

AGGRESSION CONTROL OPPORTUNITIES IN CYBERSPACE.

AGGRESSION IN CYBERSPACE MAY BE RESTRICTED

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Abstract

The aim of this paper is start a discussion about aggression control opportunities in cyberspace. Today topical problem is not so much the question "How to get information?" like "How to protect information?" and „How to protect oneself from information?“.

The authors believe that the discussion we have proposed would bring us at least one step closer to accepting the new cyberreality.

Key words: *cyberspace, internet, information, aggressiveness*

As the Internet develops, problem „How to get information?“ is increasingly ousted by problems like „How to protect information?“ and „How to protect oneself from information?“.

The question of protecting information is not so much the question of possible hackers' break-in, but rather that of publicising information whose circulation is prohibited by the law. Doubles of Julian Assange can be found in almost every country – in Latvia, for instance, we know Neo, who publicised data of the State Revenue Service, and Leonīds Jakobsons, who published the personal correspondence of Riga Mayor Nils Ušakovs on portal *kompromat.lv*. Several web-based media, including information portals, have recently published private erotic photos of an advisor of the Latvian president. Another, not less topical issue, is protection against information attacks. Commentaries hurting dignity and honour, invasion of privacy, violation of presumption of innocence, disclosure of state and commercial secrets... There was a wide public response in Latvia to the case of „Valentīna“, a 14-year girl. Her classmates swore her on popular social portal *draugiem.lv* for a long time until she was forced to leave the secondary school and to return to the countryside.

Experts in Latvia and worldwide have been long since worried by the unlimited spreading of harmful and illegal web content and the effects this environment may have on the society. Irresponsible and malicious spreading of information, not to mention spreading of disinformation, has become a global problem. Both organised and spontaneously emerging groups cause by their activities in cyberspace tremendous harm to economy, public values, human behaviour standards, decrease the social integration capability of children and youth. According to the study of Lāsma Mencendorfa *Consumption of Internet-based media in different age groups/Interneta mediju patēriņš dažādās vecuma grupās* (Mencendorfa, 2010), 80% of children and youth use computer at home, and 15% of parents are not aware of what their children are doing in the Internet and how close is their contact to violence and pornography. Most of children and youth are active in social networks, maintaining contacts and communicating with others, as well as spending their free time there. This is an environment which, on the one hand, is not regulated, but, on the other hand, it remains anonymous, which means that a user cannot just get and carry information, but can also become its victim. The Internet also gives practically uncontrolled freedom of action to various sociopaths who make up about 4 % of the population, according to general estimates. But the number of their victims is believed to be well above this level. The most specific feature of crimes committed in the Internet

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environment is their latent nature. It is estimated that only some 10-15% of such crimes are reported to law enforcement bodies.

On November 16, 2011, a group of Latvian scientists presented a study *Index of aggressiveness/Agresivitātes indekss*. For several months, they registered aggressive words or words calling for aggression in news commentaries published on Latvia's three major information portals. There were 5% of such comments on the average (it should be added that such aggressive comments are very often related to current political developments, interethnic relations or sexual minorities – aggression is usually spontaneous, unmotivated and avalanche-like, as in the above mentioned „Valentīna's” case). 5% seems a little share only at first glance, yet from the moment of starting the study on May 28 till the end of October word „hang” was used in commentaries more than 500 000 times! It should be noted that commentaries which propagate (and increase!) amorality, cynicism, pessimism and social autism were not accounted in this study...

The large-scale study of the Internet usage habits, conducted by market, social and media study agency *TNS Latvia* in 2011, highlighted the typical features of an Internet user, why and how the Internet is used. As the study results show, a majority of users are so called „communicators” who like to speak and express their opinion. Most of them have only basic education. Our observations also suggest that in recent years Latvian leading information portals have seen a significant drop in numbers of constructive reflexions, which is probably due to the fact that the most intellectual and competent part of discussion participants are reluctant to enter a destructive debate. The Internet elite transfers to local information fields, reducing significantly the social importance of generally accessible sites.

The Internet opens up virtually unlimited opportunities for the implementation of corporate interests. Ilze Lūse in her work *Experience of „black PR” in Latvia/„Melno” sabiedrisko attiecību pieredze Latvijā* (Luse I., 2010) and Madara Vintere in *Public relations as mechanism of creating illusions / Sabiedriskās attiecības kā ilūziju radīšanas mehānisms* (Vintere M., 2011) have repeatedly established the fact of manipulating activities of political technology-driven groups, which also use neuro-linguistic programming. One should also mention the information about the formation of a socially destructive person, which can be found on the Internet.

The potential ideological and social threat of the Internet spreading myths and illusions, destroying the authority of state institutions, discrediting traditional values and democratic ideas is evidenced by the fact that several industrially developed nations have been for years solving problems related to „information weapon” and „information war” on the level of national security institutions. The recent attempts by the authorities of the People's Republic of China and the Republic of Belarus to introduce elements of censorship in the Internet show that there is a need to develop certain international standards for the information circulating on the Internet.

Latvia witnessed several attempts of amending laws, including law *On Press and Other Mass Media*. The amendments provided that, for instance, websites being operated in conformity with the principles set for mass media should be recognised as mass media within the meaning of the law and therefore should be subject to the provisions of the law. Similar attempts have been made in other countries as well, and these attempts have failed too. Yet it would not solve the problem anyway, because various forums, social networks, thematic sites, blogs etc. would not be governed by the law. As the Internet has no geographic borders, legal acts drawn up and passed in one country cannot fight against cybercrimes effectively, being restricted by limits of one particular territory.

Since the *Cybercrime Convention of the European Parliament* took effect in 2004 and the statement on *Envisaging policy of fighting cybercrime* in 2007 was made, which also partly deal with the problem of website content, there was no tangible progress in this field. It should be also mentioned

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that legal precedents of inciting racial, religious or national hatred or spreading children pornography would not provide a systemic solution of this problem.

In our opinion, what makes it difficult to find a solution, is the question of rights to freedom of thought and speech, which belongs to fundamental values of democracy and human rights. Nowadays the Internet is the guarantor of these rights, and the attempts to restrict these rights in any way, including by reducing the significance of the guarantor, would inevitably lead to a legal deadlock.

Article 19.3 of the *Universal Declaration of Human Rights* states that „Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers”. Meanwhile, in Article 19.3 of the *International Covenant on Civil and Political Rights* and in Article 10 of the *European Convention on Protection of Human Rights and Fundamental Freedoms* this freedom of speech standard is supplemented by regulating clauses: „ The exercise of the rights provided for in /.../ of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary. a) For respect of the rights or reputations of others; b) For the protection of national security or of public order (ordre public), or of public health or morals” and „ This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary”.

As may be seen from the Internet practice, these clauses do not work – the principle of proportionality is not applied at all, because the primary postulate obviously dominates the secondary ones, although what prevents the necessary laws to be drawn up and applied?

In our opinion, there are two reasons.

The first one is teleological. The first postulate defines its norms as a priori norms, and the following postulates as derivative norms and therefore being lower in hierarchy, i.e. that should be proven by concrete evidence.

The second one is methodologically causal. Until a common denominator of the Internet and media is not found, the already existing restrictions of freedom of speech cannot be applied to the Internet.

The basics of modern legislation (which in this human rights case apply to the period of the Great French Revolution) have been created in conditions when the rights of an individual had to be ensured against the rights of economically, politically and socially dominating groups. Nowadays the freedoms of an individual and a minority are considered as a corner stone of a democratic society. Yet the emergence of the Internet has changed in principle the contents of the notion of freedom both in an individual's relations with the state or another group and an individual's relations with another individual. It is just an individual's pressure on others (in the case of J.Assange – on an entire group of countries!) nowadays has become a threat to the global *status quo*.

We believe that it is necessary to start a wider discussion about changing the teleological basis of international legislation. We offer to introduce a new legal principle, which would mean weaker protection and stronger restriction – nowadays this seemingly self-evident principle, as may be seen, does not prevent aggression in cyberspace at all. From this principle would arise the notions of *passive rights* and *active rights*, of which the first ones are a priori rights and the second ones are reserved

rights. In this case, passive rights would include the right of privacy, protection of honour and dignity etc., but active rights would mean rights to activities, as a result of which passive rights may be threatened (the active rights are the already mentioned rights *to freely express one's view, to search, receive and spread information*). As regards the use of the Internet, they would set the hierarchy of rights: rights to information confidentiality – rights to searching information – rights to spread information (a more precise word would be to publicise information – and, accordingly, sanctions for illegal publicising). In other words, the rights to protection are above the rights to attack. The right to a safe house are above the right of a neighbour to burn fire in his flat. It means that a person writing in the Internet keeps anonymity until the moment when passive rights of others are affected and law enforcement bodies can identify him/her as having violated the law. Because prior to entering information space its user must undergo compulsory registration, like a citizen in his/her country.

Of course, it entails the risk that representatives of repressive institutions may take action against a democratically-minded user, therefore the implementation of this new approach should coincide with the establishment of a corresponding international institution, the Internet Police. The user would have to register in its domain, and the Internet Police would decide whether to disclose the user's name.

Here an explanation is necessary.

In many countries, including Latvia, we see a rapid development of institutions whose competence include solving cybercrimes, and a coordinating transborder structure called „European Cybercrime Centre” is being established. Yet the aim of all these institutions is to fight against deliberate criminal acts, such as break-ins, fraud, sexual abuse of children. We believe that the notion of cybercrime is to be extended significantly, including not only „heavy crimes”, but also „malicious hooliganism”, which is considered in this article.

We are aware that this possible change in legislation accents and establishing an Internet police with broad powers contradicts, to certain extent, the document adopted by the UN June 3, 2011, which recognised the right to the Internet as one of the basic human rights (by the way, on this day Internets was cut off in Syria, which became a scene of clashed between government and opposition forces). An expert in this field, Frank La Rue, considering a wide range of Internet censorship cases, clearly takes the stand which is contrary to our position: „The Special Rapporteur emphasizes that there should be as little restriction as possible to the flow of information via the Internet, except in few, exceptional, and limited circumstances prescribed by international human rights law. He also stresses that the full guarantee of the right to freedom of expression must be the norm, and any limitation considered as an exception, and that this principle should never be reversed. Against this backdrop, the Special Rapporteur recommends the steps set out below”. A similar document called „Launching the U.S. International Strategy for Cyberspace” was adopted by the US Government in May this year. Actually, the only factor restricting information is rather unclear: „widely recognized illegal behaviour”.

Still, we believe that the discussion we have proposed would bring us at least one step closer to accepting the new cyberreality, without keeping a blind eye on its challenges.

On methodological formula. Transition to information society makes it necessary to set a starting point that would define information as a basic value of the society. It means that we have to find a possibly wider definition of the system, which ensures information circulation function. The notion of „mass medium” (criteria: periodicity, circulation, publisher-editorial-distributor net) as it is understood today is outdated, and the attempts of putting it into the new reality of the Procrustean bed are doomed to failure. The Internet should not be described as a mass medium, as it does not meet any of the above criteria.

Based on this new reality, in which the internet exists as a phenomenon, we propose not to define the Internet using the traditional definition of communication tools, but, on the contrary, to offer a new definition of these tools, taking into account the existence of the Internet.

Thus: a mass medium is any information carrier which contains a message about a fact, an event or an opinion and is accessible for an indefinite number of those taking interest in it (yes, it is also an advertising stand, book, theatre performance, monument...) Therefore, the restrictions included in the laws should systemically apply to any message placed in public information space.

If we include such a definition in the law regulating the operation of mass media, the question of powers of law enforcement bodies transforms from a principal into a technical one – providing for an international agreement on information that cannot be published (e.g. by supplementing the already mentioned European Parliament convention), co-operation in preventing violations, international licensing and responsibility of providers, which would include compulsory registration and would allow to identify violations of the law in cyberspace in time.

Such change in the mass media definition certainly affects the status of journalist as an active participant of a mass medium (let's refrain from notion „professional“). By paraphrasing the famous formula of extending realism by Roger Garaudy, we can speak about „journalism without coasts“ already today, because there is no principal difference between a newspaper commentary and a blog commentary or TV episode or an episode published on an Internet portal. Respectively, it may seem that their authors only differ by the level of mastery. Yet it is not just the case. The feeling by the author of his/her responsibility has also a principal importance – from the trueness of facts to the validity of evaluation. The emergence of an open cyberspace puts the question of ethics in the forefront, and the person that we call journalist has to maintain certain ethical standard regardless of the nature of the information space. Such stand will certainly further the improvement of discussion culture and reduce aggressiveness. This is to say that the development of the Internet does not reduce, but just on the contrary, increases the role and importance of a journalist.

So we come to axiology. If information is not recognised as the key value of the mankind (or at least one of such values), it will inevitably gain importance also as a starting point of the value system. We forecast that in the future the notion of information will be sacralised, and the process of obtaining, processing and spreading information will be something like a divine service, but distorting information (lies) will be considered as a mortal sin. Information, for instance, may be equated with New Testament's Saint Spirit, an invisible, but omnipresent power, which runs through reality and defines its structure. Or – it is the fourth condition of substance and in certain conditions information may transform into solid, liquid, gas or plasma objects or vice versa. It seems that ancient magicians managed all these conditions. Perhaps one day we will learn to do the same, if we manage to stop aggression

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