# GLOBAL INFORMATION SOCIETY WATCH 2009

*Focus on access to online information and knowledge – advancing human rights and democracy*

Association for Progressive Communications (APC)
and Humanist Institute for Cooperation with Developing Countries (Hivos)

Global Information Society Watch 2009

# Global Information Society Watch

## 2009

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*Dedicated to A.K. Mahan - an activist who valued intellectual rigour and concrete outcomes.*

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# MEXICO

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## Introduction

Mexico's diversity and wealth are not being leveraged in the process of building the country's information society. What could be a remarkable information society emanating from its people and its rich and varied cultures – potentially translating into a wealth of content – appears instead to be restricted. The homogenous construction of Mexico's information society is a result, on the one hand, of the population's uneven access to communication media and to information and communications technologies (ICTs). There is low broadband access due to high costs, and unequal access to technology on the basis of socioeconomic, gender and age differences: 41% of internet users have a high socio-economic level, 58% are men, 42% are women, and 79% are under the age of 40.[1] At the same time there are notable differences in access between rural and urban communities, resulting in restrictions for indigenous communities. Nevertheless, the main factors impacting negatively on the diversity of sources and content, and on people's participation and freedoms, are increased political control, market monopolies in communication media and ICTs, and pressures exerted by the country's powerful organised crime syndicates.

## Personal data: Protection and control

A fundamental limitation in Mexico continues to be the need for a clear, inclusive digital policy. We have witnessed some initial efforts in recent months to create a number of laws associated with the use of ICTs. Some may result in positive opportunities to generate participatory processes. However, it seems that others may be aimed at creating stricter controls over the population – with authorities using the argument of the prevailing lack of security in the country.[2]

Recently, two agreements on the protection of personal data were reached in Mexico's House of Representatives. In December 2008 the House approved the inclusion in the country's constitution of the right of all Mexicans to the protection of their personal data, and the right to access, correct and delete this data.[3] Months later, a decree was established that obliged the National Congress to issue a law on the protection of personal data. This should be ready during the first quarter of 2010.[4]

Two viewpoints are reflected in the process of developing this legislation: first, there is the commercial perspective that looks at the business advantage of collecting personal information; second, there is the need to limit this practice to protect human rights.

The Ministry of Communications and Transportation has made modifications to the Federal Telecommunications Act, using the argument of the prevailing security situation in the country. The aim of the changes has been to create a National Registry of Mobile Phone Users.[5] The amendments oblige all licensed operators to keep a record of users of mobile phones, based on collecting personal data such as name, home address, nationality, telephone number, and other data contained in voter identification cards. Proof of home address, and even fingerprints, using ink or in electronic or digital form, are also needed. The amendment also spells out the following obligations for mobile phone companies: to keep copies or electronic records of the documents used in recording personal information, and to protect the databases in which such information is located; to keep a record of communication, such as voice transmissions, voice mail, conferences, data, resending or transferring calls, and message or multimedia services used, including the date/hour/duration of communication and geographic location of telephone lines. Mobile operators are required to turn over the data to the Attorney General's Office within 72 hours when an investigation is underway, and to immediately block the numbers of mobile phones reported missing or stolen. As can be expected, citizens are very worried and are refusing to participate in the registration process. This refusal cannot last very long, however: as soon as people sign a new contract or buy a new mobile phone, they will have no other choice but to participate in the national registry.

In addition, President Felipe Calderón announced the creation of a new citizen identification document in July 2009.[6] He proposed that it should be up and running by 2010, and that it will include personal data such as the biometric identity of every Mexican citizen. Fingerprints and information on an individual's retina, iris, facial patterns,

1 World Internet Project (WIP), Mexico: www.wipmexico.org.

2 A 2008 Amnesty International annual report dealing with human rights says that levels of violence have increased in Mexico due to criminal networks. There has also been an increase in the number of tortures, mistreatment, arbitrary detentions, and illegal searches of houses. There are now 45,000 soldiers fighting drug trafficking and 6,000 people died in violent incidents in 2008. Alcántara, L. (2009) El despliegue militar en México trae violencia: AI, *El Universal*, 28 May. www.eluniversal.com.mx/primera/33048.html

3 Notimex (2008) Elevan a rango constitucional la protección de datos personales, *Notimex*, 4 December.

4 Diario Oficial de la Federación (2009) Decreto por el que se adiciona la fracción XXIX-O al artículo 73 de la Constitución Política de los Estados Unidos Mexicanos, 30 April. www.dof.gob.mx/nota_detalle.php?codigo=5089047&fecha=30/04/2009

5 Diario Oficial de la Federación (2009) Decreto por el que se reforman y adicionan diversas disposiciones de la Ley Federal de Telecomunicaciones, 9 February. www.dof.gob.mx/nota_detalle.php?codigo=5079751&fecha=09/02/2009

6 El Universal (2009) ¿Para qué servirá la Cédula de Identidad? *El Universal*, 28 July. www.el-universal.com.mx/notas/615448.html

veins in hands and palm geometry are examples of the physical characteristics that may be contained in biometric identity. The proposal has led to various discussions in the political sphere, and some sectors of society are asking if such a new system is truly necessary, if the high costs involved are truly merited, and, especially, if such excessive control over the population is appropriate.

## Communication rights: A lack of guarantees for freedom of expression and freedom of the press

Over 60 years after the signing of the Universal Declaration of Human Rights, one would expect that the state would be concerned only with fine-tuning the instruments guaranteeing freedom of expression. Unfortunately, the situation in Mexico is far from such a utopia. Freedom of expression is a national demand. The state's obligation to establish the conditions for this right to be fully realised, by establishing public policies that secure the right, is not being fulfilled. And not only is the state failing to guarantee this right, it is participating in one way or another in limiting it.

In a recent publication in Mexico, the World Association of Community Radio Broadcasters (AMARC) classified the attacks on community radio.[7] This classification is useful in bringing visibility to the increasingly widespread limitations imposed on freedom of expression:

*Attacks associated with omissions by the state*

- Carried out by individuals, with the state failing to exercise its obligation to prevent and investigate.
- Carried out in a context of social conflict that has not been addressed by the state, and sometimes with the state's acquiescence.

*Attacks associated with state actions*

- Committed directly by state agents.
- "Institutional" attacks, disguised as legal actions.

There is no doubt that the lack of regulations in Mexico facilitates violence against journalists. In a 2009 report, Freedom House states that the freedom of the press is deteriorating in Mexico due to increased violence and pressure exerted by federal and local authorities against journalists.[8] The report adds that the government lacks the political will to establish the necessary legal reforms to protect journalists. In a recent meeting between civil society organisations, the United Nations Rapporteur for Freedom of Expression, and the Special Rapporteur for Freedom of Expression appointed by the Inter-American Human Rights Commission, it was concluded that freedom of expression in Mexico is damaged by official silence and inaction.

The federal government attributes 78% of attacks against the press to individuals and organised crime. However, groups defending freedom of expression state that the authorities (at all levels of government) are responsible for at least 49% of the attacks. Whether attacks are associated with the state through omission or commission, it has now been acknowledged that Mexico ranks first in the world, even above Iraq, in the number of attacks against and murders of journalists.[9] And this does not even include the constant aggression against community and free radio stations and other alternative communication initiatives.

## Creating an information society by decree?

There are some, although only a few, official initiatives in Mexico dedicated to supporting the creation of an information society. For example, there is an Information Society Coordinating Office within the Ministry of Communications and Transportation that has existed for years, but is not well developed.

More recently (in 2009), the House of Representatives developed and approved a decree for issuing legislation on the development of an information society. It seeks to establish a comprehensive digital strategy, with the aim of promoting access to and use of ICTs, and developing an information society in which the generation, processing and transmission of information becomes a fundamental source of the country's productivity. It considers the creation of an interministerial commission (that is, only at the governmental level) for the development of the information society, including defining it and deciding on its attributes. The decree also considers the creation of an advisory body (we understand this to be more plural in nature) that would be responsible for measuring the impact of the national digital agenda. Approval by the National Senate in the next legislative session is required for this law to be passed.

The approval of various other laws which weave the framework for Mexico's information society is also underway. Some of these will serve to even further limit the freedoms already under siege in the country, and barely leave a glimpse of possibility for creating participatory entities. It is fundamentally necessary to establish independent, specialised, autonomous entities– which may be citizen-led in nature – specifically to assist in defining regulations and to then monitor the way in which the resulting structures and initiatives function.

## Action steps

Experts say that social networks operating online have become excellent forums for facilitating positive citizen networking and that these networks have promoted citizens' empowerment. It would seem, therefore, that Mexican society is restricted and is not taking advantage of these powerful tools. According to the most recent study on the habits of internet users in Mexico,[10] the online social tools

7 AMARC (2009) *Bases para una Política Publica en materia de Libertad de Expresión y Medios Comunitarios*. amarcmexico.org

8 La Jornada (2009) La libertad de prensa en México está cada vez peor, afirma Freedom House, *La Jornada*, 4 May. www.jornada.unam.mx/2009/05/04/index.php?section=politica&article=018n2pol

9 Norandi, M. (2009) Documentan 142 agresiones contra periodistas en 2009, *La Jornada*, 22 July. www.jornada.unam.mx/2009/07/22/index.php?section=politica&article=015n1pol

10 AMIPCI (Asociación Mexicana de Internet) (2009) Hábitos de los Usuarios de Internet en México. amipci.org.mx/estudios

least used by the population include virtual community sites and peer-to-peer networking.

It is vital for Mexican society to recuperate its confidence and its rights. In addition to the general violence perpetrated by organised crime, violations of the freedom of expression, and attempts to control personal data, freedoms on the internet are also limited. Added to the criminalisation of hard-hitting journalism and the daily attacks on journalists and media, the first legal complaint has been filed against an online journalist.[11] In the first half of 2009 a candidate for mayor in the northern state of Monterrey initiated legal proceedings against the journalist, the director of *Reporte Índigo,*[12] an electronic magazine that has significant impact in Mexico. The magazine published comments allegedly made by the candidate regarding his relationship with a group of drug traffickers operating in the region.

Currently, discussions are underway on proposals for legislation on the protection of personal data, the National Registry of Mobile Phone Users and the citizen identification document, as well as on the push for legislation on the development of an information society. The way in which these issues are being positioned makes it appear that human rights are not being considered in the creation of an information society. The work in Congress disregards the critical problems of restricted freedoms and abused rights. What is happening with the trampled-on freedom of expression, with the right to privacy? What is happening with the vital diversity required in content and technology, with a multilinguistic focus, with the defence of Mexico's multicultural reality? It appears these aspects are not considered to be a part of the information society being discussed in the Mexican Congress.

Clearly, legislation on the development of an information society must include communication-related rights. And the implementation of such legislation must signal a positive step forward in the development of citizen rights in society generally. The legislative initiative should reconsider some elements neglected so far, including broad participation by society in the lawmaking process and the country's cultural diversity. Free technologies should also be considered. If these aspects are not included, and especially, if a link is not established between ICTs and human rights, the information society created will quite possibly remain as limited and obsolete as many other decrees have made Mexico today. ■

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12 www.reportebrainmedia.com

GLOBAL INFORMATION SOCIETY WATCH 2009

**GLOBAL INFORMATION SOCIETY WATCH (GISWatch) 2009** is the third in a series of yearly reports critically covering the state of the information society *from the perspectives of civil society organisations across the world.*

**GISWatch** has three interrelated goals:

- **Surveying** the state of the field of information and communications technology (ICT) policy at the local and global levels
- **Encouraging** critical debate
- **Strengthening** networking and advocacy for a just, inclusive information society.

Each year the report focuses on a particular theme. **GISWatch 2009** focuses on *access to online information and knowledge – advancing human rights and democracy.* It includes several thematic reports dealing with key issues in the field, as well as an institutional overview and a reflection on indicators that track access to information and knowledge. There is also an innovative section on visual mapping of global rights and political crises.

In addition, 48 country reports analyse the status of access to online information and knowledge in countries as diverse as the Democratic Republic of Congo, Mexico, Switzerland and Kazakhstan, while six regional overviews offer a bird's eye perspective on regional trends.

**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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