

# 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.*

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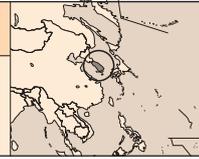
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## KOREA, REPUBLIC OF

### SOUTH KOREA'S 2008 CANDLELIGHT DEMONSTRATIONS AND DIGITAL RIGHTS



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#### Introduction

South Korea's internet penetration reached 77.8% in 2010, with 81.6% of households connected. Considering the country's media environment, where the general public's access to mainstream media is somewhat limited, the internet is a critical medium for expression for ordinary citizens.

However, administrative authorities have screened internet content since 1995 and controlled it by threatening criminal punishment, including for cyber defamation. Furthermore, the resident registration number system adopted by the military dictators of the country's past is still used, including for online verification, allowing easier tracking of users by investigative authorities.

Despite this, citizens have used the internet creatively, in particular to proactively organise social resistance and mass demonstrations, as evidenced by the mass candlelight demonstrations that erupted in South Korea during 2008, following plans to import beef from the United States (US) potentially contaminated with mad cow disease.

#### Policy and political background

After liberation from Japanese occupation in 1945, the Republic of Korea – more commonly known as South Korea – went through a number of military dictatorships, which eventually ended with the 1987 pro-democracy uprising. Since then, democratic institutions, including direct presidential election, have been reinstated or newly introduced, the Constitutional Court system being one such case.

The 1997 presidential election saw the first peaceful change of government when the opposition leader, Kim Dae-Jung, became president. The government changed again in the most recent presidential election in 2007, when Lee Myung-Bak, candidate from the conservative Grand National Party (GNP), was elected. During the April 2008 general elections, the GNP won a majority of seats in the National Assembly.

Beginning 2 May 2008, mass demonstrations took place daily after the government announced plans to import the US beef into the country. Most participants joined the rallies in the evenings after work or school, peacefully holding candles – which is why the rallies were given the name “candlelight demonstrations”. From the seventeenth candlelight demonstration on 24 May, participants started street marches, at which point the police started suppressing and arresting participants.

Many people were angered by the police violence, broadcasted live on the internet, and the demonstrations grew larger. According to prosecutor and police statistics, a total of 932,000 people participated in the demonstrations, at least 3,609 people were arrested for demonstrating illegally at night, and at least 1,270 were prosecuted. The demonstrations peaked in June, but dwindled after 15 August due to mass arrests and prosecutions.

#### The use of the internet

Before candlelight demonstrations were successfully organised, people had discussed the risks of US beef online on popular discussion sites such as Agora and in online communities such as AntiMB. A teenager using the pseudonym “Andante” triggered a debate after demanding the impeachment of President Lee Myung-Bak. Diverse analytical articles, images parodying the authorities, as well as user-created content were posted. There was even a suggestion to include the words “[Myung-Bak Out]” before all posts to freeboards, while others printed banners supporting the demonstrations that could be hung in homes. Voluntary donations and campaigns on various issues to do with the beef imports were organised, and some online communities raised funds to place advertisements in newspapers.

It was then that “offline” gatherings with candles every evening in Cheonggye Plaza were proposed, and those who agreed to this idea started to voluntarily participate in the rallies. In the beginning, the most energetic participants were young people who had spent the entire day at school and used the internet and mobile short messaging service (SMS) to organise their friends and debate various issues. Later, all sorts of online communities

of interest – including fashion, cooking, baseball, photography, cars, and mothers with kids groups – started discussing ways to participate in the rallies. Participation was voluntary and fun; debates took place collectively and activities were collaborative.

Once the candlelight demonstrations started, citizens came up with novel action ideas every day. Participants exchanged information on how to counter the media and the police, and even what to do when arrested. “Netizens” showed support by using the same candlelight image on their instant messengers and blogs, while politicians criticising the demonstrations were mocked by being donated KRW 18 (around USD 0.02) each (in Korean, the pronunciation of “eighteen” is also a swearword.) Actions such as simultaneously searching for the phrase “Democracy is Dead” on search engines were organised – increasing the hit count for the search and prominence of the search terms on the search engines – and flash games criticising the president were created. Websites of the ruling party and the president were either hacked or servers brought down by mass simultaneous access.

The fact that a boycott campaign was initiated against those who advertised in news outlets criticised for distorted reporting of the demonstrations is notable. Names of daily newspaper advertisers, their phone numbers, website addresses and other information were collected and posted on the internet every day by volunteers, encouraging others to participate in the boycott and share their experiences. Large numbers participated, to the extent that companies’ websites and phone lines were paralysed. When prosecutors started their investigations, as a protest, many participated in a collective action targeting the website of the Prosecutors’ Office by “turning themselves in” online for participating in the boycott. On the other hand, support and subscription campaigns were organised for media outlets that were favourable to the demonstrations. These actions arose from the netizens’ critical perspective of the mainstream media.

Until the police suppression started, the candlelight demonstrations were mainly peaceful. Citizens voluntarily and publicly voiced their opinion on issues, and created stickers and leaflets to share their ideas. Citizens, online and offline, communicated with one another using digital media, including mobile phones. During all-night demonstrations, citizens used internet freeboards to raise impromptu funds to buy and distribute equipment needed on the streets, including raincoats to protect protestors from police water cannons, and drinks and snacks. Many used personal cameras and camcorders to share images from the streets,

using their laptops to access internet live streaming sites like Afreeca. Videos of the protests were uploaded as they were unfolding. Progressive political parties and the internet media, such as Color TV, also started live internet reporting. When live internet streams by digital media became more pervasive, officers ordered riot police to avoid being filmed when beating demonstrators, which was then publicised and harshly criticised.

As police suppression became more violent, citizens became more proactive, debating countermeasures online. People publicised police violence through various internet sites and media, and continued to stream the movements of demonstrators live through the internet. When barricades made of containers were set up by the authorities around the presidential office, there were heated debates on whether or not to cross the line. The momentum and public sentiment on the issue were such that in some communities, citizens continued to hold candlelight demonstrations regularly for over a year.

### Violation of freedom of expression

The government response towards the candlelight demonstrations was a violation of freedom of expression. Just after the demonstrations started, the Prosecutors’ Office held an emergency meeting and announced that it would investigate what it called “false internet rumours about mad cow disease”. It also criminally prosecuted teenagers proposing a student strike against US beef, on grounds of “false communication”. Internet users who had raised suspicions about possible rape, manslaughter or desertion by riot police were also subject to criminal prosecution for “false communication”. It was only in December 2010 that the Constitutional Court ruled that this clause in the legislation was unconstitutional.

Internet café managers who had participated in the rallies were also indicted or had their homes and offices searched. In particular, those who ran media boycott campaigns were subject to stronger measures, including travel bans and arrest and search warrants. They were prosecuted and found guilty in the first and second instances, and are now undergoing trial at the Supreme Court.

Investigative authorities clearly abused criminal procedures by, for example, issuing a subpoena to an internet user who had joked during the demonstrations about hiring an assassin to kill the president, or arresting those who had disclosed the names of shop owners who had filed suits against demonstrators for compensation. In July 2008, netizens who had been sued for defamation by a police chief whose name was disclosed during an

online debate, and was criticised as a result, were acquitted by the Supreme Court. In May 2009, the police filed criminal and civil suits for defamation against a former riot policeman. He had posted online songs ridiculing the riot police's suppression of protests and then tried to make an album of those songs. The police also filed a provisional deposition against the album. However, he was acquitted by both the prosecutors and the court.

The Korea Communications Standards Commission (KCSC), formed by the incumbent administration to screen the internet, was strongly criticised for biased deliberation at the time of the candlelight demonstrations. In May 2008, the KCSC issued a "recommendation to restrain exaggeration and to refine speech" because some internet users had degraded the president by calling him "2MB"<sup>1</sup> or a "wicked person". In July 2008, the commission deemed internet posts boycotting newspaper advertisers to be illegal and decided to delete those posts. During the same month, the police requested KCSC to delete 199 posts criticising the president and government, some of which were deleted. In June 2009, the KCSC decided to delete a photo where a police officer beating citizens at the May Day and first candlelight demonstration anniversary rallies had been named, on grounds of violation of privacy rights.

After the candlelight demonstrations, the government, convinced that the internet was the source of mobilisation, has tried to further regulate the internet. South Korea has been implementing a Real Name Identification System (RNIS) since 2004 – a user can only post online after real-name verification using the user's resident registration number. The RNIS was supposed to be implemented during specific periods such as an election or on 30 major websites only. However, in 2009, the government revised the enforcement ordinance to increase target websites to more than 150. An additional revision to further expand the number of sites is at the moment pending in the National Assembly. In April 2009, Google Korea announced it would refuse the RNIS and disabled upload services to users with "Korea" as the country setting. The RNIS has led many South Korean internet users to seek "cyber asylum" by moving their email or blog accounts from RNIS-required Korean sites to non-Korean services like Google. As of 2009, domain owners who do not use their real name will not be able to access domain name services.

<sup>1</sup> "2MB" has two meanings. One is the initials of President Lee Myung-Bak ("2" and "Lee" are pronounced the same in Korean, so 2MB sounds like Lee MB). The other insinuates that President Lee Myung-Bak is not very intelligent, because the memory capacity of his brain is only 2 megabytes (2 MB).

The government has also proposed a revision to fine an internet service provider (ISP) that does not respond to a request to implement temporary measures of deleting or blocking access to information for up to 30 days, and to mandate ISPs to illegally screen internet content. The aim is to strengthen control over the internet through ISPs. Ruling party lawmakers have also tabled a bill to introduce stronger punishment for cyber slander compared to punishment under the penal code, as well as to allow investigation to be initiated without the filing of a complaint. There are concerns that these internet regulations violate freedom of speech and expression as well as lead to a chilling effect whereby internet users will start censoring themselves.

### Invasion of privacy

The compulsory RNIS obligates ISPs to retain personal information of users and cooperate with investigations by police or prosecutors. However, investigative authorities have abused this system since they can obtain the name, resident registration number and home address of users without a court order. The investigation of users' personal information held by ISPs increased from 71,024 cases in 2006 to 93,691 in 2007, and more rapidly in 2008 – the time of candlelight demonstrations – to 119,280. Tracking internet protocol (IP) addresses requires a court order. However, provisions are not strictly applied. The recorded number of cases of the submission of IP addresses to investigative authorities was 41,681 in 2006, 41,584 in 2007, and then rapidly increased to 46,667 in 2008.

Furthermore, the police have started running an exclusive internet search system through which they can strengthen monitoring of particular sites or particular search words. The government and the ruling party have also tabled a bill to obligate ISPs to install screening devices and to retain log data, thereby strengthening control over communication.

### Conclusion

The internet played a vital role in the candlelight demonstrations, and helped to mobilise ordinary citizens. Through the internet and mobile communications network, citizens debated various social issues, voiced their opinion and organised actions. The internet offers a way for individuals lacking social and economic resources to make themselves heard and empowered.

However, in the wake of the 2008 protests, investigative authorities have formally targeted citizens for their use of the internet, while censorship, tracking and surveillance of internet users has also

increased. These trends are a great concern since they can constrain citizens' social participation and social movements through the net.

### Action steps

Information and communications technologies (ICTs) have become more prevalent and widely used by citizens to organise social resistance and mass rallies.

In order to promote participation, citizens must be guaranteed online space to collectively debate and converge. However, many governments have recently adopted technologies and policies to regulate and keep surveillance over the internet – and they are benchmarking one another. Therefore, the following countermeasures are recommended not only for South Korea, but equally for elsewhere around the world:

- Formal accusations against internet posts should be minimised. Criminal punishment for false communication or defamation should be abolished. Criticism against heads of state, police or other public figures must be free.
- Administrative deliberation or censorship, in which the government arbitrarily screens internet content, should be abolished. ISPs should not be subject to arbitrary content regulation.
- Provisions allowing only users with verified real names to write posts should be abolished, since the freedom of anonymous speech as well as privacy of internet users are infringed.
- Strict court procedures must be applied when investigative authorities are being provided with information that can be used to track and maintain surveillance over internet users. User information should not be retained at the convenience of investigative authorities. ■

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.

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