GLOBAL INFORMATION SOCIETY WATCH 2009

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

Global Information Society Watch 2009

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

SOUTH AFRICA

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Introduction

Access to telecommunications – and through that information – remains a development issue for South Africa and bridging the digital divide is an ongoing challenge for the South African government. Changes in the economic landscape also contribute to the widening digital divide and shape the way people access information and communicate. With an estimated 4,590,000 South African internet users at the end of 2008, and a total of 378,000 broadband internet subscribers as of September 2008, the number of internet users has grown.[1] But this number is still a drop in the ocean of 45 million people.

Statistics show that the number of mobile phone users, however, has grown to 70% of the South African population.[2] Mobile phones are proving to be essential tools for communication, especially in under-serviced rural areas that landlines have failed to reach (with only 10.1 fixed lines for every 100 people).[3] In these rural areas, access to essential basics such as water and food takes precedence, and the issue of access to information and communications technologies (ICTs) becomes secondary. As a result, these citizens are excluded from the information and its dividends.

The lack of access to ICTs deprives citizens of a chance to access information relevant to their development. Even the assumption that making telecommunications devices available in semi-rural and rural areas contributes to increased universal access is erroneous. We need to go beyond the access-equals-development scenario.

Legislative environment

The Telecommunications Act (No. 103 of 1996) initiated a string of legislation, with this Act amended by the Telecommunications Amendment Act (No. 12 of 1997), the Independent Communications Authority of South Africa Act (No. 13 of 2000), and the Telecommunications Amendment Act (No. 64 of 2001). In July 2001 the Independent Communications Authority of South Africa (ICASA) was established and merged the telecoms regulator (Telecommunications Regulators Association of Southern Africa) and the broadcasting regulator (Independent Broadcasting Authority).

In July 2006, the Electronic Communications Act (ECA, 2005) took effect, repealing the Telecommunications Act

(1996) and the Independent Broadcasting Authority Act (1993). ECA was enacted because telecommunication and broadcasting technologies were becoming increasingly blurred. The Act provides a framework for the licensing of electronic communications services, electronic communications network (ECN) services and broadcasting services.

A distinction is drawn between three categories of broadcasting services, namely public, commercial and community broadcasting. In order to provide any of these services, a licence must be obtained from ICASA, although ICASA has limited discretion to exempt certain services from the ECA's licensing requirements.

The ECA (and previously the Telecommunications Act 1996) also made possible the establishment of a universal service agency, now called the Universal Service *and Access* Agency of South Africa (USAASA). Mandated by statute to ensure that everyone, citizen or business, has equal access to ICTs, the Agency was charged with defining and meeting the challenges of universal access and services in the South African context.

South Africa has no internet-specific legislation. This means that there is no legislation drafted or created specifically to regulate the internet. There are, however, amendments or proposals for amendments of existing legislation in various sectors, that affect the internet in one way or another. The Film and Publications Amendment Act (No 34 of 1999) has been amended to include in its definition of publication any messages and communications on distributed networks, including the internet. It has also defined child pornography and banned it on the internet. In addition, it also prohibits pornography in which women are depicted as being under eighteen years of age.[4]

The target of the legislation (combating child pornography) is not as problematic as the fact that it fails to distinguish the roles of internet service providers (ISPs) in relation to subscribers. As its stands, anyone who knowingly creates, distributes, produces, imports or is in possession of child pornography may be liable for being in contravention of the Act. In relation to the internet and its associated technologies, it remains unclear in the Act who exactly a creator, distributor, producer, importer or possessor of child pornography is.

The Electronic Communications and Transactions Act (ECT, 2002) was promulgated to regulate electronic communications and transactions; to provide for the development of a national e-strategy for the country; to promote universal access to electronic communications and transactions

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1   Quirk eMarketing (2009) 2008/2009 Survey of Online Media in South Africa. www.gottaquirk.com/2009/03/06/friday-fact-box-south-african-online-media-statistics

2   Batchelor, S. (2009) *Mobile Government in Africa*, Gamos. unpan1.un.org/intradoc/groups/public/documents/UN/UNPAN033527.pdf

3   Internet World Statistics 2008: www.internetworldstats.com

4   Cohen, T. (2000) *Governance and Human Rights Online*. link.wits.ac.za/research/r_9.html

and the use of electronic transactions by small businesses; to provide for human resource development in electronic transactions; to prevent abuse of information systems; to encourage the use of e-government services; and to provide for matters connected therewith.

Policy developments

As a statutory body, USAASA recently engaged the public on the definition of "universal service", releasing a draft for public consultation in March 2009. This was a welcome gesture, given that the Agency manages the Universal Access Fund (established in terms of the 1996 Telecommunications Act) to which all telecommunication licence holders must contribute.

In policy, the South African government often emphasises the importance of ICTs as a driver of economic activity and as a development indicator. In 2001 then-President Thabo Mbeki announced the establishment of the Presidential National Commission on the Information Society and Development (PNC on ISAD), the mandate of which was contained in Government Gazette No. 1087. The body is meant to provide guidance to the president on the establishment of a government policy framework on ICTs, as well as other issues, its mission being "[t]o build an inclusive Information Society in which human rights, economic prosperity and participatory democracy are fully realised through optimising the usage of ICTs for a better life for all."

Most recently, the National Planning Commission (NPC) located in the Office of the President released a Medium-Term Strategy Framework[5] (MTSF) that identifies ICTs as a key component in meeting South Africa's development goals. The MTSF will be the frame of reference for government policy, and the Department of Communications and the PNC on ISAD have referred to the framework in their own plans for 2009-2014. Their plans for the next five years include the development of an Integrated National ICT Policy, with the intention to develop an Integrated National ICT Act (presented to the Select Committee on Labour and Public Enterprises on 9 July 2009).[6]

This initiative has the potential to clarify the muddy waters of ICT policy in South Africa, but also the potential to confuse policy even further. Given the Department of Communications and the PNC on ISAD's vision, mission and areas of focus, one can hope that the needs and interests of currently offline and digitally excluded South Africans will be a primary concern.

E-citizenship and e-government

The concepts of e-citizenship and e-government are new for most people living in South Africa, even for a fifteen-year-old democratic state. E-government is defined as the way in which the public sector uses ICTs to improve accountability, transparency, effectiveness, public service delivery, and citizen participation in decision making.[7] The South African government has embraced the idea and publishes information via the internet. Some government departments make use of mobile technology to communicate with citizens: for example, the Department of Home Affairs introduced a service for South Africans to check the progress on approving their identity document and passport applications via short message service (SMS).

The advantages of e-government, when implemented correctly, are numerous. They include accessibility to services at all hours; building linkages between citizens and public servants; efficiency and cost-effectiveness; and the ability to engage in two-way communication with citizens. However, in a country where one's ability to access telecommunications is still defined by class, gender, geographic location and race, exploiting the use of ICTs to access information and development opportunities is still a challenge. While the above efforts aim to bring government to the people by using ICTs, they should be complemented by efforts to ensure an environment where there is equal access to ICTs and the skills to use them.

The government has introduced around 500 multi-purpose community centres (MPCCs), 98 Thusong Centres,[8] and 700 public information terminals (PITs) to provide citizens with access to the internet, email and other services. However, previous studies suggest that many if not most telecentres and cyber labs implemented by the previous incarnation of USAASA were considered expensive, and were dysfunctional and under-utilised.[9]

Mobile phones, as a channel to deliver and access information, are proving to be efficient. Where other forms of communication seem to be poor (for instance, if one is in a rural area where there are no fixed-line telephones), the value that mobile phones add is great. Having access to a mobile phone means that one is able to search for jobs and can be alerted when opportunities arise. Mobile phones are also becoming integrated into daily lives, with one study indicating that people would rather call than visit family and friends, and that a mobile phone "improved" their relationships. However, only 15.5% of the respondents in this study used their mobile phones to find a job.[10] The latter is perhaps indicative of the lack of relevant content for the majority of South Africans.

Policy development needs to be done in a consultative process so that the demands and needs of citizens are taken into account. For the concept of e-government to work there has to be political leadership and will. Without access to affordable broadband, the "participatory gap" is widening in South Africa. Issues of affordability of government

5   Medium-Term Strategy Framework, Presidency Office Media Release 16 July 2009. www.usaasa.org.za/index.php?q=newsview,56

6   Department of Communications and Presidential National Commission on Information Society and Development: Strategic Plan and Budget 2009/12. Parliamentary Monitoring Group (PMG). www.pmg.org.za/print/17247

7   Batchelor, S. (2009) op. cit.

8   Community centres offering basic services.

9   Batchelor, S. (2009) op. cit.

10 Vodafone (2005) *Socio-Economic Impact of Mobile Phones.*

information also come into play as access goes beyond whether or not citizens have internet access, to whether it is affordable to download documents.

The benefits of using ICTs to engage with citizens were evident during the 2009 elections in South Africa. During their campaigns, political parties used social networking forums to keep in touch with their constituencies. They also made use of new media technologies to announce their meetings, publicise their manifestos and communicate with party members. Prospective voters participated in online discussions with political parties, making their views known. Online electioneering has become a global phenomenon. During United States (US) President Barack Obama's campaign, the strategy allowed citizens using the internet to find past speeches that proved a politician wrong or hypocritical, and then to alert their fellow citizens.[11]

In South Africa, while big political parties embraced digital campaigning strategies, smaller parties were left out and resorted to door-to-door strategies. At the same time, citizens with no access to the internet were excluded from accessing politicians' messages and participating in the online democratic process.

Citizens can benefit from the use of the internet to advocate, lobby and hold the government accountable. The e-government initiatives already undertaken by the government need to be followed up with citizen's initiatives to engage with and track the government's performance in service delivery.

South Africa has been marred by a series of protests by citizens who are not satisfied with service delivery. Despite the government having launched a portal aimed at providing a platform for citizens to engage them on issues of importance, this does not seem to have created the much-needed space of engagement between the country's citizens (mostly the poor, in the case of the protests) and the government. The portal, called *e-imbizo* (electronic meeting), allows people to send an SMS to the Department of Public Service and Administration (DPSA) about challenges in service delivery in all government departments or spheres. But do citizens even know about this *e-imbizo* portal? Would knowing about it have informed a strategy to engage with government, rather than engage in often violent protests?

Recently the new Minister of Human Settlements Tokyo Sexwale – an anti-apartheid activist turned multi-millionaire mining magnate – spent a night at Diepsloot informal settlement just outside Johannesburg in an effort to show solidarity with the poor, and to tune into their plight. However admirable and sincere the gesture, it also showed how unsuccessful the government has been in engaging the poor in the past, and how fruitless e-government initiatives aimed at engaging the poor had been. The physical presence of the minister was needed to demonstrate a compassionate government – the Diepsloot Thusong Service Centre nearby was no doubt irrelevant.

Large sections of the population are not literate and cannot engage with text-based content. There is also a language barrier, since much of the government's content is in English. This further creates a divide between government and citizens. The government seems to tailor online content for a citizen who is literate, able and with easy access to telecommunications. Factors such as disability, language, access to telecommunications, gender and relevant information need to be considered.

The key benefit of e-government is that it allows citizens to participate and engage with the government. For this to happen, the government needs to provide more training to ordinary citizens on how to use ICT facilities to access e-government services. The MPPCs will have to be utilised by government officials to raise awareness and educate citizens about the government's electronic systems. For improvement in services, competent staff should also be appointed to develop and maintain e-government services. The government must engage with the telecommunications industry in order to improve telecoms infrastructure and assist citizens with access to affordable internet services.

New trends

The number of South Africans who use their mobile phones to access the internet now exceeds the number of those who rely on traditional desktop means of connecting to the net. This is according to Rick Joubert, head of Mobile Advertising at Vodacom, who says South Africa has close to 9.5 million mobile internet users compared to the estimated five million desktop users: "The number of unique South African users accessing the mobile internet using WAP [wireless application protocol] is already just about double the size of the number of users accessing the fixed internet. In my opinion this user number will break through the 10 million unique users mark by early 2009."[12]

The South African State Information Technology Agency (SITA) and the Free Software and Open Source Foundation for Africa (FOSSFA),[13] a pan-African not-for-profit foundation, have signed a memorandum of understanding that outlines their objectives to mobilise efforts to build a free and open source software (FOSS) ecosystem; to build knowledge and commitment to FOSS through communication, advocacy and change management; to create an enabling environment for the deployment of ICTs in development; to foster greater acceptance and use of FOSS in the region; to enhance skills in the use and implementation of FOSS applications; to collaborate on FOSS initiatives and activities; and to

11 Cain Miller, C. (2008) How Obama's Internet Campaign Changed Politics, *The New York Times*, 7 November. bits.blogs.nytimes.com/2008/11/07/how-obamas-internet-campaign-changed-politics

12 South Africa - The Good News (2008) Mobile internet users exceed PC users, 27 November. www.sagoodnews.co.za/science_technology/mobile_internet_users_exceed_pc_users.html

13 www.fossfa.net

monitor and assess progress towards FOSS implementation.[14] The adoption of the policy on FOSS use by the South African government will provide the much-needed environment to promote interoperability and allow collective efforts to mobilise citizens and come up with solutions tailor-made for specific scenarios.

In terms of a new bill called the Regulation of Interception of Communications and Provision of Communication Related Information Amendment (RICA) Bill, brought into effect in June 2009 by the minister for justice and constitutional development, all mobile phone subscriber identity module (SIM) cards will have to be registered. Mobile phone service providers are prohibited from activating a new SIM card unless they have captured the customer's mobile number, full name, identity number and address. This will pose a challenge for citizens who do not have a regular address since they will not be able to provide proof of residence.

The Seacom submarine cable, launched in South Africa in June 2009, is expected to improve the government's broadband roll-out, which should in turn improve access to affordable high-speed broadband connections to the internet. Used properly, this will dramatically scale up the potential of accessing online information in the country in the future.

Action steps

- *Universal service and access:* Physical access has to go hand in hand with appropriate ICT training. Information that is published on ICT applications should be socially, economically, politically and culturally relevant to communities and should be written in familiar languages. Citizens need to be able to take up the role of content producers. This process has to include the development of appropriate applications or platforms to access and distribute information. The government has to legislate and incentivise the production of local digital content.

- *Affordable and high-speed broadband:* A draft framework towards a broadband strategy, launched in March 2009, lobbies for a proactive response from the government around broadband roll-out, given the landing of the Seacom undersea cable in South Africa. The framework was intended to highlight the current policy vacuum around broadband roll-out in South Africa, and to create a "popular movement" around broadband in the country. The overall goal for the draft framework is "for every South African home, business, and public, private and community-based institution [to] have access to affordable high-speed broadband connections to the Internet." Now that the Seacom cable is launched, civil society needs to ensure that broadband roll-out benefits the poor. ∎

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14 Otter, A. (2009) SA IT agency and Fossfa join forces to spread OSS, *Tectonic*, 4 May. www.tectonic.co.za/?p=4724

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).