GLOBAL INFORMATION SOCIETY WATCH 2011

INTERNET RIGHTS AND DEMOCRATISATION
Focus on freedom of expression and association online

This edition of Global Information Society Watch is dedicated to the people of the Arab revolutions whose courage in the face of violence and repression reminded the world that people working together for change have the power to claim the rights they are entitled to.

Global Information Society Watch 2011

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Introduction

Several important events in Spain in the last year illustrate how intertwined and influential the internet has become in the life of citizens, human rights and democracy. These events include an online discussion on freedom of access to content, given a new law limiting web links and peer-to-peer (P2P) downloads of copyrighted content; an online debate around the international Anti-Counterfeiting Trade Agreement (ACTA); a discussion on equality legislation with risks for content censorship on the internet; and the highly visible 15 May (15M) social movement,[1] which has a strong internet presence. All of these show how the internet has acquired a central role, not only as an enabler for access to knowledge and supporting freedom of expression, but also as an effective tool for *collective* expression and social activism and action – and its influence on the political and policy agenda is beginning to be felt.

Given these events as background, this report has been compiled from the responses to questionnaires circulated to three internet and human rights organisations: X.net,[2] Asociación de Internautas (Internauts Association),[3] and Partit Pirata de Catalunya (Pirate Party of Catalonia).[4] In particular, we wanted to find out how they felt about the role of the internet in a new age of digital activism.

Policy and political background

The Spanish legal system is underpinned by European Union (European Parliament) directives.

The Spanish Constitution also takes into account what it calls Popular Legislative Initiatives (ILPs) that allow grassroots initiatives to submit petitions to be discussed by the Spanish parliament, or the parliaments of autonomous communities. However, this mechanism is seldom used, with a

few exceptions (e.g. a recent ILP to ban bullfighting in Catalonia due to animal abuse and killing was discussed and approved as a law by the Catalan parliament),[5] and proposals are usually discarded in the parliamentary process.

Privacy, data protection and data retention are mentioned in the Spanish Constitution and covered by the Data Protection Law (LOPD, 1999), which complies with the European Directive 95/46 CE, the E-Commerce Law (LSSI, 2002) – implementing Directive 2000/31/CE, and partially Directive 98/27/CE – and Law 56/2007, dealing with the promotion of the information society.

Freedom of expression on the internet was recently challenged by the so-called "Sinde Law", which contains a controversial clause that would allow blocking websites with content or links infringing copyright. However, this clause has not yet been implemented to our knowledge. Another potential challenge to freedom of expression on the internet is the proposed law on equality and non-discrimination (popularly know as the "Pajín Law") that might fine websites when content (including comments from visitors) could constitute direct or indirect discrimination.

The role of the internet in citizen participation

The recent year in particular has been marked by online activist initiatives. In many instances this has been the result of tensions between business interests and social movements supporting human rights. These tensions are evident at the national and global level. One of these local events was the 15M movement. Many people participated in the 15M gatherings, demonstrations and camps that happened all over Spain. The movement used internet sites and tools to inform and promote the active participation of citizens who felt the political and economic system was abusing democracy.

For example, protest statements included ones like "Europe for the citizens and not for the banks". The movement developed a manifesto calling for an end to the privileges of politicians, an end to unemployment, the right to housing and good quality

1   en.wikipedia.org/wiki/2011_Spanish_protests

2   whois--x.net

3   www.internautas.org

4   pirata.cat

5   en.wikipedia.org/wiki/Ban_on_bullfighting_in_Catalonia

public services, the need to control banks, a tax on wealth and speculative capital movements, the guarantee of citizen freedoms and participatory democracy, and a reduction of military spending.

The internet is playing a key role in complementing these sorts of activities, and has been used to collect and disseminate information, discuss and prioritise ideas, build consensus, and produce documents and manifestos about how the political and economic system could be regenerated.

When respondents were asked how effective the internet was in collecting representative opinions of Spanish citizens, the replies highlighted the key importance of extending internet access to more people; the fact that the internet is an interactive medium that is democratising participation in politics; the role of internet communities and thematic threads (including on Twitter) as a way for collective debate to occur; and the proliferation of voices, which stands in contrast to the presence of single perspectives from the so-called "popes" of the net.

Regarding the effectiveness of tools for collective participation and collective decision making on the internet, replies highlighted the importance of tools for the collaborative editing of documents (pads), knowledge sharing (wikis), email lists (with educated users following netiquette) or websites combining these with other specific web campaigning applications – for example, the "Todos contra el canon"[6] (Everyone against the levy) campaign against the private copying levy. Decision-making tools based on voting securely online were also mentioned (e.g. IdeaTorrent, Helios Voting).

Organisations, informal groups or campaigns taking an active role or representing the internet community on issues of human rights and the internet were also identified by respondents. Apart from the organisations surveyed themselves, the Spanish Association of Small and Medium Informatics and New Tech Companies,[7] Hacktivistas, Red-SOStenible.net, the Oxcars, and the campaigns "Democracia Real YA" (Real Democracy NOW), FC-Forum.net, "Todos contra el canon", and "No les votes"[8] (Don't vote for them) were mentioned.

Respondents shared the opinion that the established political world effectively ignores critical internet issues, as events over the past year show to a different degree. For this reason the power of the internet to aggregate ideas and opinions usually surprises them. The reasons behind this general lack of interest in the internet include the idea that traditional political parties and the public administration do not fully understand the internet or are not able to incorporate its potential for a new way of interacting into their work, and that political parties are based on a model that precludes close interaction with citizens. It is illustrative to see that political parties during political campaigns tend to hire advertising companies to create "an active presence" on social media sites – but after that they return to their websites that largely offer a one-way flow of information without any kind of support for "participatory democracy" or organised interaction with citizens.

Even more worrying is that ideas from citizens expressed and collectively formulated online can be perceived as challenging the established political order. This resistance to change affects politics and social progress negatively.

The net effect is that the political world ignores most initiatives or ideas coming through spontaneous or less formal groups that use the internet as a means to build or make visible proposals without going through the formal structures of political parties. They are usually perceived as manipulated ideas coming from a non-representative minority. There are a few exceptions of initiatives born on the internet with a real impact, sometimes forced by the use of established structures such as judicial decisions or petitions.

Regarding how internet rights should be considered in the Spanish social and legal environment, the following issues were highlighted by respondents as relevant given the tensions between internet policies, economic and business interests, human rights and democracy:

- The internet should be considered a basic tool for communication, creation and innovation that supports citizen participation. Its neutrality and freedom should be preserved.

- Privacy, data protection and security are challenged by specific issues such as terrorism and the protection of intellectual property. This presents a dangerous move towards an Orwellian society. While security is necessary, it should not be at the expense of civil liberties. National laws and the European directives should be reformulated accordingly. Transparency in mechanisms for security and protection and their application is required from the government.

- While the internet has helped to make government decision making more transparent, it also allows for personal data to be accumulated. Citizens need to be empowered so that they have more control over how they are being tracked.

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6   www.todoscontraelcanon.com

7   www.apemit.org

8   www.nolesvotes.com

- Participation: ICTs enable the more democratic and direct participation of citizens. There is no need to call for expensive and time-consuming referendums to know the opinion of citizens, as there are internet-based tools that can be used to poll citizens on topics that affect them.

- Universal broadband: Apart from the well-known arguments in favour of universal access, there is also a growth in the provision of public services in the public administration in general. Services such as health or education are being delivered over the internet. In this way the net becomes a means for citizen service and social participation and access to the internet becomes a growing human rights concern.

- Network neutrality: From the perspective of fundamental human rights this is equivalent to the principle of equality and non-discrimination of network users, and its defence is essential for the internet to be a basic tool for communication for everyone.

- Author rights (intellectual property): Technology changes require new business models. The digital private copying levy is unsustainable and a new equilibrium must be restored between author rights and the collective right of access to culture. As the European Directive 2000/31/CE suggests, there is a need to "agree upon codes of conduct." Events such as FCForum or the Oxcars have helped the creative sector to see the social function of cultural production as a service to the community, as opposed to the industrial model imposed by large multinational media industries.

Action steps

There are several key topics of common interest for ICT activists in Spain and Europe:

- An obvious direction is strengthening coordination among multiple organisations in Spain to work in common directions. That is already happening in most campaigns and occurs through personal or organisational links. This type of coordination is also relevant to organisations in other countries of the EU or with pan-European organisations such as the European Digital Rights Initiative (EDRI) (Pangea and X.net are already members).

- Widening the political representation of the "internet world" implies working towards including more citizens in the digital world. Strategies for "universal service" or "broadband for all", timidly discussed at the national or European level (e.g. Digital Agenda 2020), or community networking initiatives such as Guifi.net, are ways to enable the internet as a tool for participation and e-democracy. As has been said: "The internet is not just another TV."[9] An accessible, affordable, universal and content-neutral internet with open knowledge and open services is essential in the battle for civil rights in the 21st century. This requires supporting regulations: a national law, a European directive.

- Network neutrality: Its defence is essential to avoid the internet ending up under the control of just a few. Net neutrality requires the development of supporting regulations.

- Independent internet media and services: This highlights the importance of choosing commercially independent and community-owned internet services and applications (i.e. run by non-profit social movements, such as the Wikimedia foundation) over those with commercial interests (e.g. Facebook, Twitter). New models of cultural production have a key social role in facilitating access to rich and diverse content for communities.

- Visibility on the street: ICT activism and political activities on the internet should have a strong presence "on the street" and a real impact in the political arena. But the way to go is through complementing internet initiatives with activities on the ground, rather than working from the other way around (e.g. in the way that traditional political campaigns typically have a weak internet presence).

- ICT activism, "bottom-up politics", and citizen participation using the internet are already strong in Spain, as clearly shown by the 15M movement. These sorts of movements have been successful in developing manifestos following a bottom-up and participatory process, and have been successful in attracting the attention of both citizens and the traditional media (press, TV). The challenge now is to be heard effectively by political parties and governmental structures – a task that is very difficult given that the political voice is coming from an unconventional source. ∎

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9   internetnoseraotratv.net/en

In the year of the Arab uprisings **GLOBAL INFORMATION SOCIETY WATCH 2011** investigates how governments and internet and mobile phone companies are trying to restrict freedom online – and how citizens are responding to this using the very same technologies.

Everyone is familiar with the stories of Egypt and Tunisia. **GISWATCH** authors tell these and other lesser-known stories from more than 60 countries. Stories about:

PRISON CONDITIONS IN ARGENTINA Prisoners are using the internet to protest living conditions and demand respect for their rights.

TORTURE IN INDONESIA The torture of two West Papuan farmers was recorded on a mobile phone and leaked to the internet. The video spread to well-known human rights sites sparking public outrage and a formal investigation by the authorities.

THE TSUNAMI IN JAPAN Citizens used social media to share actionable information during the devastating tsunami, and in the aftermath online discussions contradicted misleading reports coming from state authorities.

GISWATCH also includes thematic reports and an introduction from Frank La Rue, UN special rapporteur.

GISWATCH 2011 is the fifth in a series of yearly reports that critically cover the state of the information society from the perspectives of civil society organisations across the world.

GISWATCH is a joint initiative of the Association for Progressive Communications (APC) and the Humanist Institute for Cooperation with Developing Countries (Hivos).

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