

Venezuela (2013)

Venezuela's Internet penetration rate rose to 42 percent in 2011, placing it on par with regional neighbors including Argentina, Brazil, and Colombia.¹ ONI testing in 2010 found no evidence of Internet filtering in the country. In 2000, former President Hugo Chávez formally decreed the promotion of Internet use as essential to the country's development,² however, the nationalization of Venezuela's largest telecommunications company, CANTV, along with increasingly restrictive print and broadcast media policies, has caused concern about the government's potential desire to implement Internet filtering. Threats against social media users and a brief shutdown of the Internet that took place during the weeks following Chávez's death in March 2013 have raised many questions about future content and use policies under the administration of former Chávez Vice President Nicolás Maduro, who was elected president of the nation in April 2013.³

Background

Venezuela has been a leading exporter of petroleum in the Americas since the early twentieth century. In the 1980s, inflation rates rose to unprecedented levels due to a global oil surplus that caused a crippling external debt crisis for Venezuela. Ensuing poverty rates and a series of government corruption scandals led to a period of political unrest during the mid-1990s that effectively came to an end with the election of Hugo Chávez. After Chávez took office in 1999, the nation's congress ratified a new constitution, and the country was renamed the "Bolivarian Republic of Venezuela" in honor of the eighteenth-century South American political leader and visionary Simón Bolívar.⁴

Under Chávez's leadership, Venezuela witnessed sweeping constitutional and policy reforms that triggered anti-government sentiment among the upper and middle classes. Although Chávez generally enjoyed strong support from the working class,⁵ his popularity declined in the later years of his presidency as the nation's economy stagnated and criminal activity rose.⁶ In a 2010 press release, the Inter-American Commission on Human Rights (IACHR) expressed concern for the diminishing system of checks and balances between state bodies. The IACHR stated that "the lack of independence and autonomy of the judiciary with respect to the political branches constitutes one of the weakest points of democracy in Venezuela...In the Commission's judgment, it is this lack of independence that has allowed the use of the State's punitive power in Venezuela to criminalize human rights defenders, penalize peaceful social protest, and persecute political dissidents through the criminal justice system."⁷

State media and communications strategies have been critical to the implementation of policy reforms and to the ostensible reinvention of Venezuela's national identity as a socialist republic. In addition to promoting a series of regulatory reforms that limit freedom of expression and have had a particularly restrictive effect on the broadcast news industry, Chávez made communications tools central to his strategy as a leader. *New Yorker* essayist and author Jon Lee Anderson called Chávez the "world's first virtual President in the age of the communication revolution."⁸ Chávez maintained his own blog⁹ and an active social media presence through Facebook¹⁰ and Twitter.¹¹ Chávez also hosted a weekly television

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program, *Aló, Presidente (Hello, President)*, where he addressed his constituents and discussed policy issues with members of his administration in his famously boisterous manner.¹²

Despite recent regulatory changes, Venezuela maintains an active print and broadcast media environment. A wide range of political viewpoints can be found in the four major daily newspapers based in the capital city of Caracas and on television and radio news programs. Digital news outlets also have become increasingly popular as the nation's Internet penetration rate has risen.

Yet in recent years the government has become increasingly hostile toward news outlets that are critical of the nation's political leadership. In 2009 and 2010, the IACHR documented numerous cases in which journalists were assaulted or had their recording equipment stolen while they were attempting to gather information about a politically controversial topic. In the wake of new, media-focused regulations, the national Public Prosecutor's Office has filed charges against journalists and news outlets that are often based on small administrative or business-related infractions, but appear to be triggered by editorial critiques of the government by those media organizations.¹³

Internet in Venezuela

During the 1980s, Venezuela developed a national network, Red Saicyt, that was used primarily by government employees and academic researchers.¹⁴ In 1991, a national email system was built on Red Saicyt, and later that year Venezuela established its first connection to the global Internet.¹⁵ In 1998, the network was reconfigured to support public use of the Internet. Venezuela's Internet penetration rate has climbed steadily since 2000.¹⁶ In 2011, it was 42 percent.¹⁷

Recent government initiatives affecting print, broadcast, and digital media, as well as policies on public Internet use, have increased concerns that the Venezuelan government may begin to impose more stringent measures of Internet control. The once privately owned CANTV, now operated by the state, is the main Internet and ADSL service provider in Venezuela; in 2012, it was reported that 90 percent of Internet users connected to the Internet using CANTV.¹⁸ Other larger broadband service providers include Movistar,¹⁹ Inter,²⁰ and IFX Networks.²¹ In 2010, Venezuela established a network access point that is managed by CANTV. Critics have raised concern that this may give the government a more powerful avenue for controlling Internet use and content.²² In May 2012, CANTV ISP subscribers reported that they were unable to access certain sites, including independent news website *La Patilla*.²³

Twitter has become a popular tool for political and social activism in Venezuela,²⁴ due in part to President Chávez's enthusiastic adoption of the platform. Chávez, who (posthumously) had over four million followers as of May 2013,²⁵ publicly encouraged allies Fidel Castro and Bolivian President Evo Morales to join him in bringing the "ideological battle" against capitalism to the Twittersphere. While President Chávez encouraged all Venezuelans to get online and to use Twitter so they can engage in the battle, he also condemned tweets that are critical of government programs, calling them a form of "media terrorism".²⁶ Chavez's successor, Nicolas Maduro, is an active Twitter user as well, and continually calls upon the group "Twitteros Revolucionarios Organizados por la Patria" (Revolutionary Twitter Users

Organized by the Homeland or TROPA) to flood social media with hashtags that are pro-government, or against the opposition.²⁷

Chávez's death has exacerbated conflicts between political factions in the country as massive numbers of people have taken to the streets to either contest the election of Nicolas Maduro, or to defend it. In this milieu, social media users have seen an uptick in government sensitivity to their opinions. In the weeks following Chávez's death, one Twitter user was detained for generating "instability" for the country; in the days following the election, a Facebook user was detained for posting a photograph of a burning ballot. Both have since been released on parole.²⁸ On election day, authorities shut down the Internet for a brief period of time; authorities said that the shutdown occurred for three minutes, while users reported that it lasted for approximately twenty minutes.²⁹ In a public statement, Vice President Jorge Arreaza told citizens that this had been in an effort to stave off DDoS attacks on the National Electoral Council website.³⁰ Netizens reported that while most sites were only inaccessible momentarily, sites like NoticiasVenezuela.org, DollarToday.com and Votacion2013.com remained down for CANTV ISP subscribers throughout election day.

Legal and Regulatory Framework

Article 57 of the 1999 Constitution guarantees freedom of thought, opinion, and expression, although it requires those making use of this right to assume full responsibility for their expressions and prohibits anonymous authorship, war-related propaganda, and messages that are discriminatory or promote religious intolerance.³¹ Article 58 states that Venezuelans have the right to "timely, truthful and impartial information, without censorship, in accordance with the principles of this Constitution."³² The Constitution stipulates that the right to information shall not be suspended during "states of exception."

The National Assembly has declared Internet and ICT access a national priority.³³ The Ley sobre mensajes de datos y firmas electrónicas (Law on Data Messaging and Electronic Signatures)³⁴ and the Ley Especial Contra los Delitos Informáticos (Special Law Against Cyber Crime)³⁵ protect the privacy of electronic communications and promote a progressive and neutral legal framework to foster e-commerce.

The Venezuelan constitution permits content control in certain circumstances. In 2004, the Assembly passed the Ley de Responsabilidad Social en Radio y Televisión (Law of Social Responsibility in Radio and Television, referred to as the Law of Social Responsibility).³⁶ The law's stated objective is to establish social responsibility for radio and television broadcasters, advertisers, "independent domestic [media] producers," and users and to protect "children, adolescents, culture, education, social security," and competition in telecommunications markets. The law restricts media content deemed inappropriate for children and adolescents; specifies allowable air times for content related to health (including alcohol and tobacco use), sex (including sexual and reproductive health), and violence; and requires broadcasters to air independently produced Venezuelan programming.³⁷ The Comisión Nacional de Telecomunicaciones de Venezuela (National Telecommunications Commission or CONATEL) is home to the Directorio de Responsabilidad Social (Director of Social Responsibility), a decision-making body consisting of a multi-sector membership that evaluates media content and establishes content restrictions.³⁸

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In March 2009 the national congress voted to ratify the Ley Orgánica de Telecomunicaciones (Organic Telecommunications Law, Decree 6649), which aims to reduce the “superfluous or luxurious expenses” of the government, among them the “acquisition of mobile phone services and of international direct dial, as well as of Internet use” without prior approval from the Executive Vice-President (other superfluous expenses named in the decree include the acquisition of vehicles, furniture, and ornamental goods).³⁹ Although the decree only pertains to expenses by institutions and individuals working within the public sector, it immediately ignited concerns among academics at public universities and among Internet users and free speech advocates. The university community has criticized the decree for its requirement that the acquisition of technological equipment and platforms by organizations and personnel in the public sector be pre-authorized, expressing concern that government spending cuts might prevent advancements in academic research.⁴⁰

The Universidad de los Andes, one of the nation’s largest and most reputable public universities, responded to the new law by creating the website Internet Prioritaria (Essential Internet) and issuing a statement pressuring the government to revise the decree.⁴¹ The statement called for the validation of Decree 825 of 2000, which declares Internet use and access to be “a priority for the cultural, economic, social, and political development of the Government of Venezuela.”⁴² These online advocacy efforts extended to YouTube⁴³ and Facebook.⁴⁴ Political blogger Iria Puyosa (No Suma Cero)⁴⁵ called the campaign the first example of a debate in Venezuela that originated on the Web and was then picked up by the mainstream media: “This evidences that we the citizens are having an impact online, and that the media is looking to the web to find out what shapes public opinion.”⁴⁶

In 2009, the Director of Social Responsibility issued the Norma Técnica Sobre los Servicios de Producción Nacional Audiovisual (Technical Standard on Domestic Audiovisual Production) order, which sought to establish an administrative procedure through which television channels would be categorized as either domestic or international, based on the proportion of their programming that was produced within Venezuela. The order subjects domestic channels to obligations beyond those dictated by the Law of Social Responsibility, both by limiting the number of commercials that can be aired per hour and by requiring that domestic channels broadcast government messages and speeches.⁴⁷

In 2007, the government cited this law when it chose not to renew the broadcasting license of RCTV, a privately-owned channel known for its criticism of the government.⁴⁸ During hearings for the case, authorities referred to channel executives as the “horsemen of the Apocalypse” and suggested that they were instigating an anti-government “campaign of terrorism.” RCTV then began broadcasting on a cable network, where the Law of Social Responsibility did not apply, but in 2009, after the Technical Standard described above was issued, CONATEL placed RCTV into the “domestic” category, in spite of the fact that the channel identified itself as international and complied with the standards for that category. When RCTV did not air presidential addresses as required by regulation for the “domestic” category, it was taken off the air.⁴⁹

In 2010, the Law of Social Responsibility was expanded to apply to electronic media,⁵⁰ and with this amendment, several new restrictions were put in place. Media outlets, including

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those online, are now prohibited from publishing information or images that “could lead to the assassination of the President” or “represent media manipulation designed to promote uneasiness in the community or disturb public order.”⁵¹ The law obligates Internet service providers to take measures to prevent the publication and circulation of such information, as dictated by CONATEL. Those who do not adhere to CONATEL’s orders can face steep monetary fines.⁵²

In May 2009, government authorities publicly accused major TV news network Globovisión, along with other private television networks that have been critical of Chávez and government programs, of “[media] terrorism,” “hate speech,” and possessing “destabilizing intentions.”⁵³ In August of the same year, the government proposed to reform Decree 6244,⁵⁴ a law highly criticized for criminalizing different uses of new media tools and citizen journalism and establishing more restrictive guidelines for media coverage.

In March 2010, telecommunications magnate and Globovisión President Guillermo Zuloaga was arrested for making “offensive and disrespectful” remarks about Hugo Chávez but was released hours later at the urging of the Organization of American States, an organization on which Venezuela increasingly depends for regional support. In June 2010, authorities issued another warrant for Zuloaga’s arrest concerning “irregularities” in business transactions at a car dealership owned by Zuloaga’s family. Zuloaga soon fled to the US, and reports indicate that he has remained there since.⁵⁵ In the weeks that followed, the Venezuelan government became a minority shareholder of Globovisión, a move that may allow the government to exert greater control over the programming and administration of the network.⁵⁶ After the sale of Globovisión, Francisco “Kiko” Bautista, host of the show “Buenas noches” (Good Nights) and one of its most popular journalists, was fired after airing a speech by Henrique Capriles, former opposition presidential candidate, that violated the channel’s new regulations. In the next 48 hours, a Twitter campaign against Globovisión resulted in the loss of 30,000 followers of the channel’s account.⁵⁷

During his tenure, President Chávez ordered multiple investigations of news website *Noticiero Digital* by the Prosecutor General, due to allegedly false information that appeared in a user comment and an editorial suggesting that a “civil military” coup d’état was on the horizon.⁵⁸

During the latter half of 2010, non-governmental organizations Periodismo Necesario (Necessary Journalism), Espacio Público (Public Space), and the Instituto de Prensa y Sociedad (Institute for Press and Society), all groups that promote freedom of expression and human rights, were placed under investigation by federal authorities because they were the recipients of donations from groups based in the US.⁵⁹ In December of 2010, a bill for the Ley de Defensa de la Soberanía Política y Autodeterminación Nacional (Law on Defense of the Nation’s Political Sovereignty and Self-Determination) was passed by the National Assembly. The law makes it illegal for organizations of this nature to receive funding from international sources.⁶⁰

The IACHR has publicly stated that the closing of radio stations, along with threats of further closures, aggression toward journalists, attacks on media outlets that take a critical stance against the government, and the recent bill of law all represent serious limitations to freedom of expression in Venezuela.⁶¹ Venezuela is member state of the Inter-American

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system and has accepted the jurisdiction of the Inter-American Court of Human Rights. The Court has ruled against Venezuela for its attacks on journalists of private TV networks RCTV and Globovisión,⁶² among other cases of violation of due process and fundamental liberties.⁶³

On January 24, 2010, the Special Commissioner for Venezuelan Affairs and Special Rapporteur for Freedom of Expression of the Inter-American Court issued a joint press release rejecting the closure of cable television channels in Venezuela and requested that the nation's constitutional guarantees of freedom of expression and due process be re-established.⁶⁴ They emphasized that in order for the closing of a media outlet to be legitimate, prior to the exhaustion of due process, an independent and impartial state body must verify that the media outlet committed an offense clearly established by law, and that the agency charged with enforcing the law adequately and sufficiently justifies the decision. In various cases during 2009, television channels that were abruptly taken off the air did not have an opportunity to defend themselves by due process before an impartial authority.⁶⁵

Surveillance

Articles 28 and 48 of the Venezuelan Constitution ensure that each citizen has the right to access and manage information concerning him or herself appearing in official or private records; to request that the court update, correct, or destroy any records that are erroneous or that unlawfully affect his or her rights; and to ensure the secrecy and inviolability of his or her private communications, regardless of their form.⁶⁶

The main laws that regulate telecommunications, data, and privacy are: the Telecommunications Privacy Protection Law; the Organic Telecommunications Law; the Data Message and Electronic Signature Law; the Special Law against Information Crimes; Social Responsibility in Radio and Television Law; and the Public Function and Statistics Law.⁶⁷

The Telecommunications Privacy Protection Law protects privacy, confidentiality, and the inviolability of secret communications; in tandem with this law, the Organic Psychotropic and Stupeficient Drug Law limits surveillance by police to investigation of crimes against the security or independence of the State and requires prior authorization by a judge.⁶⁸

The Special Law against Information Crimes criminalizes “illegal access to systems, interference, signal interception, unauthorized use, sabotage and damage to systems and data, as well as the creation and introduction of viruses.”⁶⁹

Journalists and opposition groups have been attacked and discredited in public statements issued by the state officials, but there has been no evidence of direct surveillance by the government. A 2008 document released by WikiLeaks indicated that Phoenix Worldwide, a US Department of Defense contractor, had sold two million dollars worth of telephone tapping and other electronic surveillance equipment to the Venezuelan government.⁷⁰ There have been no further reports on this development.

ONI Testing Results

The ONI carried out technical tests in April 2011 in Venezuela on two ISPs: the state-owned CANTV and the privately owned Cable Plus. Testing found evidence of one blocked pornography website on CANTV; no other evidence of technical filtering was found.

Conclusion

Although there is little evidence that the Venezuelan government has engaged in Internet filtering, the cases of Fundabit, RCTV, Globovisión, and Noticiero Digital all suggest that the government may promote regulations that will increase information control and self-censorship among electronic media. If reforms to the Organic Telecommunications Law are approved, they may render blogs and news and social networking websites the targets of future information control efforts.

Notes

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