The Dilemma of Internet Freedom

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Abstract: The Internet has created a global, virtual and omnipresent space within our life. Internet freedom raises debates about defining the rules of the Internet. The range of Internet freedom in a country reflects the political degree of media freedom present in that country. With the increasing power and influence of technological innovations, the methods of control used by some governments are becoming less transparent, and at the same time information about democratic conditions in these countries travels via the Internet all over the world. However the Internet itself cannot solve the problems of repression in authoritarian countries. Societies in democratic countries expect Internet freedom and protection from computer related crime, and the dilemma for governments and societies is to find the right balance between regulation and protection of interests.

Key-Words: Internet Freedom; privacy; media freedom; cyberspace; free speech; copyright

1 Introduction

Information and media ethics as autonomous research areas focus on the compatibility of the fundamental right of freedom of expression and the limitation of Internet freedom. Ever since the Internet was founded in the 1960s, to ensure fast and unrestricted communication, the regulation and establishing of rules for users and providers has been a controversial topic. The Internet expands the possibilities of transferring an individual opinion to the public. Freedom of expression and the protection of Internet freedom have a strong presence in democratic societies. Limitations of Internet freedom due to political motivation are closely monitored by the public and receive much media attention.

Internet freedom concerns aspects of freedom and freedom of expression, but it also concerns security and justice regulated by law and order. These aspects are interlinked and need to remain balanced. The Internet, as the world’s main communication system and a virtual space, shapes our societies in various ways. Thoughts about Internet freedom are strongly connected with thoughts about media freedom and political settings. Although Internet is a global media, it is limited by national conditions and the level of Internet freedom is dependent on the level of freedom in the individual country.

Interests in respect to Internet freedom are competing, creating continuous worldwide controversy, raising the questions of if and how it is possible to strike a balance between the competing positions.

2 Methodology

In this research paper relevant literature was reviewed to produce a descriptive-analytical overview of the topic Internet freedom, in order to find responses to the questions of how Internet freedom can be defined and how the demand to have Internet freedom can lead to a dilemma. This research paper begins with a description of worldwide Internet usage by global region, and places freedom of expression into the context of Internet freedom.

It is followed by a description of how Internet freedom can be limited by local governments, manifesting in a political system to repress political dissent or in the exposure of official corruption, or limited in order to protect political interests by controlling or misusing the Internet. Besides the role of the state, large corporations such as Facebook or Google design the Internet and are the guardians of user data. The tracking and usage of Internet data and the question of access to this data by government or industry especially in relation to user
identification raises questions about privacy and liability.

There is a range of questions regarding Internet freedom and its limitation. There is no doubt that a dilemma arises from the contrast between Internet freedom and inherent freedom of expression, and the limitation of Internet freedom, in which this research is interested.

3 Internet Freedom

3.1 Definition of Internet Freedom

The defining of Internet freedom is a broad and controversial subject – there is no generally agreed upon definition of the term. The discussion surrounding Internet freedom raises debate about defining the functioning and the rules of the Internet, and about the societal framework in which it exists. It is a debate about freedom and limits of freedom; not only about freedom, it is about the public demand to not have Internet freedom threatened by violating privacy.

Rather than trying to find a definition, one could quote Derek Bambauer: “Perhaps, in the end, Internet freedom is a term that should be abandoned as too general to be useful. Instead, countries, cultures, and users should grapple with the difficult tradeoffs that Internet communication presents” [1].

3.2 Internet Usage

Worldwide, 2.4 billion people had access to the Internet at the end of 2012 (see Table 1). The average rate of Internet penetration is 34.3% of the worldwide population. The figures in Table 1 show that a global digital divide between Africa and Asia and the other regions still exists.

In some countries it is still a privilege to have access to the Internet. Other countries define it as a right and they moreover define minimum bandwidth, like in Finland where it has been decided that broadband Internet access should be considered a legal right and that every person should have access to a minimum of 1 Megabit broadband connection. The reasons for this digital divide have been in public discourse since the beginning of mass Internet distribution. There are serious inequalities between countries, within societies but also among groups of individuals, social classes, geographic areas and between religious, cultural, ethnic and gender groups. Essential preconditions to having Internet access are based on key factors such as sufficient income and level of education, the existing telecommunication infrastructure, the democratic setting within individual countries and the enabling of freedom of expression as a human right. The digital divide shows the actual exclusion of individuals from the Internet as a worldwide information and communication platform.

3.3 Access to Internet a Human Right?

The Universal Declaration of Human Rights was drafted in 1948, a long time before the Internet was invented. Nevertheless, it provides entry points to interpret access to Internet and the right to freedom of connection as a human right. As stated by Handelsmann and Kalantar, “Although not legally binding, the Universal Declaration of Human Rights contains several provisions that support the possibility of Internet access as a human right” [2]. The existing regulations do provide support but they are not legally binding. In non-democratic countries, human rights are not included in constitutions. Furthermore, legislating Internet access as a human right depends on national interpretation of freedom of expression.

Table 1: World Internet usage and population statistics June 30th 2012.

<table>
<thead>
<tr>
<th>World Region</th>
<th>Population (2012 Est.)</th>
<th>Internet users Latest Data</th>
<th>Penetration (% Population)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Africa</td>
<td>1,073,180,025</td>
<td>167,335,676</td>
<td>15.6%</td>
</tr>
<tr>
<td>Asia</td>
<td>3,932,065,987</td>
<td>1,076,681,659</td>
<td>27.5%</td>
</tr>
<tr>
<td>Europe</td>
<td>820,918,446</td>
<td>518,312,109</td>
<td>63.2%</td>
</tr>
<tr>
<td>Middle East</td>
<td>223,608,253</td>
<td>90,000,455</td>
<td>40.2%</td>
</tr>
<tr>
<td>North America</td>
<td>546,260,174</td>
<td>273,735,413</td>
<td>50.5%</td>
</tr>
<tr>
<td>Latin America/Cast.</td>
<td>593,608,618</td>
<td>254,913,785</td>
<td>42.9%</td>
</tr>
<tr>
<td>Oceania/Australia</td>
<td>35,903,569</td>
<td>24,287,916</td>
<td>68.6%</td>
</tr>
<tr>
<td>WORLD TOTAL</td>
<td>7,077,846,522</td>
<td>2,095,113,276</td>
<td>34.8%</td>
</tr>
</tbody>
</table>

and freedom of access to information. Some countries such as Estonia, France, Finland, Greece and Spain have already legislated Internet access as a fundamental human right of its citizens. Other countries promote the right to have Internet access as human right.

Debates about the right to freedom of connection are intensifying around the world. The more that liberal states increase measures to provide Internet access to their citizens and legislate it by law, more pressure is placed on neutral and restrictive societies to legislate Internet access as a human right [2]. In addition to freedom of expression, many countries provide legal guarantees for the right to freedom of information, to ensure that citizens will be informed about how governments act [3].

4 Limitations of Internet Freedom

4.1 Restrictions of Freedom by Government

It is a privilege of open democratic societies to have the right to unrestricted Internet access for everybody. This includes Internet access in general, with sufficient bandwidth, and to have unlimited, unfiltered and uncensored access to content. Exercising the right to freedom of expression, particularly through new media, pushes the limits of the democratic systems in place.

Authoritarian governments have always been characterised by a restricted broadcast and print media. Governments in authoritarian systems react with far-reaching methods of controlling the Internet and limit the freedom to the Internet. Some countries with highly repressive governments, like Cuba, limit the access to only a small part of the population by restricting the public access points to the Internet, increasing the prices to access the telecommunication infrastructure and limiting the bandwidth. However it is not only authoritarian governments who impose such restrictions. Similar responses to Internet freedom can be seen in a wide range of countries and governments have developed a number of tools to control the internet and to block any kind of “undesirable” information [4]. Depending on the democratic setting of a country, the access to content is restricted.

Freedom House found out that “In 26 of the 47 countries assessed, a blogger or other ICT [information and communication technology] user was arrested for content posted online or sent via mobile phone text messages” [4]. The study also concludes that, of the 47 countries analysed, “19 have passed new laws or other directives since January 2011 that could negatively affect free speech online, violate users’ privacy, or punish individuals who post certain types of content” [4].5

The findings of the Freedom House study 2012 indicate that “restrictions on Internet freedom in many countries have continued to grow, though the methods of control are slowly evolving and becoming less visible” [4]. Government measures such as manipulation of the web through pro-government bloggers to influence public opinion have been adopted by more than a quarter of the 47 countries analysed by Freedom House [4].6

Governments have imposed temporary shutdowns of the Internet during mass protests or political events and have banned social media sites such as YouTube, Facebook, Twitter, or equivalent services and other politically relevant websites.7

Even in more democratic countries governments are filtering and blocking Internet content in their anti-terrorism efforts, which is in the interest of society but could also limit Internet freedom [4].

Despite the growing threats, legal protection instruments, like ACTA (Anti-Counterfeiting Trade Agreement) and three strikes laws like the French HADOPI (French: Haute Autorité pour la diffusion des œuvres et la protection des droits sur Internet) or the Digital Economy Bill in UK have been criticised and attacked by the public and media, interpreting them as a violation of freedom of expression.8

Having control over the Internet is also a technological issue. New and powerful control technological instruments such as deep packet inspection (DPI) have been developed, enabling the interception and logging of Internet traffic, they also enforce copyright, track user behaviour, cut bandwidth, congest traffic, monitor and filter content and many other actions. While engineers

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5 according to the study: Bahrain, Belarus, Burma, China, India, Indonesia, Iran, Kazakhstan, Kyrgyzstan, Malaysia, Mexico, Pakistan, Russia, Saudi Arabia, Sri Lanka, Syria, Thailand, Vietnam
6 according to Freedom House the following countries used pro-government commentators to manipulate internet discussions in 2011-2012: Cuba, Egypt, Ethiopia, Iran, Malaysia, Russia, Saudi Arabia, Syria, Thailand, Ukraine and Venezuela.
7 Localized Internet shutdowns occurred e.g. in China and Bahrain during anti-government protests, the Qadhafi regime in Libya prior to its downfall and selected regions in Syria during 2011 and 2012 [4].
8 “the study’s findings reveal a significant uptick in citizen activism related to internet freedom, which has produced several notable mobilization efforts and legislative victories. In several European countries, fierce public opposition to the Anti-Counterfeiting Trade Agreement (ACTA) has prompted governments to step away from ratification of the treaty” [4].
develop new control technologies, societies need to be aware of how they are used. According to Daniel Calingaert, democratic countries should invest in and maintain control over innovative technologies, which make Internet control possible, avoiding the censorship and monitoring which occurs in less democratic countries, “and extend greater support to digital activists in repressive environments, so that Internet users can more effectively assert their rights for freedom of expression online” [5].

4.2 Privacy Protection and Internet Freedom

In democratic nations, the protection of privacy is given high priority and users expect their data to be used responsibly. In general, two groups have a high level of interest in personal data: the state and business. Financial and law enforcement authorities or secret services use Internet access data to enforce law or track political interests and activity and business uses personal data for advertising and marketing purposes. The Internet is not an anonymous cyberspace. Users can be identified via their Internet service providers (IP-address and log files), and cookies, search engines, electronic commerce, HHTTP protocols and, browsers all track user data. Repressive governments require users to register their accounts, using their names and user data to identify and to hold users responsible for online posts and data. Facebook, Twitter and Google should be the gatekeepers of their users’ private data, protecting and taking responsibility for their privacy. Morozov has doubts about how well user data is protected: “The West excels at building and supporting effective tools to pierce through governments, but it is also skilled at letting many of its corporations disregard the privacy of their users, often with disastrous implications for those who live in oppressive societies” [6].

Every time users comment or perform searches on the Internet via Facebook or Google, or simply comment on a newspaper’s website, they leave a public trail on the Internet. With the ‘like’ button, Facebook tracks user behaviour on many sites. Most information seems simply lost in cyberspace - “this is what privacy scholars call “security by obscurity” [6]. However, even though information may be ‘floating’ in cyberspace, it can be located and used or misused by industry or by governments to predict public opinion and to repress users in oppressive societies.

4.3 Liability and Internet Freedom

The Internet is borderless, which makes the question about liability for content challenging to answer. Besides the provider of the content, can the intermediaries such as YouTube or Google video also be held responsible for online content? The main forms of criminal online activity such as child pornography, hate speech, terrorism, defamation or copyright infringement are usually regulated by national criminal codes [7]. In general, users are liable for their online content, just like they are in the offline world. However, given the borderless nature of the Internet and the possibilities to upload content via anonymous IP-addresses in regions where freedom is not protected but unregulated or poorly regulated, the question about which law applies can arise. Furthermore, what about the possibility of an Internet watchdog? Who is in charge of supervising the content on the Internet? Preventing the intermediaries from being liable for third party content is critical for Internet freedom. According to Wong “Governments should instead strengthen and adopt policies that protect intermediaries as key enablers of innovation, human rights, and economic development” [8]. However the power of corporations to gather private identifiable information is a threat, and there is public fear of the misuse of user data as well as government surveillance [1].

The role of the intermediaries differs between countries. In some nations, like in the United States, the government protects the intermediaries, in others – like Italy, the government force the intermediaries to be in charge. Given the volume of content uploaded daily to platforms such as YouTube, the demand to have content supervised seems to be unrealistic.


[10] The term intermediary means in this context hosts of online platforms.

[11] In February 2009 was reported that four Google managers were arrested because of a google video that showed the bullying of young boy. None of the employees had knowledge of the video. Available at: <www.businessinsurance.com> (accessed: April 19th 2013).

[12] 72 hours of videos are uploaded every minute and 4 billion hours of video are watched each month on YouTube. Available at: <www.youtube.com/t/press_statistics> (accessed: April 19th 2013).
4.4 ISPs\textsuperscript{13} and Internet Freedom

"Net neutrality is one of the more technical aspects of Internet regulation that has been viewed as a potential threat to freedom of expression online" [3]. Internet service providers hold a key position. They can discriminate users by charging access fees and by managing bandwidth.\textsuperscript{14} Many people are worried that “ISPs will carry out discriminatory actions and online content will therefore not be accessible to everyone in the same way, possibly creating a two- or multi-tiered Internet” [3]. A significant threat to Internet freedom is the centralised ownership of ISPs (Internet service providers) by governments or corporations and the therefore controlled traffic of the Internet. Politicians in democratic countries need to face the challenge of focusing on the anti-trust dimension of Internet traffic.

4.5 Copyright and Internet Freedom

The vision of having free access to all intellectual property is in strong opposition to the actual dominant economical practice today. Given the new public attention, the concept of copyright protection is a subject of public discourse. With the new possibilities of circulating, exchanging and sharing music, films, scientific knowledge and visual arts, there is an increasing public focus on and interest in the treatment of intellectual property rights. At the same time multiple European scholars and judges have warned about the unstoppable increase of intellectual property rights [9]. The protection of copyright became a challenge; laws had to be extended to the online world.

The very idea of unlimited access to all content, with no or limited copyright protection and no control leads to the destruction of industries if no other business models have been found.

While copyright protectors fight mainly for economic benefits, those who oppose it see limited access to content as a violation of the values of free speech. Global circulation of all forms of media and information and freedom of expression come up against local copyright law and different political settings. Overall, it is a political discussion, a dilemma for governments and societies that need to find the right balance between regulation and protection of interests.

5 Discussion and Conclusions

Defining the term Internet freedom is a challenge, and attempting to determine if a dilemma arises out of Internet freedom leads to the following paradox: in order to protect freedom, freedom must be limited. Even though societies in democratic countries expect Internet freedom, they simultaneously expect protection from Internet related crime.

The challenge for different legal and political systems and societies is to transfer applicable national rules to a fast-developing global medium, the Internet.

Democratic societies have the privilege, or obligation, of guaranteeing their citizens the right to unrestricted Internet access. Worldwide Internet usage figures portray a global digital divide between developed and non-developed countries showing that only 35% of the worldwide population have access to the Internet and that having access to the Internet is still a privilege.

The phenomenon of governments to influence or repress the media is not unknown, but the Internet and social networks have created a new transparency and makes it possible to transmit public opinion about this. The range of Internet freedom in a country reflects the political degree of media freedom and democracy present in that country, but it is also evident that the Internet cannot solve the problems of repression in authoritarian countries.

As Castell argues, Internet is a technology of freedom but “it can make the powerful free to oppress the uninformed” [10]. The principle of freedom of expression and freedom to have access to information must apply to the Internet as it does to traditional forms of media. The development of innovative technologies like deep packet inspection are both a support and a threat with their capability to powerfully control the Internet, and societies must realise that they have the responsibility of dealing with these powerful innovations transparently.

The Internet as a global medium is confronted with regulations at a national level. Finding global solutions seems to be the main objective of the future. The complexity of these topics seems to overwhelm societies. Citizens become sensitive to the term ‘freedom on the Internet’, making it increasingly emotionally loaded. Establishing a democratic framework is a global, national and regional challenge, and improving freedom, security and justice on the Internet is a balancing act.

\textsuperscript{13} Internet service providers

\textsuperscript{14} The ISPs can identify power uploaders and downloaders and cut their bandwidth.
References: