IRAQ

With its ability to connect billions of people globally in order to exchange information quickly and effectively, the Internet is widely considered to be the 20th century's biggest invention. It is a fast-growing platform with diverse and evolving applications and services and has become a staple of many people's lives. However, governments in the Arab region may not welcome it because of local political conditions, seeing it as a non-compliant and uncontrollable environment. With its freedom of expression and dialogue on human rights and democratic principles, it may not fit the mindset of rulers in the area.

Such governments attempt to regulate the Internet through legislation, thus limiting local content and usage in the name of protecting higher national interests. To counteract such restrictions, a global campaign about Internet Openness has arisen. Accessibility, freedom of expression, resourcing, security and privacy are all comprehensively discussed at both local and regional levels with international and regional organizations striving to increase awareness. Internet Openness is a multi-disciplinary theme.

The national Constitutions of advanced countries such as Finland consider an open Internet to be a basic human right. By this definition, censorship in the Arab region has resulted in continuous violation of this right. During events of the "Arab Spring", the first action taken by the Egyptian government was to shut down the Internet. This inhibited the aspirations and demands of citizens and suppressed the virtual connections and coordination of protestors. However despite such desperate governmental measures, successful revolutions continued.

EXECUTIVE SUMMARY

This report will examine the status of Internet openness in Iraq in terms of:

- Internet history and background in Iraq
- The current situation - Internet openness and content filtering
- Internet legislation, policy, regulatory environments and frameworks
- Challenges, barriers and limitations to Internet openness
- Access to Information status and e-participation
- Transparency and accountability
- Local civil society conditions and the impact of social media on civil liberties
- Stakeholders – who they are and what they do
- Social networks, where bloggers, journalists, activists and human rights defenders are actively involved in Internet freedom, policy processes, privacy and secure online communication.

The report will conclude with a list of recommendations to influence policy-makers

and government executives and address Internet openness in the future.

INTERNET BACKGROUND IN IRAQ

Over the past three decades, Iraq has suffered a cumulative deterioration due to three major wars, international trade sanctions and political instability. Prior to the 2003 US-led invasion, the Internet, along with other modern technologies such as mobile phones and satellite, were prohibited by the strict control of the Islamist regime. Iraq was the *only* country in West Asia with no Internet connection. Since the invasion, modern technologies, including the Internet, have been launched, making Iraq relatively new to the Internet age. Services are provided mainly via Asynchronous Digital Subscriber Line (ADSL) by the State Company for Internet Services (SCIS) - a company owned by the Ministry of Communications (MoC)[64] - and a few local ISPs using wireless technology.

However, recent political changes are not reflected in Iraqi Internet penetration. The latest statistics show it remains the lowest and poorest in the Middle East despite more than eight years of change. Figures from the end of 2011 show:

- Internet users rate = 5.6% [65]
- 'Households with Internet access at home' rate = 7.5%[66]
- Fixed-telephone subscriptions rate = 6.0%[67]

- Internet penetration rate = 4.3%[68]

These figures are due, in no order of importance, to the following reasons:

- Poor inherited telecommunications infrastructure based on copper connections.
- Absence of a high-speed network to connect both nationally and internationally.
- No plan for public broadband Internet deployment. (A very small broadband connection is available only to elite Government of Iraq (GoI) officials.)
- Lack of a unified national telecommunications law and regulatory framework.
- Vague telecom regulations. Regulatory decisions are made by the MoC.
- An outdated business model of a single, state-owned, nationwide ISP operator – SCIS.
- General continuous nationwide instability - sectarian tensions and terrorism.
- Very poor national electrical supply and services. Current Iraqi electricity demand is estimated at 27-30 Megawatt (MW), whereas capacity is only 6-8 MW. This shortage is substituted by home diesel generators, afforded only by the rich.
- The deliberate disablement, under the pretext of fears of espionage, of the optical fibre project which connects countries bordering Iraq with the outside world.
- State corruption; Iraq is ranked 175 / 183[69] on a global Political Corruption Index.
- Lack of a national governmental Information and Communications Technologies (ICT)

64. www.moc.gov.iq

65. http://www.itu.int/ITU-D/ICTEYE/Default.aspx

66. http://www.itu.int/ITU-D/ict/publications/material/LDB_ ICT_2012.pdf

67. ibid

68. http://www.internetworldstats.com/stats5.htm

69. http://www.transparency.org/country#IRQ

policy and related capacity-building programs.

- Unsurpassed deployment of a vaguely-specified e-government project.

- High national poverty rates (25%-40%) and high rates of internally-displaced people due to sectarian violence and fear.

- Intermittent international community aid and representation.

- A huge lack of Human Resource (HR) skills due to the emigration of Iraqi intellectuals.

- Political issues including continuous local political conflicts, biased political parties and appointment of ministers, lack of ministerial vision and volatile successive sectarian GoI executives leading to poor achievements and corruption.

CURRENT SITUATION OF INTERNET OPENNESS IN IRAQ

The overthrow of the regime in 2003 was a milestone in the emergence of complete Internet openness in Iraq. Since then, chaos ensuing from the absence of a State has provided a free atmosphere for Internet availability via quickly-deployed and widespread Very Small Aperture Terminals (VSAT). The new Iraqi Constitution of 2006[70] protects freedom of expression so long as it does not violate public order and morality.

Accordingly, from the official government side, Internet access and openness in Iraq remains largely unaffected, i.e. GoI have not made any steps to measure Internet control. The current clear image is that the media scene has changed

completely and a booming number of media activists are using the Internet to express their opinion, criticize all GoI aspects, and share ideas openly and freely without censorship. Although some journalists and activists have been killed by insurgents and coalition forces, their deaths were mainly due to the usual clashes which can occur in any hot-fields coverage, i.e. their killings were not due to their individual Internet activism, as reported by many independent observers. Furthermore, Iraq does not have an official national Internet-filtering policy and there is no evidence that the State ISP (SCIS) practices filtering. Open Net Initiative (ONI),[71] an international Canadian agency working in Internet censorship, conducted a 3-year test (2007-2009) of in-country tests on two Iraqi ISPs - SCIS (the State-owned principle ISP which controls most Internet traffic) and a selected private sector ISP Itisaluna. Results revealed no evidence of technical filtering for any category tested.

The GoI has recently declared plans to block "immoral" (read 'insurgent' and 'terrorist' groups) web content and has ordered the licensing of public Internet cafés by an independent regulator – the Communications and Media Commission (CMC)[72]. In February 2009, the MoC stated that it would implement a security system to monitor the Internet and block access to online content where there is concern over national security. However, neither of these steps appear to have been activated since all Internet websites, including the popular social ones - Facebook, YouTube, Twitter - remain accessible.

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70. www.uniraq.org/documents/iraqi_constitution.pdf, www.cabinet.iq/dostor.htm

71. http://opennet.net/research/profiles/iraq

72. www.cmc.iq

General freedom of speech, and particularly on the Internet, is a positive indicator of the new Iraq where activists, bloggers and observers heavily criticize GoI and ICoR performance with no restrictions. To date there have been no solid claims of violations of freedom of expression by the GoI. The only violations of human rights have been where armed insurgents in Iraqi jails claim to have been badly treated.

ACCESS TO INFORMATION STATUS IN IRAQ AND E-PARTICIPATION

The GoI has adopted Constitutional policies regarding non-censorship and freedom of expression.[73] Diverse civil society organizations, including those working in human rights and the media, have been able to work freely online. Iraqi Ministries have also started to form policies around building their own websites and creating online content. However, there is still a long way to go before information access and e-participation will be achieved.

Online information access and e-participation for citizens is poor for a number of reasons, including poor Internet access penetration rates, a lack of ICT education following three decades of international isolation, very poor electricity availability, mistrust of the GoI and general factors relating to hardship. The GoI e-Gov project has no specific portal and the project, started in early May 2003, is still only on GoI intra-connections. It has not gone public and with the current political conflicts and poor administration, the GoI have no intention of establishing standards of open government data.

To overcome this negative image, infrastructure modernization and a huge ICT-awareness and training program is needed. The GoI will not be able to act alone, and international aid and real Public-Private Partnership (PPP) schemes will be required. A solid building program and trusting relationships between the State and citizens are also necessary. The Iraqi people are waiting eagerly for such measures.

For most Iraqis, primary daily concerns are for safety and security. Distrust of the political scene, together with general fear and uncertainty make online access and e-participation a low personal priority. Citizens are also not sufficiently informed to suggest fruitful Internet policies which will engage them.

IRAQI INTERNET LEGISLATION, POLICY, REGULATORY ENVIRONMENTS AND FRAMEWORKS

The Communications and Media Commission (CMC)[74] was established in 2004 to act as an independent and exclusive regulator of the media and telecommunications in Iraq. This sets a new historical precedent. It has imposed a Code of Ethics on the media where content relates to security and sectarian tension. Despite this, both media channels and individuals are free to post on freely-accessible social sites such as Facebook. Furthermore, CMC has not imposed ISPO regulation, thus meaning that the Internet is completely open and there have been no claims or witnessed arrests of bloggers or journalists as a result of online activities.

73. www.uniraq.org/documents/iraqi_constitution.pdf, www.cabinet.iq/dostor.htm

74. http://www.cmc.iq/en

There is a general policy vacuum with regard to the Internet and ICT. Such policies would need to be drafted by the MoC, then discussed and approved by the Iraqi Council of Representatives (ICoR).[75] In 2008 the MoC, with the help of the World Bank (WB) drafted three new laws: *Telecomm. Liberalization and free market, MoC Privatization, and CMC regulation.* Five years later, these laws, aimed at restructuring the national Telecom sector, are still under discussion. The delay in ICoR corridors is due in part to the way in which politics functions generally in Iraq. However, ignorance is also a factor. Conflict between ICoR and the GoI generates poor collaboration and mistrust.

The GoI was in the process of enacting an *Iraqi Information Crimes* law to regulate the use of information networks, computers and other electronic devices. The law had its first reading on 27 July, 2012. The proposed legislation was analysed by many international organizations, including Human Rights Watch (HRW)[76] and Article 19,[77] both of whom found that it violates the international standards for freedom of speech. At local level, Iraqi activists launched a Facebook campaign[78] to oppose the draft. Their major concerns related to the vagueness of its provisions, the severity of punishments for violations, and that the GoI could use it to punish political criticism. On 6 February 2013 the Iraqi parliament revoked and cancelled the draft law due to the scale of both local and international objections.

IRAQI CHALLENGES, BARRIERS AND LIMITATIONS

Despite the post-2003 promised transformation of Iraq from a centralised State to a modern free market, very little has been done in the telecommunications and Internet sectors. The following, in no particular order, are clear negative indicators:

1. There is no real ISP competition: There is one state-owned ISP (SCIS) with legacy copper networks, which does not cover the whole country.

2. There is a vacuum in legislation and policy. Several telecommunications and privatization laws have been drafted since 2008, although none have been discussed in the ICoR. The MoC has no nationwide Internet or IT development policy.

3. CMC, the only constitutional independent regulator, collaborates poorly with the MoC. CMC and MoC roles overlap and intersect when, according to international professional standards, their work should be separated. Flaws and violations of this relationship include:

   (1) On the one hand, CMC is too closely related to ICoR administration. CMC leadership should be appointed via

75. http://www.parliament.iq/english/

76. http://www.hrw.org/reports/2012/07/11/iraq-s-information-crimes-law

77. http://www.article19.org/resources.php/resource/2792/en/Iraq:%20Draft%20Informatics%20Crimes%20Law

78. https://www.facebook.com/No4ICLinIraq

a competitive and transparent process. However, currently, and for many years now, CMC leadership has been appointed by the Prime Minister's Office (PMO) thus meaning that the PMO effectively controls the ICoR. CMC is therefore not independent, but represents GoI interests.

(2) On the other hand, MoC (represented by SCIS), should be a competitive operator, amongst other private operators regulated by CMC rules. However, SCIS is currently the only major operator, whilst also regulating its own work.

4. In an effort to promote foreign investment and rebuild the country, the GoI established the National Investment Commission (NIC)[79] in 2006. NIC law was passed by the ICoR in 2008. Having identified the poor quality and slow speed of communications infrastructure as its largest obstacle, the NIC included the Iraqi telecommunications and Internet sector in its investment interests. It classified five nation-wide projects with regard to fibre optics backbone, connectivity, public switch networks, landlines and telecom connectivity with neighbouring countries.[80] The NIC has not attracted any investment so far, mainly due to the obstacles of heavy bureaucracy, very tough Iraqi VISA restrictions and security clearance procedures, poor national security, the high GoI corruption index, a poor and outdated banking system, and very poor basic electricity and water services.

5. From 2003 the Iraqi e-government project,[81] funded by the Italian Government, has been one of the early promising projects. However, since then administration of this project has been moved between many GoI entities and there has been little public access.

6. The assassinations of Iraqi academics and qualified intellectuals[82] have had a destructive effect on general national development. Many survivors, intellectuals and technocrats have emigrated. In 2008, the Iraqi government issued a stimulus package aimed at prompting them to return. However, most have not done so, due to concerns about security and disbelief in GoI promises to appoint qualified technocrats rather than sectarian executives.

7. Electricity supply is the most urgently needed service in Iraq. Since average national grid supply to homes is 4 hours per day and diesel generators can only be afforded by the rich people, Internet service and access rates are very low.

8. Political instability has a major negative impact on all aspects of Iraqi life. For example, the Minister of Communications, a member of the second largest national political party, was obliged to withdraw from his post three times, following his party's withdrawal from ICoR and the GoI. Since no other Minister is permitted to fulfil his role in his absence, the cumulative 2.5 years of absence has left a vacuum in MoC operations. During the

79. http://www.investpromo.gov.iq/index.php?id=1

80. www.investpromo.gov.iq/tl_files/NIC%20Sectors%20 Provinces%20and%20Projects%20jan%202012_v3.pdf

81. http://www.infoworld.com/t/platforms/italy-iraq-agree-strengthen-e-govt-cooperation-348

82. http://www.brusselstribunal.org/academicsList.htm

writing of this report the Minister officially resigned,[83] protesting against a long list of intractable and accumulated barriers including political intervention in the work of the MoC, suspicious contracts (serving top GoI executives' interests), the imposition of the GoI on MoC ministerial power, the collapse of MoC corruption investigations by the PMO and the disabling of strategic MoC projects by powerful politicians. The PMO accepted the Minister's resignation immediately without investigating the issues raised. However, it creates a new vacuum for MoC operation and it is unlikely that further progress will be made.

CONCLUSIONS

- Internet access and openness in Iraq is largely unfettered. There is currently no evidence of content filtering. Civil society activists freely express their opinions via local websites and on international social networks such as Facebook and Twitter.

- Even when compared with countries in the region, Iraq is badly lacking in ICT, Internet penetration and information measures. It is not included in international figures such as The World Economic Forum (WEF), *GITR Global Information Technology Report 2012,"*[84] the *AWCR Arab World Competitiveness Report 2011-2012,*[85] or the International Telecommunications Union (ITU)

report on *Measuring the Information Society-The ICT Development Index 2011.*[86]

- Iraqi online information access, accountability, transparency and e-participation are very poor due to poor infrastructure, policy and legislative processes.[87]

- The major obstacle to Internet development (both legislation and projects) is the political situation where ICoR and GoI bodies are conflicted, mistrusting, inefficient, hostile, and lacking in professional vision. This is compounded by both media and armed attacks against each other, thus decreasing internal security. The ICoR and GoI are corrupt, incompetent and ignorant of requirements.

- Since Iraq has one of the highest corruption indexes in the world, vaguely-interpreted and implemented laws, no on-the-ground measures, procedures or statistics and incompetent GoI executives, it is very difficult, if not impossible, to speak about Iraqi transparency and accountability.

- A draft version of the *Iraqi Information Crimes* Law is currently being debated. There are fears that this law, if approved, could form part of a future broader pattern of restrictions on general freedom of expression, and that the GoI may use it to initiate measures to censor Internet content and monitor online activity.

83. http://ipairaq.com/?p=437

84. http://www3.weforum.org/docs/Global_IT_Report_2012.pdf

85. http://www3.weforum.org/docs/WEF_AWC_Report_2011-12.pdf

86. http://www.itu.int/net/pressoffice/backgrounders/general/pdf/5.pdf

87. http://www.giswatch.org/es/node/31

RECOMMENDATIONS FOR THE WAY FORWARD

- For overall national stability and long-awaited development, there is an urgent need for post-conflict reconciliation strategies and political reform. This is a necessary foundation for sustainable works by the MoC and CMC.

- A radical solution is needed for the provision of basic services including electricity.

- The GoI generally and the MoC specifically, must recognize that the very poor statistics for Internet and telecommunications service provision are shameful, given that Iraq is the world's second richest oil-State. The GoI and MoC must understand that Internet access is vital for positive socio-economic transformation, and push projects to modernize. This could include nationwide projects and timely plans for Optical Fibre Networks and Connectivity, Broadband and Fibre To The Home (FTTH) as well as e-government project implementation.

- The GoI must revive and boost the existing e-Gov project to gain the promised better online information access and e-participation for its citizens. The GoI must set policies to disclose its data to the public in order to enhance transparency and accountability and to regain the trust of citizens.

- The CMC must demystify and create clear visions and work procedures for a truly independent regulator, including openness to more ISPs to provide competition.

- The MoC must form and adopt updated and implementable Internet and ICT policies with private sector investment. This may include infrastructure sharing.

- The ICoR must speed up the long- awaited MoC legislation on *Liberation and Privatization of the Telecommunications Sector*. It must reject the proposed drafted *Iraqi Information Crimes* Law and engage in comprehensive reforms to Iraq's legal framework in order to guarantee the rights of freedom of expression and information.

- Iraqi civil society organisations and other stakeholders should be engaged in the drafting of such laws.

- The NIC must reform regulations to simplify foreign investment flow.