



THE INTERNET AND FREEDOM OF EXPRESSION: A NEW FRONTIER FOR HUMAN RIGHTS?

The internet is one of the most powerful inventions of the digital age. It has the potential to empower and educate, to cross cultural boundaries and create global communities. It offers the means for any individual with access to a computer and a gateway to the internet to communicate in a free flow of information and ideas with others across the world.

Yet that very potential to transcend national borders and impart information regardless of frontiers means that the internet is also the subject of concerted efforts by governments to restrict freedoms and violate basic human rights such as the right to privacy, freedom of expression and freedom of information.

In some countries, the struggle for freedom of expression is now taking place online as authoritarian governments devote increasing resources and attention to controlling access to information via the internet and to implementing surveillance technologies. Their objective is often to prevent the dissemination of information that is critical of them, as well as to track and monitor dissidents, some of whom are subsequently imprisoned for exercising their right to freedom of expression.¹

In this context, the internet itself can become a tool of repression where the monitoring of communications, the censoring and filtering of information and the amassing of immense databanks of information enhance the ability of authoritarian governments to restrict the freedoms and basic human rights of their citizens. Such national restrictions can affect not just those living within that country but anyone who seeks to impart or receive information in relation to that country.

There are some legitimate cases in which restricting access to certain information is an important step in protecting human rights, for example restricting access to child pornography. However, international human rights standards establish strict conditions under which such restrictions are permissible. Unwarranted censorship is contrary to many local laws and established international norms and values.

Freedom of expression – a fundamental human right

Everyone has the right to freedom of opinion and expression; this right includes freedom ideas through any media and regardless of frontiers.

Article 19 of the Universal Declaration of Human Rights

Freedom of expression is a fundamental human right that is necessary for the enjoyment of all human rights. It has variously been described as essential for the discovery of truth - the freedom to develop and discuss ideas in the search for truth and understanding;

¹ Amnesty International: *People's Republic of China, Controls tighten as Internet activism grows*, ASA 17/001/2004, January 2004. www.amnesty.org/library/index/engasa170012004

autonomy and self-fulfilment of the individual; and for effective participation in the political life of a democratic society. Violations of freedom of expression often go hand in hand with other human rights abuses.

Amnesty International upholds the right of everyone to freedom of thought, conscience, religion, opinion and expression as set out in the Universal Declaration of Human Rights.

But there are limits to freedom of expression. Under international law, governments may in strictly defined circumstances restrict particular forms of expression or information on narrow grounds such as national security, the protection of public morals or to protect the rights and reputations of others. But they can only do this to the “extent strictly necessary”. Amnesty International, for example, would always argue that any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence (often known as ‘hate speech’) should be prohibited.

However, international human rights law does not permit freedom of expression to be restricted or prohibited simply on the grounds that others may find it offensive or that the authorities say that it poses a risk to public order. International and regional human rights treaties apply strict criteria that any such restriction must be set down in law, have a legitimate aim and is a proportionate response to a real problem. The onus of demonstrating the validity of the restriction rests with the government.

Internet governance and human rights

And of course, the information society's very life blood is freedom. It is freedom that enables citizens everywhere to benefit from knowledge, journalists to do their essential work, and citizens to hold government accountable. Without openness, without the right to seek, receive and impart information and ideas through any media and regardless of frontiers, the information revolution will stall, and the information society we hope to build will be stillborn.²

— UN Secretary General, Kofi Annan

How the internet should be governed and regulated is a controversial topic. The United Nations World Summit on the Information Society (WSIS), involving 175 countries, met in 2003 and again in 2005 to try to develop a framework for global Internet governance.³ The outcome of the meetings was a decision to leave much of the control of the Internet where it currently resides - concentrated in the hands of the US-based Internet Corporation for Assigned Names and Numbers (ICANN) - in the absence of agreement on other alternatives. This failure to reach a binding agreement on the future of Internet governance, or even what the term should encompass,⁴ ended with a compromise agreement to set up a consultative Internet Governance Forum which will meet for the first time in Athens in November 2006.

The WSIS has also agreed a set of principles emphasising the importance of respecting human rights in developing the Information Society.⁵

² Kofi Annan, November 2005, Tunis. www.itu.int/wsis/tunis/statements/docs/io-un-opening/1.html

³ World Summit on the Information Society. www.itu.int/wsis

⁴ The June 2005 report of the Working Group on Internet Governance offers as a working definition:

“ Internet governance is the development and application by Governments, the private sector, 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”.

⁵ WSIS Declaration of Principles, Building the Information Society: a global challenge in the new Millennium. www.itu.int/wsis/docs/geneva/official/dop.html

Amnesty International believes that respect for human rights and freedom of expression is a vital component of any future agreement on Internet Governance.

Ahead of the Internet Governance Forum meeting in Athens, the WSIS Civil Society Human Rights Caucus⁶, a coalition of 65 organisations, is highlighting concerns over the implications of Internet policies for freedom of expression and the protection of privacy.⁷ The Caucus seeks to ensure that all internet policies have human rights protection as their baseline. It is also calling for the establishment of an Independent Commission on the Information Society and Human Rights composed of experts in relevant fields, with a broad geographical representation, to monitor and assess relevant legislation and policies to ensure that these are compliant with international human rights standards.

Internet suppression – the role of companies

Governments practising internet suppression require the assistance of companies that are providers of information and communications technology. This raises questions about their collaboration in human rights violations that are being committed by states. In such circumstances, a company runs the risk of being complicit in a violation through its provision of equipment, technology or services to a repressive government.

While the use of information and communications technology to suppress dissent has been documented in many countries, it is the situation in China that has generated the most public and political concern internationally. In part this is because the apparatus of internet repression is considered to be more advanced in China than in any other country,⁸ and in part because of the willingness of internet hardware and software companies to cooperate with the Chinese government in their quest to develop a large and lucrative market.⁹

The control the Chinese authorities maintain over their citizens' right to freedom of expression and information is pervasive. This has put the spotlight on the contribution that internet companies such as Yahoo!, Microsoft and Google are making to support China's efforts to maintain such control and restrict fundamental freedoms. In assisting the Chinese administration by complying with its censorship demands, these companies are seen to be facilitating or sanctioning the government's efforts to control the free flow of information, thereby contravening established international norms and values, as well as compromising their own principles.

Amnesty International is calling on all internet companies operating in China to respect people's right to freedom of expression and information. They must conduct their business in a way that respects human rights, abides by international standards and avoids complicity in human rights violations.

⁶ www.iris.sgdg.org/actions/smsi/hr-wsis

⁷ www.iris.sgdg.org/actions/smsi/hr-wsis

⁸ The OpenNet Initiative, Internet Filtering in China in 2004-2005: A Country Study, April 2005. www.opennetinitiative.net/studies/china/ONI_China_Country_Study.pdf

⁹ Human Rights and the Internet in China, Amnesty International USA Testimony to the Congressional Human Rights Caucus, the US Congress, February 2006. www.amnestyusa.org/business/ChinaInternetTestimony.pdf