



**New Media: The Press Freedom Dimension
Challenges and Opportunities of New Media for Press Freedom
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**Surveillance and Free Media
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It goes without saying that the new media makes information access and dissemination far easier but it also can make it easier to monitor who is saying what and who is reading it. The Internet opens a window to the world but that window lets to world look in also.

So who is affected why is it important? There are three affected groups: journalists and publishers, sources, and readers.

This is an area where free speech and privacy go hand in hand and compliment each other. There is chilling effect on journalists, sources and readers when their activities are put under surveillance.

The surveillance scares sources from being able to communication information with journalists, journalists who for one reason or another need to post without their name being associated with them, and the readers, who wished to enforce his or her basic human right "to seek information" are scared away when they know big-brother or big-momma is watching them.

These have real consequences as the many bloggers in jail in China and in other places know.

Wiretapping

There has been a global trend towards increasing surveillance both technically and legally.

The laws and policies that once limited surveillance have been weakened or ignored. Since Sept 11, there have been many new laws adopted to allow for the surveillance of communications in the name of the war on terror. Often these are

part of larger anti-terrorism laws that have profound effects on freedom of expression. In Sweden, the new Conservative government has proposed authorizing the Defense Ministry to be able to intercept all international communications entering or exiting the country. In the US, the National Security Agency has been caught illegally spying on international communications and obtaining phone records. In Bangladesh, the government has proposed that mobile phone companies record all telephone calls.

Journalists are often the subject of these easier taps. Journalists across Europe have been subject to surveillance and searches to identify their sources of information. In the Netherlands, a court of appeals recently authorized surveillance of journalists in controversial case of leaked "state secrets" that revealed how incompetent the intelligence service was. In Germany, the government has apologized for conducting surveillance on journalists for over ten years. In Latvia, the police and judge who authorized the wiretapping of a journalist have been sanctioned and the journalist was recently awarded over €40,000 in compensation.

There has been a second line of attack where many countries have introduced laws that "update" national wiretapping laws to mandate built-in surveillance such as the US' Communications Assistance for Law Enforcement Act "CALEA", the UK Regulation of Investigatory Powers Act, and the Interception of Communications Bill in Zimbabwe. The US has leading a campaign for world-wide adoption of these requirements through international organisations such as the G-8, the International Telecommunications Union and the Council of Europe, which adopted a Cyber-Crime Convention which incorporates these into international law for the first time. The requirements make it easier for anyone to be able to conduct wiretapping. In Greece, it was discovered that the Vodafone mobile phone network had been hacked and the built-in surveillance technologies were used to monitor the communications of the Prime Minister and other officials and prominent people including journalists. In Italy, dozens have been arrested recently after large scale illegal wiretapping and blackmail of officials and businessman was revealed.

Data Retention

In addition to the laws on making wiretapping easier, many countries are also adopting laws to facilitate surveillance in new ways. They are considering laws that require telecommunications providers automatically collect all information on their users' activities including web sites visited, emails, instant messages, and mobile use including the location of the phone when it was being used.

The EU adopted a legal rule on data retention in 2006. It requires that companies retain user information for between 6 months and 2 years. It goes into effect in Sept 2007 and by March 2009 all EU countries must have capacity to retain the data on Internet access, telephony and e-mail. Some countries such as Poland

are demanding the right to keep the information for 15 years. In the US, there is no current law on data retention. President Bush personally pushed EU to adopt directive. A bill was recently introduced but now that there is a democratic Congress, it is less likely to be adopted.

This transactional data can be very important in identifying journalists' activities. Yahoo! China provided a reporter's information to the government which resulted in him being imprisoned for 10 years. In the US, a court of appeals has agreed that the government can obtain the NY Times phone records to see who sources are. Companies including Hewlett-Packard, Wal-Mart and Sonora have been found to be obtaining employee and journalists' phone records to identify sources.

There are an increasing number of countries that have been adopting laws to require tracking of the activities of cybercafe users also. These often require that the users show identification and logs must be kept of their activities. In Tibet, users must obtain a "Internet Browsing Registration Card" before they can surf the net at cyber-cafes or at home. Belarus adopted a law in February 2007 that requires that café owners must report users who look at illegal web sites to the authorities. A number of countries such as Korea, China and Japan have also increasingly been adopting "Real names laws" that require posters to register before they can post on web sites.

Positive legal trends

Not all recent trends are negative. Many nations have adopted laws on protection of the confidential media sources. The laws limit the ability of governments to be able to find out who has provided information of public interest to journalists. A project Privacy International is currently working on for OSI has found over 70 countries have adopted these laws and important institutions including the UN, OAS and Council of Europe have all recognized their importance. As controversy over the illegally surveillance, searches and imprisonments grows, more countries are adopting these laws or strengthening them.

An important questions arise with relation to the new media - how well do they apply? Unfortunately, most of the time, they only apply to limited categories of media. They are included in media laws that are specific to broadcasting or television or print and are silent on other type of media. Internet journalists are often not included. Even the COE guidelines say that it only protects people who are "Regularly or professionally engaged in the collection and dissemination of information to the public". But as the Internet becomes more recognized as a news media, the application should expand. In Belgium the national law was recently amended to cover more broadly all types of persons involved in media following a court decision that found that it was too narrow. In California, a court

found that the local law does apply to Internet journalists. Questions about bloggers and others remain. Blogger Josh Wolf has now been in jail for longer than any other American journalist in recent history.

Another protection for sources is whistle-blowing laws. There are only a few countries that have adopted comprehensive laws - including UK, South Africa, US, Japan and most recently Ghana. And their usefulness has been limited.

Conclusion

Pervasive surveillance is becoming commonplace in the name of fighting terrorism and crime. This will have profound effects on the abilities of the media to be able to continue to access and provide information. The current laws are being redone with little or no consideration (at best) on the effects on free speech. There needs to be increased efforts to resist these laws and to promote laws and rules that protect the rights of the media and the public to free expression.