South Korea

Although South Korea has the highest Internet penetration rate in the world, the state imposes substantial legal and technological controls over online expression. South Korea filters a large amount of content that supports or praises North Korea, South Korea's historical political adversary, as well as a small number of sites devoted to gambling and pirated software.

Background

The Republic of Korea (also known as South Korea) was established in 1948 and spent four decades under authoritarian rule until a democratic system emerged in 1987.[1] South Korean foreign relations remain dominated by the state's relationship with its traditional adversary, the Democratic People's Republic of Korea (or North Korea), with which South Korea has technically been at war since the two sides fought to a stalemate in 1953.[2] Since that time, South Korea has been largely intolerant of dissident views and those espousing communism or supporting North Korea; publicly praising North Korea has been, and remains, illegal. Human rights groups charge that, since its enactment in 1948, thousands of South Koreans have been arrested under the state's anti-communist National Security Law (NSL).[3] Those arrested over the years include students, publishers, trade unionists, political activists, professors, and Internet surfers.[4] Many have been arrested and jailed for peacefully expressing their political views.[5] Some prisoners arrested under the NSL were allegedly held for three to four decades, ranking them among the world's longest-held political prisoners.[6]

Despite South Korea's current "sunshine policy" of diplomatic engagement with North Korea, investigations and arrests continue for

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 $)...... 19,560		
Life expectancy at birth (years) 77		
Literacy rate (% of people age 15+) 98		
Human development index (out of 177)................................ 26		
Rule of law (out of 208) 58		
Voice and accountability (out of 208) 67		
Digital opportunity index (out of 180) 1		
Internet users (% of population) 68.4		

Source (by indicator): World Bank 2005, 2006a; U.S. Department of State 2007b; UNDP 2006; World Bank 2006c, 2006c; ITU 2006, 2005

those publicly supporting North Korea and its policies.[7] In a recent celebrated case, a sociology professor at Dongguk University was investigated by authorities and suspended by the university for posting an article on the Internet in which he argued that North Korea's invasion of the South in 1950 should be interpreted as an attempt to reunify the two Koreas.[8] Overall, however, Korea's human rights record has steadily and markedly improved since the 1990s.[9]

Internet in South Korea

South Korea is the most connected country in the world. By 2005 more than 89 percent of South Korean households had Internet access; 75 percent of these households used broadband.[10] South Koreans are connected to the most advanced national network infrastructure in the world. Following the Asian financial crisis in the late 1990s, South Korea invested heavily in its broadband infrastructure, providing its citizens with a national network that carries data at speeds up to 50 megabits per second.[11] A majority of South Korean Internet users use the Internet more than once per day.[12] The vast majority of users access the Internet from home.[13] Even so, playing video games and chatting online

remains a popular pastime in the approximately 30,000 broadband "PC bangs" (Internet cafés) throughout South Korea.[14] Online gaming, fueled by South Korea's ultra high speed broadband infrastructure, is a national obsession, with as much as 35 percent of the population playing online games regularly.[15]

By 2004, seventy-six different Internet service providers (ISPs) were providing connection services to South Korean Internet users.[16] But three South Korean ISPs control nearly 85 percent of the market for Internet access, the largest of which—KorNet—provides about half the ADSL lines in the country, making it the largest ADSL supplier in the world.[17]

In accordance with state ethics guidelines, most South Korean search engines require users to verify they are at least nineteen years old (using a national identification number) before allowing access to porn sites.[18] Peer-to-peer file sharing is a popular online activity in South Korea,[19] though authorities have begun to crack down on peer-to-peer services and monitor them for pornography and other content deemed harmful. Anecdotally, however, many users appear able to circumvent the various technological restrictions on Internet use and have unrestricted

access to pornography and other sites that the state deems harmful or offensive.

Online citizens' media has played an important role in Korean politics and Internet culture in recent years, led by www.ohmynews.com, a popular Seoul-based online newspaper that mostly publishes articles written and submitted by ordinary citizens.[20] OhmyNews has been widely acknowledged as strongly influencing the 2002 election of Korean President Roh Moohyun.[21]

Legal and regulatory frameworks

The primary regulation governing Internet speech in South Korea is the NSL. First promulgated in 1948, the NSL was designed to prevent communist ideology and pro–North Korea sentiment from penetrating South Korean society.[22] The NSL punishes pro–North Korea activists by criminalizing "antistate" activities.[23] The statute provides for up to seven years' imprisonment for "those who praise, encourage, disseminate or cooperate with anti-state groups … being aware that such acts will endanger the national security and the democratic freedom."[24] The NSL provisions are vague, permitting state actors broad discretion in their application. The statute governs both print and online media, and has been invoked against individuals attempting to engage with North Korea or promote North Korea's political views. It has therefore been cited as having a chilling effect on free expression in the media.[25] Citing the NSL, the Ministry of Information and Communication in 2004 instructed ISPs in South Korea to block access to thirty-one Web sites considered to be North Korean propaganda.[26]

The NSL is immensely controversial in South Korean society, and is a focal point of intense debate between conservative leaders, who argue the law is necessary to protect the nation from threats posed by North Korea, and liberal politicians, who argue the law is repressive, dictatorial, and outdated, and should therefore be repealed.[27] In 2004, the Korean Constitutional Court upheld Article 7 of the NSL, which criminalizes the act of publicly praising and supporting North Korea, as a constitutionally permissible restriction on speech.[28]

Several other laws and decrees extend legal liability to content posted on the Internet, including the Telecommunications Business Act, which makes it illegal to transmit over telecommunications lines any content that compromises public safety, order, or morals;[29] and the Election Law, amended in 2004 to illegalize Internet dissemination of information that defames politicians during their election campaigns and to empower authorities to review ISP records containing information about suspected violators.[30]

The Korean Internet Safety Commission (KISCOM), formerly the Information and Communications Ethics Committee (ICEC), is an independent body established in 1995 under the Telecommunications Business Act to formulate a code of communications ethics and inform state policy aimed at "eradicating subversive communications and promoting active and healthy information."[31] KISCOM is empowered to define harmful content and recommend which Web sites should be blocked.[32] KISCOM also employs a system to monitor the circulation of "illegal and harmful contents on the Internet."[33] In addition, KISCOM formulates and administers a voluntary "Internet Content Rating Service" permitting Web sites to self-evaluate their level of appropriateness for minors, and provides to parents and schools filtering software and related technologies compatible with the rating service.[34]

ISPs have become increasingly responsible for policing content on their networks. In 2001, the state promulgated the Internet Content Filtering Ordinance,[35] which requires ISPs to block as many as 120,000 Web sites on a state-compiled list, and requires Internet access facilities that are accessible to minors, such as public libraries and schools, to install filtering software.[36] The Youth Protection Act of 1997[37] makes ISPs officially responsible, as "protectors

of juveniles," for making inappropriate content inaccessible on their networks.[38]

The 2001 ordinance also classified homosexual Internet content as "harmful and obscene" under the Youth Protection Act.[39] The Ministry of Information and Communications formally adopted this classification and immediately ordered a large South Korean Web site devoted to issues of homosexuality to classify itself in ICEC's content rating system as harmful and block minors from accessing the site or face fines and imprisonment.[40] Homosexual rights advocates challenged the order in court as an illegal restriction on free speech. Although the court ruled in favor of the ICEC, it seriously questioned the constitutionality of ICEC's ordinance classifying homosexual content as harmful to minors.[41] In 2003, the Korean National Youth Protection Committee removed homosexuality from the categories of "harmful and obscene." The reversal came in response to a Korean National Human Rights Protection Committee resolution finding that classifying homosexual content as harmful and obscene is an unconstitutional restriction on individuals' rights of expression and pursuit of happiness.[42]

ONI testing results

In 2001, South Korea reportedly required its ISPs to block as many as 120,000 sites on an official list.[43] When ONI conducted its testing at the end of 2006, however, the evidence indicated that Internet filtering in South Korea, although present, is not as extensive as reports have suggested. Testing was conducted through residential Internet access inside South Korea on the two of the largest South Korean ISPs—KorNet and HanaNet—between October 2006 and January 2007. The testing revealed that South Korea filters political and social content, specifically targeting sites containing North Korean propaganda or promoting the reunification of North and South Korea, as well as a handful of sites devoted to gambling and two sites devoted to

pirated software (www.mscracks.com and www.kickme.to/fosi).

ONI determined that a large majority of pro-North Korea or pro-unification Web sites on ONI's testing list were blocked,[44] along with a selected number of gambling-related sites. The blocking was extremely consistent across the two ISPs tested, as in virtually every instance a Web site that registered as blocked on HanaNet registered as blocked on KorNet as well. On each ISP, ONI detected two methods of blocking: IP (Internet Protocol) blocking and doman name server (DNS) tampering. IP blocking occurs at the router level, between the South Korean ISP and the Internet. The routers are programmed to stop information coming from certain IP addresses. DNS tampering prevents Internet domain names from resolving to their proper IP addresses. Sites blocked by KorNet through DNS tampering resolve to a blockpage hosted by the police at http://211.253.9.250/, which states that the page has been lawfully blocked and lists the user's own IP address.

ONI's tests suggested there is little blocking of sensitive social content in South Korea, despite KISCOM's focus on cleansing the Web of "harmful" social content. Besides two sites devoted to pirated software, ONI's testing registered no blocks in other social categories, including pornography and gay and lesbian content. South Korea does, however, attempt to restrict minors' access to pornography by requiring age identification for entry to Korean porn sites.

Conclusion

Although South Korea is the world leader in Internet penetration and broadband penetration, its citizens do not have access to a free and unfiltered Internet. The state imposes a substantial level of filtering for a free and democratic society. It requires ISPs to block sites on government lists and fosters a culture of self-censorship through broadly worded laws that make individuals criminally liable for posting "antistate" con-

tent. The state also encourages Korean Web site operators to engage in a self-rating system, and requires ISPs and other Internet access facilities, such as cybercafés and schools, to self-police for content deemed harmful to youths. Despite reports that the South Korean government has considered discontinuing its filtering of pro–North Korean Web sites,[45] ONI's testing indicated that the government still filters a large amount of content related to North Korea, as well as a handful of Web sites devoted to gambling and pirated software.

NOTES

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