



# Online debates on the regulation of child pornography and copyright: two subjects, one argument?

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Published on 21 May 2015 | DOI: 10.14763/2015.2.363

**Abstract:** Our study analyses the online discourse related to the failure of two internet policy initiatives in two democratic countries: the German Access Impediment Act (AIA) and the US-American Stop Online-Piracy Act (SOPA). Even though the two policy proposals have different goals, they were both heavily opposed in public and led to online and offline protests. We examined the discourse surrounding the policy debates through a qualitative content analysis of 742 online articles on general and special interest platforms in order to reconstruct the main actor coalitions and narrative patterns. Comparing two national discourses, we find that opponents of the legislation initiatives employ similar arguments. Protests framed the legislation attempts as being incompatible with an internet-specific interpretation of fundamental norms and ideas about freedom of expression. Consequently we argue that the internet can provide a communication forum in which netizen seem to base their positions on a set of transnational beliefs and ideas about internet regulation.

**Keywords:** Child pornography, Copyright, Internet blockings, Content filtering

## Article information

**Received:** 25 Feb 2015 **Reviewed:** 26 Mar 2015 **Published:** 21 May 2015

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**Competing interests:** The author has declared that no competing interests exist that have influenced the text.

**URL:**

<http://policyreview.info/articles/analysis/online-debates-regulation-child-pornography-and-copyright-two-subjects-one>

**Citation:** Berghofer, S. & Sell, S. (2015). Online debates on the regulation of child pornography and copyright: two subjects, one argument?. *Internet Policy Review*, 4(2). DOI: 10.14763/2015.2.363

## **INTRODUCTION: INTERNET REGULATION DISCOURSE AS A CONTINUOUS WORK IN PROGRESS**

Despite the growing importance of global institutions such as ICANN, WSIS or the IETF in internet governance, there is evidence that the nation-state is reasserting its power: authoritarian countries as China and Iran apply sophisticated and highly restrictive blocking and filtering systems. Democratic states employ similar methods in different issue areas and enhance their regulatory efforts by changing media laws in different areas, such as child protection, intellectual property, surveillance and privacy (Deibert, 2009). Such regulation attempts have the potential to raise broad opposition, as could recently be observed in the protests against the Stop Online Piracy Act (SOPA) legislation in the US and the Access Impediment Act (AIA) in Germany.

Both issues, copyright legislation and measurements to deny access to child pornographic material, were examined within specific political contexts. Levine (2012) comes to the conclusion that SOPA failed due to a lack of technological expertise. He stresses the importance of transparency and public access to the draft version of the law and the negotiation status, as major mistakes could only be identified in a larger debate. Bridy (2012) describes the open flow of information between policymakers and the public and shows how the policy process benefited from the leaking of the relevant documents – only this way the necessary expertise from civil society actors could be brought into the debate. She depicts a very controversial discussion and describes how the political system benefited from the wider circle of participants. Breindl and Wright (2013) find that whereas proponents of AIA made efforts to emotionalise the debate, opponents contested the efficiency of the regulations and employed a mixture of principled and practical arguments. Breindl (2013) shows that the network of opponents to the policy initiative was broader and more densely connected than that of its proponents. The opponents' claims also received more media attention than the proponents' statements.

This study compares the two cases, identifies similarities in argumentation patterns and provides general insights about online internet regulation discourse. We argue that the internet provides a forum in which online actors share a set of beliefs and ideas about internet-specific policies and regulations which differ from those of traditional policymakers on the national level. These transnationally shared values are largely anchored in cyber libertarian and cyberutopian discourse of the 1990s and the open source software and hacker culture (Barlow, 1996; Coleman, 2009; Kelty, 2008) and challenge national regulation attempts.

In order to detect these shared beliefs, we compare the online public discourse on SOPA and AIA through a qualitative content analysis of 742 online articles in professional as well as semi and non-professional online publications. We identify actors and coalitions and systematise their arguments. It shows that the internet-based opposition employs similar arguments to protest against the legislation. Thus we argue that these new “actor coalitions” share a set of transnational beliefs and norms which challenge policy ideas on the national level.

## **THEORETICAL FRAMEWORK: COMMUNICATION TECHNOLOGY, POLITICS AND IDEAS**

### **THE POLITICS OF COMMUNICATIONS TECHNOLOGY**

Netizens actively engage in political participation on- and offline – especially when freedom of communication is at stake. As Hands puts it, contemporary digital media networks function as "Moral Machines" (Hands, 2011, pp. 77–99). The imperative is "to maximize communicative action and democracy in protocol design and to ensure the greatest possible network distribution, openness, access and recognition" (Hands, 2011, p. 98). Communications technology and media texts are interrelated components of online discourse. Journalists, average users, designers, programmers and hardware engineers influence its shape. With infrastructural changes, the scope and consequences of political actions have been extended dramatically (Ess, 2009). New qualities are easier transnational communication and lower access barriers, paired with a potentially time- and place-less public sphere. Castells (2009, p. 415) stresses that there is an opportunity "to enhance political participation and horizontal communication among citizens" and describes how citizens form "their own political and ideological constellations, circumventing established political structures, thus creating a flexible, adaptable political field." Traditional forms of participation are complemented by "personalized collective action formation" (Bennett & Segerberg, 2012, p. 769) and a new digital repertoire of contention (Earl & Kimport, 2011, pp. 177–205) emerges. These changes affect media policymaking and offer "valuable resources in challenging the media regime" (Bennett, 2004, p. 142). Ethnographic studies on free software and hacker culture indicate that the boundaries between tinkering with technology and legal tinkering are blurred (Coleman, 2009; Kelty, 2008). Similarly to journalists' heightened awareness when increased restrictions on media freedom are to be imposed, software developers acquire legal expertise when it comes to ICT regulations. Therefore "geeks are in fact nimble legal thinkers" and "information regarding these and other relevant developments is posted widely on IRC channels, mailing lists, and especially Web sites such as Slashdot, Boing Boing, and Reddit (...) form a crucial part of the discourse of the hacker public" (Coleman, 2012, pp. 162–163). This brings in a group of actors who critically engage with their legal surrounding while having the necessary technological expertise to assess the possible impact of the proposed legal changes on online public communication. These actors share a set of beliefs concerning internet regulative issues – favouring openness over restriction. Their beliefs are often centred on a liberal understanding of human rights and on a "civil libertarian" approach to freedom of expression and communication (Peters, 2005, pp. 10–11). We therefore argue that the internet does not only provide a technological network which generally enables communication, but also a public space in which existing norms are reinterpreted, and new norms are developed and passed on.

### **IDEAS AND INTERNET POLICYMAKING**

Freedman (2008, p. 4) points out that "policymaking is a political act in which the underlying assumptions and ideas define policy problems, shape policy debates, and guide policy objectives". Consequently it is necessary to analyse "the objectives, values and norms decision-makers were guided by when they implemented regulation" (Künzler, 2012, p. 58).

Especially constructivist literature has provided valuable insights on how norms affect political behaviour. From a cognitivist perspective, norms are defined as "standards of appropriate behaviour for actors with a given identity" (Finnemore & Sikkink, 1998, p. 891). Norms carry a prescriptive or evaluative quality of "oughtness" that distinguishes them from other rules. While

some scholars argue that morality is always inherent to a norm, others additionally identify functional norms (Wunderlich, 2013, p. 22). Goldstein and Keohane (1993, pp. 12–20) identify three causal pathways through which ideas and norms hold the potential of influencing policy outcomes: (1) Ideas *serve* as roadmaps, they can reduce uncertainty or shift the focus towards moral issues, providing guidance for decisions. (2) Ideas serve as coalitional glue "to facilitate the cohesion of particular groups" (3) Ideas create path dependencies and constrain public policies over decades. Sabatier (1987; Weible et al., 2011) argues similarly: policy participants in political subsystems seek for coalitions to pursue their goals and form advocacy coalitions if they share similar core policy beliefs. The composition of these coalitions is highly dependent on the individual belief systems of the actors within it (Sabatier & Weible, 2007, p. 203).

Following this, we argue that there is evidence for a connection between advocacy coalitions and policy beliefs; while traditional perceptions of advocacy coalitions stress the need for interaction among coalition members (Weible & Sabatier, 2007, p. 128), the internet provides a technological communication environment where new coalitions with a specific set of ideas and values emerge. These shared values are often based in the cyber libertarian and cyber utopian discourse of the 1990s for which Barlow's (1996) "A Declaration of the Independence of Cyberspace" stands exemplarily. Online activists often emphasise the importance of grassroots organisation, non-profit orientation, democratic and participatory structures, and alternative contents (Hintz & Milan, 2011, p. 230). They provide a normative and rhetorical basis for regulation debates which also plays a crucial role within the open source software and hacker culture (Coleman, 2009; Kelty, 2008). We assume that this reverberates in contemporary debates about internet regulation. Regulatory debates can become transnational (for example ACTA), but most of these debates concern domestic politics and take place in a national context. We argue that national debates are influenced by "reverberations" of the transnational discourse on internet related values.

## **TWO FAILED INTERNET-REGULATION INITIATIVES**

The interpretation of abstract ethical concepts is embedded in institutional contexts as organisations, communication networks or national (legal) cultures. Determann (1999, pp. 617–619) concludes in his comparative study on internet regulation that freedom of communication is interpreted differently in the German and US legal systems. While Germany tends to be more restrictive than the US – especially when it comes to restrictions of defamation and so-called "hate speech" – American communication policy is likely to be more open. These regulatory traditions are reflected in our case selection. Despite the differences in the chosen cases – AIA focusing on individual security and child protection in Germany and SOPA focusing on the economic interests of the US content industry – they share a similar end to their legal development. Both policy processes were accompanied by heavy protests and their effective implementation failed. The protests framed the legislation attempts as being incompatible with an internet-specific interpretation of fundamental norms and ideas about freedom of expression.

### **ACCESS IMPEDIMENT ACT (AIA), GERMANY, 2008-2011**

AIA was a policy initiative to prevent the dissemination of child pornographic material ("CP material") by blocking access to websites containing infringing material. It was put on the agenda in November 2008 by the then Federal Minister for Family Affairs, Senior Citizens, Women and Youth (FMF), Ursula von der Leyen. Starting in January 2009, the Federal Ministry

of the Interior (FMI) invited the main German ISPs and branch associations to discuss possibilities to block websites containing CP material and a “Working Group Access Blocking” was founded. The working group’s goal was to establish a co-regulative system, but some ISPs were not interested in joining and others had fundamental legal objections related to liability and constitutional rights. Thus the government decided to pass a special law to enforce CP blocking. It never went into effect and was later withdrawn by a new conservative (CDU) / liberal (FDP) government coalition in December 2010. The issue was polarising, even though there was general agreement among all stakeholders on the objective. The entire policy process was accompanied by public opposition to the blocking plans, mainly driven by actors fearing the introduction of a censorship infrastructure: a “Working Group Censorship” (AK-Zensur) was founded, demonstrations organised and a petition opposing the law was launched - which garnered more than 130,000 signatures and became the most successful petition ever initiated in the German Bundestag.

## STOP ONLINE PIRACY ACT, USA, 2011-2012

SOPA is one attempt among many (see PIPA, ACTA, and CISPA for more) to protect the economic interests of the publishing industry over the interests of the internet economy and users who share media content. It is part of a larger development towards an implementation of more restrictive intellectual property regulations, not only in the US, but also in Europe (Breindl & Briatte, 2013). The principal aim of SOPA was to implement surveillance and blocking systems based on DNS-filtering of foreign domains in order to fight online trafficking in US copyrighted intellectual property. Exceptions were URLs ending in .com, .net, .biz and .org. The law was supposed to distinguish between foreign and domestic forms of "piracy". It seems as though the latter was regarded as less relevant than the former. This proposed legislation faced continuous opposition, with the American Censorship Day in November 2011 and the Blackout Day in January 2012 becoming major discursive events. The Act was finally put on hold in the House of Representatives in January 2012.

## SAMPLE AND METHODOLOGY

To identify policy coalitions, ideas and beliefs, we conducted a qualitative content analysis of online media coverage of the SOPA and AIA policy debates. Our sample includes articles from general and special interest platforms as well as popular blogs specialised on internet topics (see Table 1). The sites were chosen according to their thematic specialisation and relevance <sup>2</sup> We considered only platforms without any paywall systems. A possible ideological or political bias of the platforms was not considered. The articles were identified via keyword-searches in the respective online archives. Additionally internal links were also taken into consideration.

Table 1: Selected articles and platforms

	AIA (Nov. 2008 – Dec. 2011)	SOPA (Oct. 2011 – Jan. 2012)
<b>General interest</b>	SPIEGEL ONLINE (n=72) ( <a href="http://www.spiegel.de">www.spiegel.de</a> )	Washington Post (N=53) ( <a href="http://www.washingtonpost.com">www.washingtonpost.com</a> )
<b>Special interest</b>	CHIP (n=31) ( <a href="http://www.chip.de">www.chip.de</a> )	TIME Techland (N= 32) ( <a href="http://www.techland.time.com">www.techland.time.com</a> )
	Heise online (n=163) ( <a href="http://www.heise.de">www.heise.de</a> )	Wired (N=39) ( <a href="http://www.wired.com">www.wired.com</a> )

	AIA (Nov. 2008 – Dec. 2011)	SOPA (Oct. 2011 – Jan. 2012)
<b>Blogs</b>	Netzpolitik.org <sup>3</sup> (n=220) ( <a href="http://www.netzpolitik.org">www.netzpolitik.org</a> )	Boingboing (N=132) ( <a href="http://www.boingboing.net">www.boingboing.net</a> )
<b>Total</b>	n=486	N=256

The timeframe analysed in the AIA case covered the whole policy process from the first published mention of an initiative against online CP in November 2008, to the withdrawal of AIA in December 2011. We analysed a stratified random sample (n = 486) from the 645 articles dealing with the case. On the other side of the Atlantic, we used the full sample of 256 articles dealing with SOPA between October 2011 (introduction of the draft version of the law to the US House of Representatives), until the end of January 2012 (suspension of the legislative process).

The analysis focused on two aspects: (1) the actors mentioned in the sample were coded manually, then grouped according to organisational affiliation and, finally categorised as either political, economic or civil society actors. (2) To identify and compare the narrative patterns applied by the different coalitions we first summarised all policy-related arguments and then created argumentation clusters by grouping similar arguments which were then titled and categorised. We distinguish three dimensions of arguments which refer to the differentiation of beliefs developed by Goldstein and Keohane (1993, pp. 8–11) for the international policy level as well as Sabatier and Weible (2007, pp. 194–195) for the domestic level.<sup>4</sup> Abstract normative and value oriented arguments concern fundamental assumptions about morals, democracy, internet culture or political culture. Legal arguments point to rules which are codified within the national legal system. They refer to specific laws, the constitution or the need for crime prosecution and imply a meta-reflection of the policy system itself. Policy and procedural arguments are situated on a low abstraction-level. They are highly policy related, refer to economic and technological processes and rely heavily on facts and figures. The complete coding and categorisation process was conducted using MAXQDA.

## RESULTS: COALITIONS AND ARGUMENTS

### OPPOSITION TO AIA: CIVIL SOCIETY, POLITICIANS AND EXPERTS

Civil society actors and associations dealing with internet issues played a crucial role in initiating and shaping the public debate. *AK Zensur* was explicitly founded in reaction to the initiative. It facilitated coordination between activists, bloggers and organisations like the Chaos Computer Club (CCC). Other issue-related opposition groups such as “Victims of (sexual) abuse against internet blocking” (MOGIS, for its acronym in German) or “Parents working in IT Jobs” (*Eltern aus IT-Berufen*) took a position against the legislation initiative. Legal or technology experts, often academics, were invited to committee hearings. Apart from these institutionalised actors, a wide range of bloggers and individuals were mentioned and cited in the debate. The most prominent among them was Franziska Heine, who initiated the online petition against AIA. Parties and political actors also played an important role in the discourse. Initially it was mainly the parliamentary opposition of the Free Democratic Party (FDP, liberal democrats), the Green Party (*Bündnis 90/Die Grünen*) and The Left (*Die Linke*, democratic socialists) whose criticism was published. Over time, more and more social democrats (SPD, social democrats) became sceptical and were depicted as critical of the initiative. From the administration, mainly Data Protection Commissioners were mentioned as opposing AIA. Smaller ISPs like 1&1, Freenet and Versatel opposed the initiative as the only economic actors.

Table 2: Mentions by actors against AIA

Context	Actors against AIA	Mentions
<b>Civil society sphere (557 a.m.)</b>	Civil liberty groups	205
	Individuals, activists, bloggers etc.	202
	Legal/technological experts	132
	Others	18
<b>Political sphere (331 a.m.)</b>	Political parties (302)	
	Opposition parties ( <i>FDP; Bündnis 90/Die Grünen; Die Linke</i> )	160
	SPD (in government at first, then in opposition)	127
	Pirate Party (not in power)	15
	Administration	29
<b>Economic sphere (44 a.m.)</b>	Small ISPs	44

### OPPOSITION TO SOPA: NEW MEDIA ECONOMY, CIVIL RIGHTS ORGANISATIONS, POLITICIANS AND JOURNALISTS

A large part of the represented oppositional actors came from companies like Union Square Ventures (hosting services like Tumblr, Twitter) or Facebook, Mozilla, Wordpress and AOL. They were followed by advocacy groups like the EFF, the Net Coalition (formed by Wikipedia, Google, Yahoo, Amazon, and eBay), the American Censorship Group and The American Society of News Editors. Next in number were the Senate and the House of Representatives, journalists and artists, computer and security experts, scientists, Anonymous and legal experts.

Table 3: Mentions by actors opposed to SOPA

Context	Actors against SOPA	Mentions
<b>Economic sphere (292 a.m.)</b>	Media economy	
	New media industry	269
	Traditional media industry	23
<b>Civil society sphere</b>	Advocacy/Civil liberties groups	209
<b>Political sphere</b>	Bipartisan political actors	113
<b>Public sphere (50 a.m.)</b>	Journalists/artists	40
	Anonymous	10
<b>Legal/technological sphere</b>	Legal/technological experts	47

### ARGUMENTS AGAINST AIA & SOPA: LINKING TECHNOLOGICAL KNOWLEDGE TO FUNDAMENTAL RIGHTS

Actors opposing AIA often focus on technical aspects of the policy implementation and criticise

a lack of knowledge among politicians and the national administration. AIA is considered to be a symbolic act of campaigning on an emotional topic. Even if all adversaries of the policy initiative agree on the fact that the distribution and consumption of child pornography is a crime which should be prosecuted, the political measures are highly contested. Opponents of AIA consider the capability among politicians and the national administration to solve internet-related issues to be low. Netzpolitik.org cites a blog named “Provinzblog” which illustrates this position: “This, to express it moderately, stupid-boorish behaviour of our elected officials shows [...] how incompetent and ignorant the political caste is. [...] The Internet community wonders what politicians actually have a clue about if they even don’t understand such simple things as the inefficiency of blocking child porn sites”.<sup>5</sup>

This is backed by arguments concerning technological and procedural aspects, stressing the ineffectiveness and easy circumvention of the blocking system. Since the blocked material would stay online, most of the opponents prefer a policy option labelled “deleting instead of blocking”. This claim is underpinned by facts and figures. As Markus Beckedahl points out on netzpolitik.org, the Association of the German Internet Industry (eco, for its acronym in German) conducted a study about the efficiency of a “deleting instead of blocking” strategy, and shows that after a complaint, 98% of all the detected CP sites were deleted within one week.<sup>6</sup> These results were widely disseminated. Netizen also generated facts themselves: they analysed blocking lists of other European countries and found proof of overblocking in democratic countries like Sweden and Finland. Technical and procedural arguments are embedded in a normative value-oriented discourse. The creation of a blocking infrastructure is associated with a hypothetical extension of content blocking and perceived as threat to freedom of speech and information and framed as affecting fundamental human rights. Andy Müller-Maguhn, spokesman of the CCC even doubts the intention of the government to advance the prosecution of CP: “This attempt by the federal minister of the interior to create a ‘voluntary’ censorship without any legal basis is outrageous. [...] The issue of child pornography is exploited to introduce a censorship automatism for web pages. This draft shows that the Interior Ministry apparently has absolutely no interest in the criminal prosecution of the perpetrators, but is rather planning a secret infrastructure for censoring websites”.<sup>7</sup> Several politicians did indeed call for an extension of blocking to other legal fields.

A set of value-oriented arguments refer to German constitutional institutions. They focus on legal objections and doubt that AIA is consistent with the constitution, violating constitutional rights such as freedom of expression, telecommunication secrecy and privacy. A Spiegel Online editorial describes AIA in biblical terms: “the power of the investigators from Wiesbaden [where the Bundeskriminalamt headquarter is based], to create blacklists of criminal content is the Fall. For the first time in the history of the Basic Law a censorship-institution would be created by law”.<sup>8</sup> Other arguments are process-oriented and complain about the creation of legal uncertainty (especially for ISPs), discuss the legal competence of the federal government and the consistency and quality of the law.

A last set of arguments focuses on Western political-democratic culture. Blocking internet content is marked as practice of authoritarian regimes. Especially the lack of democratic control within the blocking process is contested. Opponents of AIA also contrast a supposed “net culture”, based on a democratic culture of sharing and openness, with the logic of an “offline culture” trying to tame the “wild internet”. This cyber libertarian perspective proclaims a cultural shift and sees the AIA as a generational conflict and a threat to “fundamental values of the internet”. Ralf Bendrath, political scientist and policy advisor to a Green Party MEP, argues on netzpolitik.org: “This culture war, that has just come to a head, runs between the



representatives of the free information, communication or knowledge society on the one hand and those who are afraid of the new-found freedom and want to limit and fence it in on the other hand. [...] People who have grown up with the internet and other digital culture techniques will insist on living these freedoms. On a political level, we would then also have a demographic shift towards more liberal or libertarian positions”<sup>9</sup>.

Similar to the AIA debate, oppositional arguments concerning SOPA linked technological knowledge to fundamental human rights debates. SOPA opponents often focus on technological aspects, followed by economic problems and questionable political procedures. Many statements point towards SOPA being harmful to cyber security and threatening net neutrality. As Bruce Sterling, a well-known sci-fi author who also published on hacker culture, writes on wired.com: “Censorship of Internet infrastructure will inevitably cause network errors and security problems [...] regardless of whether censorship is implemented via the DNS, proxies, firewalls, or any other method. Types of network errors and insecurity that we wrestle with today will become more widespread, and will affect sites other than those blacklisted by the American government”.<sup>10</sup> SOPA would demand major infrastructure changes which would endanger the universal character of the net and lead to overblocking and collective punishment for single acts of "piracy". Opponents also attested general technological ineffectiveness.

Arguments focussing on economic issues were critical of new liabilities for net business, discrimination of startups and SOPA being a threat to innovation. It was also stated that figures on the impact of "piracy" and presumed economic loss were merely speculative and that politics aimed at defending an old business model. It was argued that an open internet creates more jobs than the traditional content economy and that "piracy" can also be an incentive for buying. Concerning the political process, most opponents criticised the lack of knowledge among pro-SOPA coalitions, that the law was ineffective and badly worded, that politics should not only be made under the pressure of lobbyism and that proponents are prone to hypocrisy because they are ignoring copyright themselves in several proven cases and are in denial of a widespread public opposition.

These arguments are embedded in a normative discourse on the level of political culture, democratic values, ethics and practices that continue to evolve in internet culture. The policy process is labelled as practice of authoritarian regimes and tyranny which would have global effects. Protest is equated with a fight for democracy and against censorship, abuse of power and ubiquitous surveillance. Adam Savage, special effects expert for movies like Matrix and Star Wars, also popular for the documentary series MythBusters, was quoted on boingboing.net as follows: “[The Internet’s] strength lies in its open architecture and its ability to allow a framework where all voices can be heard. Like the printing press before, it democratizes information, and thus it democratizes power. If we allow Congress to pass these draconian laws, we’ll be joining nations like China and Iran in filtering what we allow people to see, do, and say on the Web”.<sup>11</sup> Human Rights aspects play a key role: freedom of speech and free access to knowledge prove for public freedom and humanitarian benefits. These would be at stake with SOPA being implemented. The US would start on a slippery slope towards more censorship which is against the First Amendment and fundamental values of the American Dream. It is further highlighted that "piracy" is a common practice and that a culture of remixing and digital commons needs to be preserved. One major claim is that copyright does not provide an incentive for creative work. Better products come from free exchange, which in turn fosters creativity.

The last group of arguments refers to legal discourse, mainly to the estimated legal uncertainty.

On wired.com, David Kravets states that SOPA would give “private companies the ability to defund websites they alleged to be trafficking in unauthorized copyright and trademark goods – without having to get a judge’s approval”.<sup>12</sup> There are also constitutional objections and another major claim is that existing laws are sufficient to solve the conflict.

## DISCUSSION AND CONCLUSION

The protests against SOPA and AIA are accompanied by a discourse that sees internet-specific legislation which interferes with existing technological protocols as danger to fundamental freedom of communication rights. Universalist principles of democratic societies are reflected in principles of network design. The latter is in turn used to back arguments against restrictive measures and legal initiatives which could hinder a free flow of information.

In both cases they argued with similar technological consequences: the legislation would impose major changes on the infrastructure and security of the internet, endangering its functionality. Many were anxious about the implementation of a blocking infrastructure; this argument was linked to the conviction of a tendency towards a slippery slope to extended restrictions on freedom of speech, freedom of opinion and freedom of information. Their discursive authority was mainly constructed through technological expertise, linked to assumptions on the impact of the legislation on civil rights and democratic discourse. The protests were framed as a fight against censorship and abuse of power and for democracy and civil liberties: in both cases, opponents point to technological ineffectiveness and the risk of “collateral damage” like overblocking, which threatens freedom of speech and information. This supports our presumption about the internet functioning as a *Moral Machine* in which a self-reflexive discourse about regulation takes place and influences the policy outcome. Similar argumentation patterns indicate an internationally shared set of ideas and symbolic repertoire among netizens involved in internet policy debates – which is rooted in the politics of the technological artefact.

This has further implications: the comparison of AIA and SOPA shows that similar argumentation patterns are employed to defend the openness of the internet no matter what the actual regulative issue is. This leads to the question of whether these arguments and objections are arbitrary or – as we suppose – are of fundamental nature. The failure of the policy initiatives furthermore indicates that policymakers urgently need to integrate the web community and technology experts into the political process to avoid ineffective policy measures and to raise the legitimacy of the regulatory process itself.

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## FOOTNOTES

1. The term “netizen” is used in this context to refer to avid internet users who actively participate in networked political discourse online and who are interested in improving the internet, especially when it comes to questions of free speech or open access to information. It was originally coined by Michael and Ronda Hauben in 1997 as an abbreviation for “Net Citizen” and depicted a status of global networked citizenship.
2. The relevance of the selected sites was defined through their audience reach relying on [www.alexacom](http://www.alexacom) and [www.ivw.eu](http://www.ivw.eu).
3. Netzpolitik.org played an important role for the mobilisation and the dissemination of information among activists opposing to the AIA initiative. It can be seen as a hybrid between actor and medium. It was included in the sample because (1) the line between activism, journalism and advocacy is generally blurry within the blogosphere; (2) it is one of the most highly recognised technology blogs in Germany; (3) it covered and documented the whole policy process and the different positions within it in a comprehensive way.
4. Considering the limited space available for this article we refrain from reproducing the two conceptions in depth.
5. Möller, Simon: “Die CDU vergrault die Digital Natives“. Netzpolitik.org, May 11, 2009 (translation by the authors).
6. Beckedahl, Markus: “Eco: Löschen funktioniert zu 98%“. Netzpolitik.org, September 01, 2010.
7. Krempl, Stefan: “CCC veröffentlicht Vertragsentwurf zum Sperren von Kinderpornographie“. February 13, 2009 (translation by the authors).
8. Darnstädt, Thomas et al.: [freiheit@unendlich.welt](http://freiheit@unendlich.welt). Spiegel Online. September 22, 2009 (translation by the authors).
9. Bendrath, Ralf: “Der Kampf der Kulturen“. Netzpolitik.org. April 23, 2009 (translation by the authors).
10. Sterling, Bruce: “Internet engineers don’t like PIPA and SOPA“. Wired.com, December 15, 2011.
11. Doctorow, Cory: “Adam Savage on SOPA: ‘We’re better than that.’“ [boingboing.net](http://boingboing.net), December 21, 2011.
12. Kravets, David: “Lawmaker Waters Down His Online Blacklisting Bill.“ Wired.com, December 12, 2011.