

Afghanistan

Although the government of Afghanistan, with the help of international donors and private sector partners, continues to build an information communications technology (ICT) infrastructure up from its nominal status of only five years ago, very few Afghans are online. The government does not engage in technical filtering, but it has attempted to regulate media coverage and control published content.



Background

The Islamic Republic of Afghanistan has committed to meeting ambitious goals of achieving genuine security, promoting sustainable economic and social development, strengthening human rights, and promoting the rule of law.¹ However, institutions are being rebuilt in a severely challenged security environment and the gains made since the fall of the Taliban in 2001 continue to be at risk. Other forms of media are gaining some ground (for example, more than thirty independent community radio stations have been established), but journalists continue to be subject to threats, violence, and intimidation.

Internet in Afghanistan

The Internet is one of many sectors in Afghanistan in a process of reconstruction from the dilapidated status it has had since 2001.² It was banned by the Taliban in July 2001 because it was thought to broadcast obscene, immoral, and anti-Islamic material, and because the few Internet users at the time could not be easily monitored, as they obtained their telephone lines from Pakistan.³

The current government recognizes the Internet as an important source of growth and development for the country, believing that ICT can create opportunities for disadvantaged

RESULTS AT A GLANCE

Filtering	No evidence of filtering	Suspected filtering	Selective filtering	Substantial filtering	Pervasive filtering
Political	●				
Social	●				
Conflict/security	●				
Internet tools	●				

Other factors	Low	Medium	High	Not applicable
Transparency				●
Consistency				●

KEY INDICATORS

	worst	best
GDP per capita, PPP (constant 2000 international \$)	1,119	
Life expectancy at birth (years).....	42	
Literacy rate (% of people age 15+).....	28	
Human development index (out of 177).....	nd	
Rule of law (out of 208).....	205	
Voice and accountability (out of 208).....	184	
Digital opportunity index (out of 180)	nd	
Internet users (% of population)	0.1	

Source (by indicator): IMF 2006; WHO 2006; World Bank 2006a, 2006c, 2006c; ITU 2005
nd = no data available

groups and improve the access of the rural poor to markets.⁴

However, the struggle to make the Internet widely available is an arduous one. With a total of 1,200 Internet subscribers and an average of one Internet user per thousand people for a total of 30,000 estimated users,⁵ Afghanistan remains almost completely outside the cybersphere. One major obstacle is the adult literacy rate, which stands around 28 percent (as of 2004).⁶ The literacy rate for women is between 9 and 18 percent, the lowest in the world;⁷ ongoing violence and intimidation threaten primary school education for girls, and indeed for all children.⁸

A second barrier to Internet use is its cost, which is prohibitive for most Afghans.⁹ In part to address these concerns, the Ministry of Communications and Information Technology (MCIT, formerly the Ministry of Communications) contracted two Chinese firms, ZPE and Huawei, to build a digital wireless network in twelve provinces.¹⁰ Internet service providers (ISPs) often choose wireless networks as well, since the number of fixed lines is limited. Still, although the Internet is essentially a luxury of the wealthy, Afghans are interested in the Internet and all it offers.¹¹

In 2003 Afghanistan was given legal control of the “.af” domain, and the Afghanistan Network Information Center (AFGNIC) was established to administer domain names. Through a presidential decree, the MCIT was charged with spinning off all telecommunications operations and services to a newly created independent company called Afghan Telecom.¹² Up from five functional ISPs in 2003, in 2006 Afghanistan supported twenty-two Internet hosts and seven main ISPs¹³ and a growing number of Internet cafés and telekiosks (public access points located in post offices and at the Kabul airport).¹⁴ It plans to connect the country (and neighboring nations) along major highways with Afghan Telecom’s National Optical Fibre Backbone project.¹⁵

Legal and regulatory frameworks

Freedom of expression is inviolable under the Afghanistan Constitution, and every Afghan has the right to print or publish topics without prior submission to state authorities in accordance with the law.¹⁶ However, the normative limits of the law are clear: under the Constitution no law can be contrary to the beliefs and provisions of the sacred religion of Islam.¹⁷ Mass media law has become increasingly attentive to a more

vigorous adherence to this principle. The Media Law decreed by President Hamid Karzai in December 2005, just before the national legislature was formed, included a ban on four broad content categories: the publication of news contrary to Islam and other religions; slanderous or insulting materials concerning individuals; matters contrary to the Afghan Constitution or criminal law; and the exposure of the identities of victims of violence.¹⁸ A draft amendment of the law circulating in 2006 added four additional proscribed categories: content jeopardizing stability, national security, and territorial integrity of Afghanistan; false information that might disrupt public opinion; promotion of any religion other than Islam; and "material which might damage physical well-being, psychological and moral security of people, especially children and the youth."¹⁹

The independence of the media was also brought into question by the March 2004 Media Law enacted by the transitional government, which handed the Minister of Culture and Information important veto powers (e.g., foreign agencies and international organizations may print news bulletins only after obtaining permission from the Minister)²⁰ and leadership of a Media Evaluation Commission that reviews appeals of rejections of publishing licenses by the Ministry of Information and Culture.²¹ The proposed amendment to the Media Law in late 2006 would dissolve the Media Evaluation Commission and two other regulatory bodies, the National Commission of Radio and Television Broadcast, and an investigation commission that reviewed complaints against journalists and decided which cases should be forwarded to courts for prosecution.²²

With the approval of the Telecommunications Services Regulation Act in 2005 (Telecom Law), an independent regulatory agency called the Afghanistan Telecom Regulatory Authority (TRA) was created out of the merger of the Telecommunications Regulatory Board and the

State Radio Inspection Department (SRID) under the Ministry of Communications.²³ The TRA assumed responsibility for telecommunications licensing as well as promoting sustainable competition for all telecommunications services.

Licensing requirements are straightforward: companies must abide by the law to be licensed by the TRA, and only those with licenses can sell telecommunications services.²⁴ Of the two types of ISP licenses, transit and national licenses, only transit licenses allow ISPs to establish international connectivity.²⁵ Part of the TRA mandate is to protect users from the abuse of monopoly market share: companies determined to have "significant market power" must apply to have an amended license²⁶ and are subject to additional penalties for anti-competitive behavior.²⁷ A license may be revoked if the licensee has broken the law or has failed to fix repeated breaches in the agreement, has misleading or false information in their application, or does not pay the fee even after a warning.²⁸

Under the Telecom Law, ISPs are duty-bound to protect user information and confidentiality.²⁹ However, the TRA is also authorized to demand the operator or service provider monitor communications between users as well as Internet traffic in order to trace "harassing, offensive, or illegal" telecommunications, although what constitutes these prohibited communications is not specified.³⁰ Where an issue of national security or a criminal case is involved, operators and service providers must hand over the required information and give the authorities immediate access to their network.³¹

In cases where there is no such immediate need, the TRA still has the right to "relevant information" as long as the TRA has given two weeks' notice.³² In its Acceptable Use Policy, the AFGNIC prohibits the use of the ".af" domain to make any communications to commit a criminal offense; racially vilify others; violate intellectual property rights; and distribute, publish, or link to pornographic materials that a "reasonable

person as a member of the community of Afghanistan would consider to be obscene or indecent.”³³ The ban on spam or junk mail also includes unsolicited political or religious tracts along with commercial advertising and other information.³⁴

On June 12, 2006, the National Directorate of Security (NDS), Afghanistan’s national intelligence agency, issued a list of broadcasting and publishing activities that “must be banned” in light of heightened security problems that could deteriorate public morale.³⁵ The list of proscribed press activities was quite extensive and attributed negative intention,³⁶ causality,³⁷ and morality³⁸ to reporting on specific issues (primarily terrorism and the Taliban insurgency). President Hamid Karzai denied these were instructions, saying they were merely guidelines and a request for media cooperation.³⁹ Restricted activities included the publication or broadcasting of exaggerated reports against national unity or peace; decrees, statements and interviews of armed organizations and terrorist groups; and even the proscription against news on terrorism serving as the lead story.⁴⁰

ONI testing results

ONI testing found no evidence of filtering in Afghanistan, although testing was not as extensive there as it was in some other countries.

Conclusion

In a country where 40 percent of the rural population suffers from low-income food deficit and life expectancy is less than forty-five years,⁴¹ the Internet and ICT infrastructure represent only one component of social and economic development needed for the government to meet the goals set forth in the Afghanistan Compact. Only about 0.1 percent of Afghans are online. Testing revealed no evidence of government-led Internet filtering. However, through legal regulation and other acts conducted under the color of authority, Afghanistan may be constraining media cover-

age in ways that violate the international human rights norms for freedom of expression protected in its own constitution.

NOTES

1. See The Afghanistan Compact, signed at the London Conference on Afghanistan, January 31–February 1, 2006.
2. Sarah Parkes, “Slow road to the digital age: Rebuilding communications in Afghanistan and Iraq,” ITU Telecom World 2003 On-Line News Service, October 13, 2003, <http://itudaily.com/home.asp?articleid=3101309>.
3. *BBC News*, “Taleban outlaw Internet,” July 13, 2001, http://news.bbc.co.uk/2/hi/south_asia/1437852.stm.
4. United Nations, *Vision 2020: Islamic Republic of Afghanistan Millennium Development Goals Report 2005* (New York: United Nations), p. 123.
5. International Telecommunication Union, *World Telecommunication Indicators 2006*.
6. World Bank World Development Indicators (2006), <http://devdata.worldbank.org/external/CPPProfile.asp?PTYPE=CP&CCODE=AFG> (accessed April 23, 2007).
7. United Nations, *Vision 2020: Islamic Republic of Afghanistan Millennium Development Goals Report 2005* (New York: United Nations), pp. 21, 123.
8. See Human Rights Watch, *Lessons in Terror: Attacks on Education in Afghanistan*, July 2006, <http://www.hrw.org/reports/2006/afghanistan0706>.
9. See *BBC News*, “Afghans plant flag in cyberspace,” March 10, 2003, <http://news.bbc.co.uk/2/hi/technology/2835799.stm>.
10. Internet cafés are expensive, and it would be even more costly for people to purchase a computer and a telephone line to get individual access to the Internet. Amanullah Nasrat, “Internet spreading in Afghanistan,” *Kashar World News*, July 17, <http://www.kashar.net/technews/complete.asp?id=1725>.
11. William Fisher, “In the Arab world, a blog can mean prison,” *Daily Star* (Beirut, Lebanon), March 21, 2005.
12. Ministry of Communications and Information Technology Web site, <http://www.moc.gov.af/afghantelecom.asp> (accessed March 7, 2007).

13. See Presentation by Gaurab Raj Upadhaya at APOPS Forum (16 APNIC Open Policy Meeting), ICT in Afghanistan, August, 21, 2003, <http://www.apnic.net/meetings/16/programme/docs/apops-pres-gaurab-ict-afghan.ppt>. See also *CIA World Factbook: Afghanistan*, updated March 15, 2007, <https://www.cia.gov/cia/publications/factbook/geos/af.html#Comm>; and Ministry of Communications and Information Technology Web site, <http://www.moc.gov.af/isp.asp>, (accessed April 4, 2007).
14. United Nations Development Programme, Afghanistan: A Country on the Move, http://www.undp.org.af/home/afg_on_the_move.pdf.
15. Ministry of Communications Five-Year Development Plan 1384–1389 (2005–2009), August 13, 2005, <http://www.moc.gov.af/Documents/About%20the%20Ministry%20of%20Communications%20-%20FiveYearsPlan/Afghanistan%20MoC%205%20yr%20plan.pdf>.
16. Article 34, Constitution of the Islamic Republic of Afghanistan, effective January 4, 2004, http://www.oefre.unibe.ch/law/icl/af00000_.html.
17. Article 3, Constitution of the Islamic Republic of Afghanistan, effective January 4, 2004, http://www.oefre.unibe.ch/law/icl/af00000_.html.
18. Amin Tarzi, "Afghanistan: Mass media law comes under scrutiny," Radio Free Europe, February 2, 2007, <http://www.rferl.org/featuresarticle/2007/02/ed592517-3307-4092-b556-f9c05aca7b3e.html>.
19. Ibid.
20. Article 8(2), Afghan Law on Mass Media, March 2004, <http://www.ijnet.org/Director.aspx?P=MediaLaws&ID=233888&LID=1>.
21. Article 26, Afghan Law on Mass Media, March 2004, <http://www.ijnet.org/Director.aspx?P=MediaLaws&ID=233888&LID=1>.
22. Articles 21, 42, Afghan Law on Mass Media, March 2004, <http://www.ijnet.org/Director.aspx?P=MediaLaws&ID=233888&LID=1>. See U.S. Department of State, Country Reports on Human Rights Practices: Afghanistan, March 6, 2007, <http://www.state.gov/g/drl/rls/hrrpt/2006/78868.htm>.
23. Telecom Regulatory Board Web site, <http://trb.gov.af/telecom%20sector%20profile1.htm> (accessed April 4, 2007).
24. Article 13, Telecommunications Services Regulation Act, enacted December 18, 2005, <http://trb.gov.af/new%20telecom%20law.htm>.
25. Afghan Computer Science Association, IP License, <http://acsa.org.af/isplicense.htm>.
26. Article 15, Telecommunications Services Regulation Act, <http://trb.gov.af/new%20telecom%20law.htm>.
27. Articles 21–24, Telecommunications Services Regulation Act, <http://trb.gov.af/new%20telecom%20law.htm>.
28. Article 18, Telecommunications Services Regulation Act, <http://trb.gov.af/new%20telecom%20law.htm>.
29. Article 53, Telecommunications Services Regulation Act, <http://trb.gov.af/new%20telecom%20law.htm>.
30. Article 51, Telecommunications Services Regulation Act, <http://trb.gov.af/new%20telecom%20law.htm>.
31. Article 52, Telecommunications Services Regulation Act, <http://trb.gov.af/new%20telecom%20law.htm>.
32. Article 7, Telecommunications Services Regulation Act, <http://trb.gov.af/new%20telecom%20law.htm>.
33. Article 1.1, Afghanistan Network Information Center, Afghanistan ccTLD (.af) Acceptable Use Policy, October 20, 2004, <http://www.nic.af/doc/pdf/afaup201004.pdf>.
34. Article 2.1(1), Afghanistan Network Information Center, Afghanistan ccTLD (.af) Acceptable Use Policy, October 20, 2004, at <http://www.nic.af/doc/pdf/afaup201004.pdf>.
35. See Human Rights Watch Press Release, "Afghanistan: Remove new restrictions on media," June 22, 2006, <http://hrw.org/english/docs/2006/06/21/afghan13605.htm>.
36. Ibid. For example, those reports that aim to represent that the fighting spirit in Afghanistan's armed forces is weak.
37. Ibid. An example of attributed causality is the prohibition of "Live reports from meetings and ceremonies that disclose confidential governmental and military secrets and cause a deterioration of relations among three branches of state and results in reduction of the prestige of the government and parliament."
38. Ibid. For example, "reports relating to riots and violence which are provocative should not be published and violence should be condemned."
39. Ibid.
40. Ibid.
41. United Nations, *Vision 2020: Islamic Republic of Afghanistan. Millennium Development Goals Report 2005* (New York: United Nations), p. 21.