcement department) is a game that aims to teach young people about the immigration process. Other important examples focus on giving a platform to those voices and perspectives which are not normally heard. Between the Bars invites prisoners to send then letters which are then scanned and posted online, and VozMob enables immigrant and low wage workers to blog from their mobile phones.

Digital communications as a space
Digital communications policies have a significant impact on human rights in both a direct and indirect way. Unsurprisingly, the direct impacts are better understood and receive a higher level of attention from human rights groups. In this group we can include policies which directly censor the net, or which allow surveillance of citizens without adequate safeguards. Other policies have an impact on human rights which is less direct, and so often overlooked. As discussed access to the internet and mobile phones is necessary to enable people to fulfil their rights in a whole host of areas (beyond expression, increasingly it affects their right to work, education, association, health etc.). The next section also makes clear that issues like network neutrality, copyright protection and proprietary standards are now the fundamental issues impacting on the public interest aspects of the internet in the US. Digital rights groups and media policy groups are tackling these issues – but so far the debates have not been framed in human rights terms. This means that the full might of the broader human rights movement has not yet been engaged on these issues, where they have a lot to offer. Furthermore there is an inherent value in using human rights standards as they are a powerful way of framing the debate. It is empowering for citizens as it implies they have a right to be included in discussions in this area. It also means that citizens have legitimate demands on the policy approach, rather than having to rely on the discretionary goodwill of policy makers. This is all the more important as strong corporate lobbies have a large amount of influence in this area as is discussed further in the next section.

12.4. Controlling Media and Communications

Direct censorship and content control is not a problem in the US which has been given an internet freedom score of “free” by Freedom House in 2011. In fact recent years have seen a number of positive developments including: the enactment of a Speech Act to combat libel tourism to the United Kingdom; and court judgments that extend the journalistic privilege of protecting confidential sources to some bloggers.

The main issue undermining the public interest dimensions of the internet in the US come from the dominance of commercial interests. The leading understanding of online space is of a commercial, rather than public interest, space. The internet is in large part a series of private spaces owned by an array of businesses. Business practices shape the reality in which media and communications exist, and in doing so can enable or undermine the vibrancy of the media and communications environment and human rights more generally. This includes both practices that are directly adopted by businesses (for example using proprietary standards) and indirectly where they influence authorities to take regressive approaches most urgently with regards to network neutrality and
copyright protection. While, in general, the government does not attempt to stifle communication for political or other reasons (except to protect commercial stakeholders) one clear exception is in the area of national security. In the period following the September 11 terrorist attacks powers of the authorities to monitor communications expanded rapidly – this position has not yet reversed, indeed there are serious concerns about attempts by the current administration to maintain and even expand broad powers of surveillance over online content. In this environment it is necessary to reconceptualise the internet in public opinion and amongst policy makers, as a key public interest dimension. Most politicians lack any profound understanding of the nature of the internet and the impact that certain proposals are likely to have on its operation and infrastructure.

**Business practices**

Content providing businesses are trialling a number of devices to monetise online content sharing. These include paywalls, online advertising and the use of behavioural advertising (giving rise to privacy concerns), and demands for compensation from aggregators. It is not yet clear which devices will be successful and become widespread - but they do have implications for users, free flows of information and thus access to information is undermined by use of micropayments, user fees and prioritising/de-prioritising content.

Many commercial media groups have pinned their profit hopes on the rising use of mobile platforms to access internet content. This is because mobile devices are better suited to visiting single destinations through apps rather than to browsing for the cheapest content. The growth in mobile internet has implications for the ownership environment of media. It brings in another group of intermediaries to shape the relationship between users and public interest information – hardware companies. Mobile devices use technology that is much more proprietary than that used by computers. For example, mobile devices have been designed so that content needs to be built specifically for each operating system. This gives companies, and especially larger companies, an advantage in the digital media environment as they are more likely to have the resources to build and market apps for their content to reach citizens, including across a wider variety of devices.

**Copyright**

The ease of information sharing in the digital realm has for the most part been viewed as positive. It has also made it vastly easy for people to violate copyright. While it is impossible to quantify the level of copyright infringement taking place over the internet, it is assumed to be substantial. This is of most concern to a large number of powerful copyright-holding industries who are lobbying for ever stronger copyright controls and enforcement. In the US, the Digital Millennium Copyright Act was passed in 2000 introducing a notice and takedown system whereby copyright holders can contact content hosts regarding alleged copyright infringements. The host is not required to remove the content, but they will then be held liable should the case be brought to court and the content found to infringe copyright. This system has been criticised for making it overly easy for copyright owners to put pressure on hosts to remove material that may or may not actually infringe copyright. A recent study by the Centre for Democracy and Technology found that overly-aggressive copyright claims by news broadcasters had led to the removal of political campaign adverts that had reused...
clips of news footage. The adverts would probably have been declared fair use had a case gone to court.223

There are now growing attempts to expand copyright protection beyond notice and takedown schemes. In particular, since June 2010, the Department for Homeland Security has been engaging in domain name seizures of websites as part of an anti-piracy initiative called “Operation In Our Sites”. This tactic had been used against more than 125 domains between June 2010 and March 2011.224 Domain name seizures are very dangerous to freedom of expression because they are overly broad. A domain name is the mnemonic name for a website which corresponds to its IP address such as www.huffingtonpost.com. However, many websites are multipurpose and carry a great variety of information. In February 2011, the Immigration and Customs Enforcement seized ten domain names that were alleged to contain child abuse imagery. One of those domains, mooo.com, was shared by 84,000 sub-domains covering content as diverse as personal blogs, discussion forums, and academic paper sharing facilities. All of this content was then inaccessible.

There are now attempts to expand this practice further by giving it a legislative underpinning. The Combating Online Infringement and Counterfeits Act (COICA), which was proposed in 2010, was defeated before reaching the Senate floor. However, it has recently been re-introduced as an amended bill called the Protect Intellectual Property Act. While public interest advocates note that the Protect IP Act does address some of the shortcomings of COICA - notably the targeted sites have been more narrowly defined as “Internet Site dedicated to infringing activities” - serious reservations still remain. Of particular concern is the lack of a requirement for a court order before any blocking is instituted and the continuing reliance on domain name seizures as a tool to combat copyright infringement, despite it being a blunt instrument that can have many unintended consequences. Importantly this trend is not only being pursued domestically. At the time of going to print yet another copyright bill was been introduced in Congress: the Stop Online Piracy Act (SOPA). SOPA is the most restrictive option on the table yet, containing provisions for DNS filtering, outlawing use of circumvention technology and requiring intermediaries to take “deliberate actions” to prevent copyright infringement. Some believe that SOPA has been introduced as a strategic measure, to make the Protect IP Act look like a compromise and thus have a better chance of becoming law. A loose international group of human rights activists have emerged to fight the bill.225

The US government is also at the forefront of a number of international initiatives aimed at expanding copyright protection and enforcement, even at the expense of access to information, freedom of expression, privacy and an open digital environment. Policies including imposing a range of responsibilities on intermediaries (such as monitoring traffic) and banning the circumvention of

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Digital Rights Management (which would have the effect of banning censorship circumvention resources) are being promoted in international forums and through bilateral and multilateral agreements such as the Anti-Counterfeiting Trade Agreement.

**Network neutrality**

Network neutrality embodies the principle that data travelling across the internet should be treated equally to give all users the same powers of communication regardless of their resources, or other status. In reality the network is not completely neutral as some traffic – like audio content - is prioritised to maintain the integrity of the service or filtered out for law enforcement purposes. The current debate about network neutrality in the US concerns a number of issues; of these the main concerns are paid prioritisation of content and network neutrality on wireless networks. Tiered access would benefit commercial over citizen communications, thus undermining ability of the internet to enable content creation and sharing in the realms of employment, education, human rights, development etc. The debate on network neutrality is more developed in the US than in most other regions (in the sense that it’s been on the agenda for a longer time) – so as many countries observe the approach adopted in America, the negative impact of inadequate protection are likely to have an international as well as national impact.

In December 2010 the FCC approved new network neutrality rules; these will begin to take effect on 20 November 2011. The rules forbid some practices, such as blocking access to competing applications - Voice Over Internet Protocol (VOIP), for instance - and allow companies to exercise "reasonable" network management to ensure smooth internet traffic. The rules, however, also give tacit approval to ISPs to charge content companies for prioritisation of their data, as they are silent on this issue. Paid prioritisation deals are a major challenge to the openness of the internet and threaten to entrench the position of big companies who are able to pay the fees for prioritised access. This has obvious threats to the ability of the internet to foster a diverse and plural public interest information environment. The rules also fail to protect wireless internet to the same degree as wired internet. Traffic degradation and prioritisation on wireless networks is not subjected to the same level of regulation. This is also a significant challenge given that mobile devices are already widely used to access the internet and are expected to grow in importance. If copied in developing countries the impact would be even more devastating as mobile access is largely overtaking fixed access as the dominant, and for many users only, form of access.

Several broadband operators have announced that they will file legal challenges against these rules, claiming that the FCC lacks authority. FCC authority over the internet is shaky following the reclassification of internet as an “information service” (discussed above). Comcast appealed against a ruling FCC made against it on network neutrality grounds, and in April 2010 the US Court of Appeals found in favour of Comcast stating that the FCC had not sufficiently demonstrated its authority to regulate broadband access. On the other hand, public interest groups including Free Press have also filed challenges claiming that the rules for mobile broadband providers aren’t strong enough because they don’t match the rules for wireline providers. This highlights two issues: firstly the ongoing challenge of pushing for adequate protections for network neutrality and secondly the need to firmly establish the authority of the FCC over broadband in the US.
The FCC is not considered a balanced entity. There has been a significant criticism of “agency capture” which is augmented by weak FCC powers - they largely rely on cooperation from industry, for example, to collect data - and a “revolving door” whereby many ex-FCC players go on to work in the media industry and vice versa. This is illustrated by the fact that recently FCC commissioner, Meredith Attwell Baker, left FCC to become a lobbyist for Comcast just four months after she voted on the Comcast-NBC merger. However, the FCC is a key agency for regulating interstate communication by radio, television, wire, satellite and cable and if its authority is lessened, this is likely to give way to further deregulation that will benefit the already strong actors. For this reason public interest groups such as Free Press and Consumer Union have been urging the FCC to reassert authority over broadband, and are preparing to help counter attacks on the FCC’s authority that are expected to grow in coming years. Politicians are also vulnerable to corporate influence as shown by some of the debates on copyright legislation that have taken place in recent years.

**Surveillance**

In general, privacy of communications is respected in the United States, but the powers of surveillance have been expanding over the past decade. Following the September 11th terrorist attacks, the USA PATRIOT Act was introduced significantly widening governmental surveillance in cases involving terrorism. The law requires that ISPs provide law enforcement and intelligence agencies with detailed information about the online activities of suspected terrorists. Little judicial oversight is provided in the Act, and in some cases access to the information is available without showing probable cause. In general, however, law enforcement agencies must convince a judge that there is probable cause to believe that a crime has been or will be committed before they can monitor specific online communications. Under the Communications Assistance for Law Enforcement Act (CALEA) telephone companies are required to design their systems so that communications can be intercepted when there is legal authority to do so. This Act has been greatly expanded to include broadband carriers and VOIP providers. In 2010, the Obama administration suggested that it may be expanded again to cover online intermediaries such as Facebook and Twitter. Civil Society groups such as the Electronic Frontier Foundation fear that building in wiretapping capabilities into the internet will leave people’s personal information more vulnerable to attack from hackers who want to steal their data. This could violate the right to privacy. Furthermore, there are risks that people will communicate less freely online knowing that their data may be seen. These provisions have enabled governments in many other parts of the world to pass similar provisions enabling widespread monitoring and surveillance, including by regressive governments. This theme is picked up in several other country chapters.

**12.5. Conclusions**

Digital communications, and the internet in particular, continue to transform American economic, political, social and cultural life in dramatic and unforeseen ways. The implications of these changes are slowly emerging, but the full implications will not be understood for many years to come. In the meantime, it is essential to continue research, discussion and experimentation to ensure that the opportunities inherent in this period are fully grasped and realised. These opportunities and challenges must be linked up with global positioning and policy coordination to meet governance,
accountability and public interest concerns. The links between media and communications public interest advocates, and other human rights groups need to be strengthened and built upon. There is need to develop a strong human rights framing for these debate and to pursue and promote it boldly. The migration of media onto digital platforms, which also encompass peer-to-peer communications, has caused the interests of many different public interest groups to converge. This is an opportunity to build a much stronger and more coherent movement for access to an open, vibrant and free digital ecosystem.

The US media is one of the first areas to realise the profound transformation that new technologies are bringing in their wake. The existing dominance of media giants is being undermined by declining advertising revenue and increased competition from new content providers, best captured through the rise of citizen media. The loss of journalists across the country is a serious concern, leaving gaps in local and investigative journalism. On the other hand, we are witnessing the introduction of a plethora of new voices in the media system, the transformation of consumers of news into participants in news conversations. And this is also having an impact on civil society – providing new tools for interacting with the most vulnerable groups, and new tools for mass mobilisation. These changes could lay the ground for a more equitable, pluralistic, diverse and open news media in the future. This is an incredibly exciting; the challenges are substantial but the potential reward is extraordinary – a genuinely democratic media and communications environment.

- Offline media continues to be important, however, the internet is now the central platform in a converging media and communications environment.
- Access to the internet for all must be a priority. The US is still too far from ensuring universal access. The National Broadband Plan is key but more is needed to ensure that the goals are ambitious enough, that they meet the needs of the most vulnerable and indeed that they are achieved. Constituency building and concerted lobbying is a key need. Furthermore, there are still questions about how to achieve universal access – civil society should invest in the research and policy thinking which will allow them to lead the debate.
- Competition – a long-standing issue in the US media system – continues to be a major issue. Existing media giants, such as Disney, are extending their dominance over the new platform. At the same time media consolidation has spread to other levels of the system. This is particularly a problem at the infrastructural level where consolidation of ISPs is reducing competitions and increasing the cost of access, and where lack of competition is also giving rise to network neutrality concerns. We are also seeing the emergence of new types of giant – such as social media giants. The effects of this phenomenon are still emerging. In the meantime it is necessary the development of alternative, open source platforms which are not commercially controlled.
- Openness – openness is what allows anyone to post information and reach people on an equal platform. In the States openness is facing a number of threats and is regularly called the free speech issue of the present generation. Network neutrality is a huge debate in the US – it is intricately related to the question of competition, and while competition remains a serious problem, increasingly public interest advocates are calling for adequate regulation. Copyright is also a priority area for attention. Strong national copyright lobbies are pushing for policies which undermine the openness of the online environment in the US. The International chapters explore the global aspects of this issue as the US government is pursuing negative policies in
relation to copyright in international fora and through their bilateral and multilateral relations with other countries. The power of the copyright lobby is formidable and must be countered through information finding and lobbying to reflect the public interest.

- The FCC has a crucial role to play in ensuring both access and openness, however it is suffering from past mistakes, lack of power, and capture. Civil society must protect and expand the authority of the FCC over the internet. Similarly, civil society must invest heavily in lobbying FCC commissioners to offset large corporate lobbies and ensure that policies in these areas reflect the public interest.

- The loss of journalist jobs is a serious issue, finding new ways of financing and producing high quality content is an urgent concern. New forms of funding and support need to be realised, particularly for hyperlocal and community websites and investigative journalism. Likewise, more work is needed to identify the best ways of stimulating and harnessing citizen participation in the production of good quality and useful information. Aside from organisation level activities, there is also a growing national level debate about how sufficient quantities of good quality content can be sustainably financed in the future. Civil society needs to drive and shape these debates to ensure that the public interest is the overriding interest.

- The final priority area for action is to build the skills and capacities of citizens. Citizens can, and should, have a far more active role in the emerging media and communications environment. In order to empower them to fully participate and to make informed decisions, they require a new skill set. Comprehensive digital and media literacy is required. Besides from the skills required to use digital communications effectively as tools, citizens also require information about the nature of the environment which will empower them to participate in the important debates about the future of media and communications in the US.
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