

KENYA

Kenya ICT Action Network (KICTANet)¹

Alice W. Munyua, Muriuki Mureithi



Introduction

There have been significant changes in the information and communications technology (ICT) sector in Kenya over the last ten years, despite the lack of a legislative framework to guide it. While it is difficult to capture all the developments in detail, the formation of the multi-stakeholder Kenya ICT Action Network (KICTANet) has been a remarkable achievement. Through the network, an inclusive policy process has been catalysed, resulting in the country's first draft ICT policy document, approved by cabinet in February 2006.

This report provides an overview of the ICT policy process in Kenya and the role of KICTANet in this process. It has been prepared by KICTANet through desktop research and by drawing on various documents from KICTANet meetings. Key policy documents were also reviewed.

Country situation

According to Brock (1994), public policy creates public good by creating a predictable framework that results in the production of goods. The point is that a policy framework should be predictable and should not easily be changed once implemented. This is the logic that drove US telecommunications policy development. Developing countries like Kenya appear to be driven by the same desire. Conscious of the poor and unpredictable quality of services, the rapid policy evolution in Kenya over the past few years is based upon the recognition that in order to create public good, it is important to create a predictable policy environment.

Despite the lack of a legislative framework to guide the ICT sector, there has been a massive change in the ICT landscape over the last decade. Once characterised by an expensive state propaganda organ in broadcasting and by a highly indebted and inefficient state telecommunications monopoly, it was the broadcast media sector that started the breakaway from state monopoly provision to a liberalised communication sector by lobbying for media freedoms.

The Kenya Postal and Telecommunications Corporation (KPTC) previously operated as the sole service provider and regulator of telecommunications services. With pressure from global forces – specifically the World Trade Organisation (WTO), but to a lesser extent regional blocs – to change policies and accommodate global trading activities, the government began to embrace global trends in recognition of the significant role played by ICTs in achieving development and socioeconomic objectives.

In 1998 parliament passed the Kenya Communications Act No. 2 of 1998, which liberalised the telecommunications sector. This Act is by far the most influential policy paper that affects the ICT sector. It is a unique piece of legislation that has enabled Kenya to successfully move from a monopoly market structure to a multi-operator structure.²

The Act unbundled the KPTC into five separate entities: the Communications Commission of Kenya (CCK), which is the regulator; the National Communications Secretariat (NCS), which serves as the policy

advisory arm of the government on all matters pertaining to the information and communications sector; the fixed-line operator, Telkom; the Postal Corporation of Kenya (POSTA); and a Communications Appeals Tribunal.

In December 2001, the Ministry of Transport and Communications issued the Telecommunications and Postal Sector Guidelines (CCK, 2001). This recognised convergence trends, which were making it difficult to clearly separate telecommunications and broadcasting concerns. As a result, the government had to review policies that affected licensing processes, frequency management and signal transmission requirements. The aim of the review was to combine broadcasting and telecommunications policy and to eventually develop a combined ICT policy document.

The intention of the policy reform process was to position ICTs as a service to the economy. Yet the reform process itself took a while to get going. Attempts by the government to review the sector's policy, to widen its scope and to integrate it with socioeconomic endeavours only bore fruit in 2006. The slow pace of ICT policy development encouraged other sectors to produce sector-specific strategies, with a consequent loss of synergy between the sectors.

Key strategy and policy developments (1996-2006)

Key structural changes during the period from 1999 to 2006 were:

- The elucidation of a long-term vision for the ICT sector as a contributor to socioeconomic development.
- The redefinition and clarification of roles in telecommunication sector development. Distinct roles for policy-making, market regulation in a competitive environment, dispute resolution and the operation of services among multiple players have been identified.
- The promulgation of a new market structure driven by the private sector in a competitive environment. The private sector is considered the key investor in the ICT sector with profit its main incentive. Government is to withdraw as an investor through the privatisation of the incumbent telecommunications service provider. Competition is expected to safeguard consumer interest.

Within the country's Economic Recovery Strategy (2003-2007) the government identified key ICT-related goals. These included investing in adequate ICT education and training; reviewing the legal framework to remove impediments that have discouraged the adoption and use of e-commerce; implementing tax reductions and tax incentives on both computer software and hardware to make them affordable to micro-enterprises and low-income earners; establishing an interministerial committee to incorporate ICT into government operations; and developing a master plan for e-government by the end of June 2004 (MPND, 2003).

The government published an e-government strategy in March 2004. The strategy aims to use ICTs to improve service delivery and "transform government operations and promote democracy" (Government of Kenya, 2004). A multi-stakeholder team from various organisations and government agencies developed the strategy, which

¹ <www.kictanet.or.ke>.

² A commentary on the Kenya Communications Act is available from: <www.cck.go.ke/sector_legislation_in_policy_and_legislation>.

included an e-government directorate consisting of a committee of permanent secretaries.

The CCK also worked in partnership with the International Development Research Centre (IDRC) to conduct a universal access study. The general objective of the study was to help articulate a strategy for universal access in Kenya. This report is essential in guiding policy decisions on universal access mechanisms.³ It recommends the establishment of telecentres and ICT training institutions with a focus on the affordability of communications services in rural areas. It also recommends the establishment of a Universal Access Fund financed by the government, telecommunications operators and service providers, as well as development partners. One of the challenges the CCK/IDRC strategy faces is that it focuses on access to communication infrastructure and tools rather than on the broader issue of communications rights.

In implementing its mandate to facilitate affordable universal access to ICTs, the CCK has undertaken a series of regulatory and structural reform initiatives meant to enhance the development of the ICT sector. Apart from the policy liberalisation of the sector, the commission has also started to involve itself in developing ICT infrastructure. Noteworthy among its initiatives are the development of a national backbone and the commission's engagement in the East African Submarine System (TEAMS). TEAMS is a government-led initiative to build a fibre link to Fujairah in the United Arab Emirates. The project is expected to be finalised by November 2007, according to a statement issued by Telkom Kenya. These initiatives will provide greater access to low-cost broadband internet connectivity and ultimately contribute significantly to the country's ICT development.

Participation

The World Summit on the Information Society (WSIS) has been influential in building a multi-stakeholder culture for policy formulation in Kenya. It provided an excellent window of opportunity to integrate the multi-stakeholder approach into ICT policy frameworks.

The national ICT policy process had generally lacked political will and leadership. This was reflected in the absence of a national ICT policy, but also in the ineffective coordination between different government departments and agencies with ICT responsibilities. There was also a reluctance to opening up the ICT policy process for participation by all stakeholders.

A number of civil society organisations (CSOs), private sector players and media groups had been actively attempting to contribute to the development of an ICT legislative and regulatory framework in Kenya, even prior to the WSIS process. Initial key advocacy concerns were fundamental issues of access and the removal of the monopoly in telecommunications service provision, as well as the integration of telecommunications into the national economic development programme.

The private sector umbrella body for internet service providers (ISPs), the Telecommunication Service Providers of Kenya (TESPOK), was by far the most mobilised and organised lobbying group. TESPOK had been engaged in advocacy and lobbying the government, and had several achievements which had led to significant changes in the ICT sector. It had also consistently expressed concerns around the failure of the government to include the private sector in policy formulation and lamented that a policy draft of 2003 had failed to include private sector input.

However, while private sector operators had been very enthusiastic about pinning the government down in order to liberalise the sector and finalise the national ICT policy, they were caught up in the narrow perception of assuming that growth in ICT-enabled services would amount to economic and social development. Their biggest failure was their tendency to forget about the wider development context in their lobbying strategies.

The role of KICTANet

Research conducted in 2003 by Muriuki Mureithi for the Association for Progressive Communication's (APC's) Africa ICT Policy Monitor project indicates that civil society played a significant role in the development of ICTs by creating awareness, training, and introducing ICT services in the early 1990s (APC, 2003). CSO involvement in ICT policy processes was in the form of a caucus, the Kenya WSIS Civil Society Caucus, with a secretariat based at the Arid Lands Information Network (ALIN-EA), an APC member in Kenya.

While the work of the caucus had been laudable in the WSIS process, it had been driven by a very small group of CSOs that were directly and actively involved in the ICT sector. Similar to the private sector, CSOs had lamented that the government did not take them into consideration when developing various legal and regulatory frameworks for the sector. While civil society and private sector lobbies had achieved results,⁴ there had not been a collective effort towards encouraging the government to speed up the ICT policy process in an open and inclusive manner. Many of the organisations that had been involved in ICT policy advocacy felt that there was a need to form a network that would attract all role players in the sector, and, by working with government, increase the legitimacy and social capital of the ICT policy process.

The decision to form a multi-stakeholder network was reached during a meeting held in October 2004, organised jointly by the Media Council, a non-statutory, self-regulatory body set up by journalists, editors and media owners in 2002; the APC; the Catalysing Access to ICTs in Africa (CATIA) programme (a three-year ICT intervention in Africa by the UK Department for International Development, DFID); TESPOK; a communications research firm called Summit Strategies; and the Kenya WSIS Civil Society Caucus.

Participants unanimously agreed that the vacuum in the ICT policy process was compelling enough for the creation of a network that would work towards encouraging the government to speed up the development of an ICT regulatory framework for Kenya in an open, inclusive and participatory process. The proposal for a multi-stakeholder network was also based on the perceived strength and effectiveness of collaborative policy advocacy activities, which would be based on pooling support and resources. Initial members of the network were the APC-led CATIA project in Kenya, TESPOK, Summit Strategies, the IDRC, the Kenya ICT Federation (KIF), and the Civil Society Caucus.

A window of opportunity for KICTANet to encourage a multi-stakeholder process of policy dialogue was created when the National Rainbow Coalition (NARC) – the political party that won the 2002 elections – launched an official draft of the country's ICT policy in November 2004 (it was published for comment in February 2005).

3 <www.cck.go.ke/universal_access>.

4 For instance, lobbying for the liberalisation of the telecommunications sector had resulted in the formulation of the Kenya Communications Act (1998), which ended the monopoly of Telkom Kenya, as well as the full liberalisation of very small aperture terminal (VSAT) services.

KICTANet lobbied, agitated and advocated for the involvement of non-governmental actors in the policy process. As a result, the network was tasked with coordinating civil society, private sector, media and development partners' input into the policy development process, and "dialoguing" with the government.

KICTANet mobilised groups from the various stakeholders for workshops, seminars, electronic mailing list and roundtable discussions, and constituency-level forums, which aimed at collecting and consolidating substantive comments on the ICT policy. The network also worked with the Ministry of Information and Communications, the NCS, the CCK and the Kenya ICT Donor Roundtable to organise a national ICT policy workshop to finalise the ICT policy. The workshop was held in Mombasa in June 2005. The workshop's output was incorporated into the draft.

The content of submissions from various KICTANet groups was not surprising and was in line with the interests and positions that each sector held. For example, while the private sector was in favour of the fast liberalisation of the sector, civil society was more concerned with issues of universal affordable access and the right to communicate.

Contributions from media groups were disappointing. Prior to the telecommunications legislation of 1998, pluralism existed only in the print media – a result of intense lobbying and advocacy from media owners and practitioners. However, the media has been slow in taking on the developments within the context of the knowledge economy. Despite the fact that the policy document was addressing issues that will affect content, cross-media ownership and the licensing of broadcast equipment, media owners and practitioners hardly contributed to the process.

The document covers many issues such as universal access, radio frequency spectrum management, market structure, and telecommunication services. It represents a broad consensus reached between the different stakeholders on most issues. And although the content is not revolutionary, the broad participation process initiated by the Ministry of Information and Communications was innovative and participatory when compared to other policy processes in the ICT sector in other countries. According to the CCK, the policy replaces the Telecommunications and Postal Sector Guidelines of December 2001 (CCK, 2001). The final document was submitted in December 2005 and gazetted by the government in March 2006 (MIC, 2006a).

In April 2006, the ministry released an Information and Communications Bill 2006 for comments from the public (MIC, 2006b). In addition, a Media Bill and Code of Conduct for broadcasters were released for discussion and finalisation. KICTANet has been instrumental in facilitating discussions around these bills and consolidating input, which has been officially submitted to the government with financial support from the IDRC, the Embassy of Finland in Kenya, the APC, and more recently the Open Society Initiative for East Africa (OSIEA).

Conclusions

Both the ICT policy and the Information and Communications Bill processes recognise the role of civil society, media and the private sector in the policy process, and seek to include them as equal partners in the appropriation of ICTs for development. If enacted, the bill will, for the first time, provide a legal framework for meaningful partnerships in development.

It is because of KICTANet – and an open government – that the national ICT policy process became participatory. The network

provided mechanisms and a framework for cooperation and collaboration among civil society, private sector, academic, media and government stakeholders. As a result, it helped increase the legitimacy of the policy process.

The multi-stakeholder ICT policy development process in Kenya confirms the need for a more inclusive and effective manner to discuss critical policy issues. It also demonstrates that the government, private sector, media, development partners and non-government entities working on ICT issues are keen to work together to provide an enabling ICT policy environment and an implementation framework.

For its part, the Kenyan government is finally acknowledging the important role the various stakeholders play in the communications sector. There is now a more democratic space for participation in governance processes. (It is worth noting that recent KICTANet policy discussions are graced by the new Ministry of Information and Communications permanent secretary, which goes to demonstrate the goodwill that KICTANet enjoys from policy-makers in the sector.)

However, civil society's engagement with the policy processes has not been as active as the private sector's. And while a few CSOs engaged in the ICT sector have managed to articulate the complexities of interactions between ICTs, poverty reduction and development, and have managed to link ICTs to human rights and social justice, these organisations are not adequately represented.

There is also a need for civil society to engage in more outreach and mobilisation activities to include CSOs that work in sectors other than ICTs. Currently there is a culture where many CSOs feel they are not part of a process or do not need to act on ICT issues because they are not directly involved in the sector. NGOs working in areas such as agriculture or human rights still do not recognise how ICT policy impacts on their work.

Despite its poor participation in the ICT policy process, the media sector is aware of its vulnerability to the state in the absence of legislation. As a result it has created a number of institutions, which seek to establish self-regulatory systems. They are also engaging KICTANet stakeholders to ensure that they are included in policy processes as part of a larger multi-stakeholder network. ■

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Introduction

The end of 2006 meant a change in national-level government for Mexico. It is a good opportunity to review the previous government's record in the area of information and communications technologies (ICTs), and to examine the context that allows us to envision steps that could be taken by the new government. This document considers concrete actions carried out by the previous government, and is based on desk research conducted from September to December 2006, as well as interviews with various civil society actors, academics and national government employees.

Country situation

Mexico's change of government does not signify a change in political orientation. Vicente Fox left the presidency and Felipe Calderón took office at the end of 2006. Both men are from the conservative National Action Party (PAN).

During its term the previous government expressed interest in expanding ICTs in the country. Its efforts, however, were not adequate. When the government changed hands, only 19% of the population had access to a telephone line. The number of internet users estimated by the Mexican Internet Association (AMIPCI) was 20.2 million people (AMIPCI, 2006a), a figure representing slightly more than 20% of the country's population. In 2005, only 11.2 of every 100 Mexicans had a computer and only one had access to broadband.

These figures are below the international average, and far below the figures seen in developed countries such as the United States or Europe, where more than 70% of inhabitants have internet access (AMIPCI, 2006b). Therefore it is not surprising that Mexican investment in information technologies is only 1.4% of GDP, a percentage significantly lower than the 4.3% of GDP average budgeted by the other countries in the Organisation for Economic Cooperation and Development (OECD), of which Mexico is a member (EIU, 2006).

This analysis becomes more dramatic when we look at the "digital divide" geographically. Mexico is a country with considerable structural differences. The northern and central regions have greater financial resources, while the south, an area of greater density of indigenous, campesino (peasant) and migrant populations, has higher levels of poverty. While 21% of the population in the central region access the internet, only 6% do in the southeast. It is interesting to note that the eight poorest states in the south have teledensities of only 5 to 10 land-line telephones in use for every 100 individuals (EIU, 2006).

Over the last six years – the length of a presidential term in Mexico – the government said it had attempted to make progress in increasing connectivity on a national level and also in the growth of digital services in various sectors critical to government and society, such as health, housing, education and tax collection. But the development of ICTs was oriented largely towards competition and the market, and much less towards expanding the benefits afforded by these technologies in the social and community realms.

In the period of government transition, various sectors of society are making efforts to support the use of ICTs at the national level. But they are also using them like a life raft amid the loss of competitiveness experienced by the country.² ICTs are seen by various sectors as one of the most efficient tools for increasing production, thereby reversing the loss of competitiveness, as indicated in a report entitled Public Policies for the Appropriate Use of Information and Communication Technologies to Promote Competitiveness in Mexico – 2020 Mexico Vision.³ According to this document, innumerable actions will be necessary by the government to reach the "2020 Mexico Vision". These can be largely summarised as five objectives (AMITI, 2006):

- The establishment of a national agenda for competitiveness, innovation and adoption of ICTs, which promotes Mexico's transition towards a knowledge society.
- The early and efficient adoption of ICTs by the government, to spur the economy's competitiveness and improve the well-being of all Mexicans.
- The stimulation of the ICT sector so that it may hold a significant place and be an engine of growth in the country's economy.
- An efficient government whose public services become "world class" through the adoption of ICTs.
- The use of ICTs in education and the development of ICT training curricula, with the goal of rapidly closing the "education divide".

This is, however, far from establishing a specific model for the country adapted to its multicultural character, extreme economic, social and educational differences, high poverty rates and other factors that place it in a vulnerable situation.⁴ Instead the federal government's actions reproduce, at the level of ICTs, a market model designed in the global sphere,⁵ and tending to seek high profits for national power groups. In this way, not only do economic and technological forces that establish new conduits for income increase in influence (Micheli and Martínez, 2005), but those already existing nationally, which base their profit and power chains on information and communication processes, are strengthened.

2 The World Economic Forum estimates that in the last ten years Mexico has dropped more than twenty places, falling from 32nd to 55th place in its competitiveness ranking. In addition, Mexico is reported in the Business Competitiveness Index (BCI) as one of the countries with the greatest absolute decline, along with Thailand and Poland (AMITI, 2006).

3 The document was prepared by the Mexican Association of the Information Technology Industry (AMITI), the National Chamber of the Electronics, Telecommunications and Informatics Industry (CANIETI) and the Mexican Digital Foundation (FMD), under the leadership of the Mexican Institute for Competitiveness (IMCO), with the collaboration of the Centre for Economics Research and Teaching (CIDE) and the market research company Select.

4 One needs only to look at the recent political situation: conflict sparked by electoral fraud, violence and open repression, political ungovernability in Oaxaca, etc.

5 Taking the United States and South Korea as examples, growth in the ICT industry reportedly represents 30% of economic growth in the United States since 1995, and 50% of economic growth in Korea since 2000.

1 <www.laneta.apc.org>.

There are some obvious examples with the well-known corporations Televisa and Telmex, which largely control the television and telecommunications industries, respectively. These enormous monopolies want the whole pie offered by digital convergence, starting from their current positions. Telmex, for example, controls 95% of local phone services, 80% of long distance, 75% of the mobile phone market and around 70% of the country's internet services (EIU, 2006). According to its current plans, it intends to get into television, which will undoubtedly mean a greater concentration of its monopolistic capacity.

Although various government bodies are in favour of this move, completely unified positions do not exist within the national government. While the Ministry of Communications and Transportation favours eliminating the restrictions in Telmex's concession title (licence), which would allow it to provide television services, the Ministry of Finance has been trying to block this. The small telephone companies that have been excluded through competition from fully participating in the regular provision of telephone services obviously support the Ministry of Finance. But the division shows that the actions taken by the government, and by some companies endorsed by the national government, do not represent a clearly defined public policy (Ramírez, 2006).

Mexico continues to be characterised by changes to laws and approval of reforms that do not include the protections agreed on and established in public policies. These changes and reforms typically respond to the need for transformation and growth in certain sectors, and even companies. This was evidenced by the recent approval of changes to the country's media legislation that resulted in the so-called "Televisa Law", which favours companies already awarded radio and television frequencies by offering them the possibility of using those frequencies to extend their range of services – frequencies which ideally should be national rather than private resources.

The way this happened was astounding. In November 2005 the House of Representatives passed in just eight days – voting unanimously in seven minutes without any discussion in the legislative session – a proposal of reforms to two of the country's fundamental laws: the Federal Radio and Television Law and the Federal Telecommunications Law.

Those who proposed the reforms did so behind closed doors, and expected them to be approved in a similar manner in the Senate. But actions by some senators allowed this crucial issue to come to light publicly before the approval of the reforms. Numerous consultations and debates began in which the majority expressed opposition. National institutions such as the Federal Commission on Competition, the National Commission for the Development of Indigenous Peoples, the Ministry of Finance and Public Credit, the Federal Electoral Institute and the Federal Telecommunications Commission argued for the need to reconsider the approval of the reforms (Solís, 2006). The various observations, hearings and public consultations were, however, in vain. The Senate approved the regrettable "Televisa Law" in March 2005 and published it in the Official Register of the Federation on 11 April 2005.

With the approval of this law, the state was placed at the service of the monopolistic interests of media companies. It did not recognise the needs expressed by numerous sectors of the population for community development. It assigned communication only the measly role of merchandise for accumulating more capital, and auctioned off the wealth of the nation to the highest bidder, without employing criteria for the benefit and development of the communities. And it in

no way respected a multiparty negotiation in which private companies, the state and representatives of civil society should have participated.

The threat of strategic partnerships being formed that result in monopolistic business practice is very real in Mexico. A good example is the attempt by Telmex and Televisa to develop a business alliance. If this partnership is successful, Telmex would become the leader in the pay-TV market and, through the agreement with Televisa, would offer the same content currently produced by this monopoly for national television.

With the reforms to the legislation, a greater concentration of already existing monopolies is facilitated. Far from the benefits of technological convergence becoming the property of the Mexican nation and forming part of a potential reserve of concessions to be distributed in a gradual, transparent and public way according to the needs of the majority of society, the interests of the very few are favoured.

As a continuation of the model developed by the previous government, the new administration's Minister of Communications and Transportation Luis Téllez has defined basic points in his strategy for his ministry – a key institution in the area of ICTs. These are: greater competition and quality of services in telecommunications and transportation; a review of compliance by those granted concessions; blocking the concentration of permits to individuals; and the promotion of investment and infrastructural development in close coordination with the private sector ("with all possible advantages") but without losing the state's jurisdiction (Cardoso, 2006). It is worth noting that Téllez, appointed in November 2006, comes from the boards of powerful national and foreign companies such as Grupo DESC, Cablevisión, Bancomer, Grupo México and GAP, among others. Right before his appointment he was on the boards of directors of the Carlyle Group in Mexico, one of the most important private capital investment firms in the world, as well as Sempra Energy, both of which are linked to US president George W. Bush.

In addition to reforms that in no way benefit society in general, Vicente Fox's government developed two other avenues of work in the area of ICTs. The first was the promotion of his e-Mexico programme, which goes hand-in-hand with the actions undertaken in the area of e-government. The other involved the development of the software industry, a sector still in its initial phases but with some entities created at the national level: the Digital Mexico Foundation, the Small and Medium Enterprise (SME) Fund, the Special Science and Technology Programme (PECyT), the Programme for Competitiveness of the Electronics and High Technology Industries (PCIEAT), and the Programme for the Development of the Software Industry (PROSOFT).

The federal government's e-Mexico initiative is moderately well known for its series of portals: e-learning, e-health, e-economy, e-government, and some others aimed at specific populations such as indigenous groups. It is less well known for the installation of its connectivity points, through agreements with various governmental and private entities. In terms of e-government, the growth in national policy has been heavily oriented towards developing online services that make it easier for citizens to transact with the government – such as making online payments. In December 2005 an agreement was issued that established the Interministerial Commission for the Development of Electronic Government, whose purpose is to support the various initiatives, projects and governmental processes in the area of e-government. Among the technological changes that have been made as of 2006 are a citizen's portal, *compranet* (an electronic system for government procurement), a taxpayers' registry, and a professional careers service (Gigli, 2006).

These developments present a fabulous opportunity to increase the public visibility of government action, thereby reinforcing a public image of transparency, good government and the modernisation of management (Micheli and Martínez, 2005), even when the results are not completely positive. They foster the positive transformation of administrative culture in aspects such as access to documentation, or the reduction of the time needed for administrative procedures.⁶ However, there is a negative side. The government's adoption of technology is done at the expense of human labour, as it results in cut-backs in personnel at federal entities. More than 80% of government contracting is currently handled online.

The previous government's implementation of the Federal Transparency and Access to Public Government Information Law of April 2002 should be seen as on target (Cámara de Diputados, 2006). The objectives approved in this law were:

- To provide whatever may be necessary for everyone to have access to information through simple and quick procedures.
- To make public transactions transparent through dissemination of the information generated by those in charge.
- To guarantee the protection of personal information in the possession of those in charge.
- To encourage accountability to citizens, so they may evaluate the performance of those in charge.
- To improve the organisation, classification and handling of documents.
- To contribute to the democratisation of Mexican society and the full effects of the rule of law.

The implementation of the law, however, has not been easy. At first this law was a good incentive for the population. However, after numerous refusals to comply by several federal and state entities, enthusiasm slowly began to fade for what once seemed to be a practical step in the right direction towards securing the right to information in Mexico.

Some government departments have refused to provide public information, as was the case with the Ministry of Foreign Relations, which denied public requests on at least three occasions in 2006, availing itself of legal procedures to avoid turning over the information (Velasco, 2006). Similar cases occurred with refusals by the president to hand over documents (*La Jornada*, 2006); the Federal Institute for Access to Information (IFAI) resolution not to release files pertaining to an administrative procedure that the Ministry of Public Operations (SFP) maintained against several employees; and keeping information requested on 206 ruling party members of Congress confidential for twelve years, to mention but a few.

While there has been progress in implementing the law despite these setbacks, it is important to note that the social right of society to be informed, considering all its implications, does not appear in the Mexican government's current legislation (García and Rendón, 2005). The right to information cannot be limited to public governmental information, as defined in our current law, but should include access to *whatever* information is found in governmental institutions. Legislation is still needed in Mexico on this point.

There are other issues related to the right to information, such as the guarantee of freedom of expression, which has suffered serious setbacks in the last six years. Impunity continues for those responsible for the assassination of 25 journalists; 20 of these assassinations are directly related to issues or information that these journalists made public. Accordingly, the organisation Reporters Without Borders rated Mexico second-to-last on the list of Latin American countries that defend press freedom. Due to the alarming incidents that occurred during the last six-year period, the International Federation of Journalists considers Mexico as the most dangerous country in Latin America for journalists who report on crime and corruption. In 2005, during the Fox administration, Mexico became "the most lethal country for the press in the entire American continent," and in 2006 it ranked in second place worldwide, surpassed only by Iraq (León, 2007).

Another issue pending in this governmental transition period is the commitment of the new government to the rights of indigenous peoples, including their right to information and communication. More than 150 members of indigenous communities from 19 countries in Latin America met in Mexico City in November 2005 for a workshop sponsored by the International Telecommunication Union (ITU), the Ministry of Communications and Transportation of Mexico, and the National Commission for the Development of Indigenous Peoples, also of Mexico. Many of the demands expressed by indigenous peoples from across the continent at this gathering apply to the Mexican reality. The indigenous representatives saw as a starting point their need to participate in the use, administration and control of ICTs on a national level. This included participating in the development and design of public policies from the perspective of their own cultures, contexts and realities. This implies reflecting on the impact of modern technologies on indigenous peoples, and how grassroots cultures appropriate the information society.

The workshop participants pointed to the urgent need to recognise and defend the practice of basic rights for indigenous peoples, and freedom of expression through ICTs. At the same time ICTs should be used as effective tools to prevent the violation of their rights. Respect for the San Andrés Accords on culture and indigenous rights signed in 1996 between indigenous communities and the federal government is particularly relevant for Mexico.⁷ Indigenous peoples' representatives made a proposal to shape the creation of communal laws, petitioned governments regarding freedom to exercise their own spirituality, and also demanded that governments recognise the legal pluralism of indigenous peoples, and their human and collective rights to exercise their own forms of communication with respect to ICTs (Sandoval and Mota, 2005).

Participation

Throughout these last six years federal government bodies have opted to align themselves closely with the business sector; there has been very little opening up to civil society organisations (CSOs) that promote ICTs for the common good and sustainable human development. As a result, CSOs that promote ICTs from a human rights perspective have had little luck in forming partnerships with the federal government.

In addition to the monopolies already mentioned, various business groupings are also federal government counterparts. For example, AMIPCI is an association founded in 1985 with 260 member

6 The UN Global E-Government Readiness Report 2005 ranked Mexico in 31st place among 191 countries evaluated and in 2nd place in Latin America after Chile (UN, 2005).

7 For more information, see: <zedillo.presidencia.gob.mx/pages/chiapas/docs/sanandres.html>.

companies who joined together to stimulate the ICT industry in the country. Its president is the director of Microsoft Mexico, and one of its vice presidents is the brother-in-law of President Felipe Calderón. Calderón's brother-in-law was also involved in a scandal over the number of federal government contracts granted to his company, Hildebrando S.A. de C.V., and over irregularities in his tax payments.

In large measure, the relationship between government and business has not allowed the open participation of other sectors of society. We should expect more openness from any democratic government. Over the past six years, and in the context of political reform, the government has amply demonstrated that the diagnostics, demands and basic initiatives for communication policies presented by Mexican civil society in forums, seminars and public consultations have been denied, belittled, ignored and marginalised by the power structures. Once again, the profound disillusionment and disenchantment of civil society resurface, questioning whether the spaces created by the state are viable avenues for the transformation of these public policies (Esteinou, n.d.).

Mexican civil society continues to demand that the federal government guarantee dialogue so that the various proposals and positions of the different sectors can be taken into consideration. Mechanisms are also necessary to make transparent the positions and processes employed by the federal government in national and international frameworks related to decisions on public ICT policies. These are currently absent from the government-society relationship – a situation that must be changed in this six-year term, because the participation of civil society as an essential actor in the construction of public policies in the country is indispensable.

For its part, civil society continues to build alternative models, proposals and projects aimed at using the media and ICTs for the common good. There are numerous initiatives that involve a great deal of effort within an adverse political and economic context.

Communication and human rights organisations, as well as various alternative publications, labour daily to set the issue of ICTs within the basic human rights framework. Others work to strengthen and build infrastructure so that vulnerable populations can access new technologies that will allow them to create content according to their local needs. CSOs focused on technical and educational material are promoting the recognition and practical uses of free and open source software (FOSS) as a powerful tool. Associations of journalists, among others, are working for the defence of freedom of expression and the right to information. (Their efforts, however, have unfortunately not been very successful.)

Organisations and communities are also working arduously to promote radio as a public service that facilitates democratic participation in communications media, mostly for those historically marginalised such as women, youth and minorities, among others. Community radio stations fight an uphill battle, but are deeply rooted in their localities in different parts of the country. Internet radio is also emerging as an alternative.

Initiatives dedicated to education and ICTs are developing capacity. Not only are they bridging the “digital divide” by installing hardware, they are building local capacity by training people to use ICTs. They are helping users become creators and producers of new tools and content, and not merely consumers of information. Several successful initiatives are based on work with young people and women. This effort, linking gender and ICTs, is especially interesting. Hundreds of women have been trained and empowered in the use of ICTs.

A number of alternatives to the co-option of the information society by big business have also emerged. One of them, a proposed Citizens' Observatory of Electronic Media (OCME), aims to promote a critical conscience that can take an active part in reorienting the role of the communications media. The OCME was born as an initiative of a radio programme specialising in communications media analysis called “*El fin justifica @ los medios*” (which can be translated as either “the end justifies the means” or “the end justifies the media,” since the Spanish word *medios* has both meanings). The programme has been on the air for seventeen years on *Radio Educación* [Education Radio], a cultural radio station. The overall aim of the OCME is ambitious since it outlines a comprehensive model for media literacy education. This model includes canvassing the opinion of audiences on media content, developing audiovisual learning material, provide training on communications media, and analysing and reporting on the media. The OCME will also help develop a space for social reflection on the media, and channel audience opinions to government bodies and media companies. It is hoped that this space will eventually have the social support necessary to promote the creation of a legal framework aimed at democratising the media.

Conclusions

Public information and communications policies in Mexico are oriented towards strengthening competitiveness, the market, and the interests of monopolistic groups. The government sworn in at the end of 2006 does not foresee any substantial changes in the next six years.

The relationship between government and society has been expressed as a unilateral strengthening of the business-government binomial. Businesses with strong economic interests have been particularly privileged. This has occurred despite the different needs, proposals and initiatives that have come from very diverse sectors of civil society. Examples of this can be found in the approval of reforms to two of the country's fundamental laws: the Federal Telecommunications Law and the Federal Radio and Television Law, subsequently dubbed the “Televisa Law”. As a result, the state has been placed at the service of the monopolistic interests of the communications companies. The government has auctioned off the nation's wealth without taking communities into account. And it did not respect a multiparty negotiation in which businesses, government and representatives of civil society should have participated.

Considering the composition of the new government and its initiatives announced to date, we cannot foresee any substantial changes in the next six years in the actions of the federal government in terms of creating public policies aimed at benefiting communities and developing the social function of technologies, at least as far as those used for information and communication are concerned. ■

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