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MULTISTAKEHOLDER INTERNET DIALOG

CO:LLABORATORY DISCUSSION PAPER SERIES NO. 1

#4 Human Rights and Internet Governance



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#4 Human Rights and Internet Governance

BROADENING YOUR MIND.

A publication by the Internet & Society Co:llaboratory e.V.

Editor · **Wolfgang Kleinwächter**

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PREFACE

The Steering Group of the Internet & Society Collaboratory

Martin G. Löbe, Dr. Philipp S. Müller, Ulrike Höppner, Dr. Max Senges, John H. Weitzmann

As an open collaboration platform and community of practice, the Internet & Society Co:laboratory brings together experts from all areas of society to contribute to the public debate on solutions to societal questions around the internet - in Germany and beyond.

Through the publication of the Co:laboratory Discussion Papers, we offer thought leaders a platform to introduce innovative and constructive arguments, develop these in a dialogue with other stakeholders and consequently impact societal discourse. The Co:laboratory Discussion Papers are modern-day pamphlets. At the center of the publication is a poignant and thought-provoking proposition. Selected stakeholders from civil society, academia and the technical community, the private sector as well as government and parliament, are then invited to contribute responses.

This volume focuses on the struggle for freedom of speech and human rights on the internet, an area which is - at the latest since the Arab Spring - at the foundation of today's discourse. More and more actors are seizing the opportunity to shape the global network according to their respective interests and value systems. The internet, which emerged from a specific cultural sphere incorporating liberal (technical) values, and its governance are becoming truly globalized. But this implies that cultural differences become more apparent and the limits of freedom of speech are challenged around the world. Therefore, the governance question is not merely technical but also political, and hence require innovative and value-oriented solutions. Today, we are facing an ever growing internet governance challenge and we will have to take it up!

Thus, we should strive to find modes of governance allowing us to address the technical and cultural challenges of our complex and interdependent online and offline lives, if we want to seize the opportunities for a brighter future of humanity. The Co:laboratory Discussion Papers are meant to contribute to a transparent, innovative, controversial and fact-based discourse about the future of the internet and society. Internet policy affects all of us, and thus its processes should involve as many stakeholders as possible. Please visit us on our website, get involved in our collaborative experiment, read further analysis and join the debate.

EDITORIAL

Prof. Dr. Wolfgang Kleinwächter

In May 2011, the UN Special Rapporteur Frank La Rue presented his report on freedom of expression and the Internet to the Human Rights Council. Since that, the human rights dimension of Internet Governance was discussed in a much greater detail than ever before, inter alia at the 6th Internet Governance Forum in Nairobi (September 2011), the Ministerial Conferences in London (November 2011), The Hague (December 2011), Stockholm (April 2011), EURODIG V (June 2012), Berlin (September 2012) and Budapest (October 2012). In all the discussions there is one overriding consensus: In the 21st century, access to the Internet and the free use of its opportunities is a fundamental human right. This is now also reflected in a growing number of international instruments, adopted by governments in the UN and other inter-governmental bodies.

In September 2011, the 47 member states of the Council of Europe gave human rights priority in its “Declaration on Guiding Principle on Internet Governance” when the ministers agreed in Principle 1, that

“Internet governance arrangements must ensure the protection of all fundamental rights and freedoms and affirm their universality, indivisibility, interdependence and interrelation in accordance with international human rights law. They must also ensure full respect for democracy and the rule of law and should promote sustainable development. All public and private actors should recognize and uphold human rights and fundamental freedoms in their operations and activities, as well as in the design of new technologies, services and applications.”

In July 2012, the Human Rights Council adopted a resolution on “the Promotion, Protection and Enjoyment of Human Rights on the Internet”. The resolution affirms (a few months after an expert group of the Internet & Society Collaboratory concluded identically) “that the same rights that people have offline must also be protected online, in particular freedom of expression, which is applicable regardless of frontiers and through any media of one’s choice”, and it calls upon all states “to promote and facilitate access to the Internet and international cooperation aimed at the development of media and information and communications facilities in all countries” and encourages “special procedures to take these issues into account”.

Recently, the Berlin Conference on “Human Rights and the Internet” (September 13 – 14, 2012) took this discussion one step further and added more detailed and practical proposals how the existing human rights framework can be more efficiently implemented if it comes to the adoption of new Internet-related national laws and intergovernmental treaties, the development of new Internet standards and protocols as well as to the introduction of new hard- and software Internet technologies, services and applications. The 28 “Messages from Berlin”, which will be distributed during the forthcoming 7th IGF in Baku (November 2012) with recommendations for governments, the private sector, civil society and technical community are good guidelines on how to move from statements to actions.

One thing is for sure: today, developments in Internet governance and Internet technologies impact human rights, especially the freedoms of expression, association, information and privacy. These human rights, which have been established through the Universal Declaration on Human Rights (1948), the International Covenant on Political and Civil Rights (1966) and many other treaties, covenants and declarations, involve obligations on all governments and apply to all people using the Internet as well as when involved in other human activities. However, the effects of those Internet technologies and the governance of the Internet can be positive, by enabling people to exercise their rights more easily, but can be also negative, by assisting in the violation of people’s rights.

What we need to do is to develop more concrete procedures for a human rights impact assessment on Internet technology and governance in order to make sure that we can maximize the positive effects while minimizing the negative effects. As the Internet’s effects on human rights vary over time, we need to periodically do impact reassessments. Such a human rights assessment will be most effective if it is done in a multi-stakeholder environment, where governments, civil society, the private sector and the technical community are working hand in hand to enable citizens to enjoy the individual rights and freedoms and to keep the Internet open, free, secure and borderless. At is should not be forgotten, that rights and duties, freedoms and responsibilities are two sides of one coin.

It is in particular the borderless nature of the Internet which makes the protection and guarantee of human rights in the information age a challenging task. When the mothers and fathers of the Universal Declaration of Human Rights drafted Article 19 in 1948 and added that “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” they could not imagine that half a century later there would be a technology available which does indeed not know the frontiers of time and space.

We all know that Article 29 of the Human Rights Declaration and in particular the Human Rights Covenant of 1966 puts the individual human rights into the context of national sovereignty. National sovereignty is executed within the borders of a national jurisdiction, controlled by a national government. In a bordered world different understandings of freedom of expression – according to national traditions, culture, history and law – can coexist when we practice mutual respect and tolerance. But mutual respect and tolerance is needed in a much broader way in the borderless cyberspace where clashes of different cultures are nearly unavoidable. It is certainly true that there is no absolute freedom. There are situations where other human values need also protection which could – on a case by case basis – justify legally based restrictions. But such restrictions have to be laid down via the rule of law and in cases of conflicts there is a need for due process and judgment by a neutral third party. But one thing is for sure: restrictions have to be the exception, the rule is and has to remain the guarantee of the individual right of freedom of expression.

We do not have an alternative to an enhanced peaceful dialogue about human rights and freedom of expression in the information age. We have to have this dialogue across national, cultural, religious and historical borders - and we need to remember “that the same rights that people have offline must also be protected online”.

PROPOSITION

**SHIRIN EBADI, IRAN,
2003 NOBEL PEACE PRIZE**

INTERNET AND HUMAN RIGHTS

Shirin Ebadi, 2003 Nobel Peace Prize, Iran

Freedom of speech is the first step to democracy. Unless a nation is free to express its demands and ideas, how can it achieve its desired society? Hence respecting the freedom of speech has been emphasized by the Universal Declaration of Human Rights as well as the International Covenant on Civil and Political Rights. However, unfortunately non-democratic regimes have always been ignoring this fundamental right of the citizens, by imposing restrictions and censorship, thus many writers and journalists all over the world lost their lives or experienced prison solely for the reason of writing and informing.

Governments try to keep people uninformed and control their social behavior through censorship. In North Korea for instance, shortwave transistor radio is banned, since it would enable the citizens to listen to the news from other news channels. The governments' fear of information is due to social reactions; additionally I could point out the massacre of the 1980s in Iran, when in less than three months, about twelve thousand political prisoners were executed and due to the strict censorship which was dominating in Iran, the news of this vast crime did not reach the people of Iran. Only later on, when the families and the survivors could leave Iran, the public got informed about this tragedy. Luckily, ever since the invention of the internet, censorship has lost its effects to some extent. Only with a push of a button, the whole world will be informed about an event within a couple of minutes, keeping the dictators awake at night, since the technology destroys the shaky foundation of their powers more than ever.

Once people are informed about the events, they will not stay indifferent and will claim their rights and hold their governments responsible. In 2009, after the presidential election in Iran and in protest against the results, millions of Iranians took to the streets peacefully in order to express their disapproval. The government's authorities started shooting at unarmed people; a bullet

hit a young woman's heart named "Neda", she fell on the ground and died before arriving at the hospital. This event was recorded by a passerby on a cell phone. The release of the video on-line led to strong public protest on both national and international levels. This demonstrates that the death of one individual could draw the attention of the world to the government's cruelty and brutality more than the execution of twelve thousand political prisoners.

Another important aspect of the internet is the creation of virtual communication networks. While non-democratic governments fear people's unity, shaping of communication networks, syndicates and organizations, and therefore try to hinder the creation of such organizations by all means necessary, the internet has come to the rescue, and social networks such as Facebook, Twitter, etc., have enabled the communication between people.

People's uprisings in the Muslim Northern African countries, which is called "Arab Spring" by some of the Western media, also relied on the internet. Once the people of Tunisia, Egypt and Libya got informed through the internet about the crimes that their governments had committed, they united and overthrew the dictators. This is the reason why after the uprising of the people in Syria, the most help from the western countries to Bashar Assad's opposition was sending communications equipment, so that people could stay connected with each other and inform the world about Assad's crimes.

For all the impact of the internet on people's awareness and consequently on spread and improvement of democracy, non-democratic governments are not sitting still, and with slowing down connection speed, filtering or cutting off the internet, they try to decrease the positive effects of communication technology. In Iran for instance, many of the news websites and websites related to women's rights have been filtered

and every time the Iranian people protest against the corruption or wrong actions, the internet gets cut off in most parts of the country for a while. Luckily, the Iranian youth have learned various ways for bypassing the filters and accessing the internet. Every time a website became filtered, a couple of days later - with the help of anti-filters which are spread among the people - they accessed that website again, or a new address for the filtered website would be announced. For instance, until this day, twelve addresses have been created for the 'One Million Signatures' website (a campaign for the repeal of discriminatory laws against women). It is for the reason of such restrictions, that the organization Reporters Without Borders named Iran as "2010 enemy of the internet". However, this has not been unique to the Iranian regime, we observe such approaches in many other countries as well. For this reason in 2011 the United Nations have announced that access to the internet is a human right and any regime who tries to prevent this right through any means has violated Human Rights.

Since the structure of the United Nations, especially the United Nations Human Rights Council, is in a way that does not have significant operational powers, such a declaration in the world's current political situation can be only considered as a moral recommendation and warning for the regimes which survive on people's unawareness. It could be considered as the first step towards the stabilization of access of people around the world to the internet.

Another aspect that should be taken into account is the "digital gap" that exists between developed industrial nations and the less developed countries. In European countries, the United States and Canada there is one computer available for every two person. However, this number is much lower in other countries, including some African countries where for each two thousand people there is one computer. In such cases, in addition to the problems caused by the governments, economical poverty prevents people's access to the internet. This digital gap will soon turn into a cultural and information gap as well. Therefore it is necessary that by designing international regulation, the industrially developed nations are required to assist the southern countries in their attempt to access the internet. Through investing in these countries, they can help producing cheap computers and make them accessible

for everyone, especially teenagers and students. What the United Nations have backed and declared, is that access to the internet is a human right, which is actually an ethical recommendation, and the ways to implement it should be established; likewise the regulations in support of working teenagers have been approved by the United Nation, and the ILO (International Labour Organization) is responsible for implementing them. Finally, it is worth mentioning that the internet has already opened many doors. However, many people around the world are still behind these doors and do not benefit from its advantages. We should think of a mechanism to enable everyone to profit from the internet without limitations and discriminations. It is our responsibility to work towards reaching that day.

*Translation by Mana Taberi,
Humboldt University Berlin.*

RESPONSES

**STAKEHOLDERS GOVERNMENT &
PARLIAMENT**

INTERNET IS THE NEW FRONTLINE IN THE WORK FOR FREEDOM IN THE WORLD

Carl Bildt, Minister for Foreign Affairs, Sweden

The age of the information society bears a potential that we have only begun to fully understand. Information and communication technologies (ICT) have become vital for the essential functions of society, vital for the health and benefit of our citizens and for the safeguarding of our democratic values.

The internet has indeed also become a catalyst for the development of the international system. Bilateral diplomacy once served as the basis for the development of multilateral diplomacy when setting up our international organisations. Now, in the internet era, we are entering a phase of multistakeholder diplomacy, where governance of the internet has to be resolved together with all stakeholders. Many fields of international law place the emphasis on individuals rather than states. Likewise, the benefit of the internet has been particularly utilised by creative individuals and businesses, not states. Thus, multistakeholder participation in internet governance is of paramount importance. Without it, this crucial creativity and interaction will disappear. And, in this respect, the Internet Governance Forum (IGF) is a good case in point.

I have been clear on this point before: the internet is the new frontline in the work for freedom in the world. This is why internet freedom is a cornerstone of Swedish foreign policy. The fundamental principle of internet freedom is that the entitlement of all individuals to enjoy human rights also applies to the internet. In July this year this seemingly simple but, until then, far from uncontroversial principle was affirmed by consensus in the UN Human Rights Council's Resolution 20/8. The broad support for the resolution illustrates that the free flow of information on the internet is a global call and not something pushed for by only a few Western states. This call must be echoed in all fora where internet issues are discussed, including the IGF. The IGF was created as a global platform for broad discussion on the subject of the internet, its current

challenges and its future prospects. Over the years, as the IGF has toured the world from Athens to Baku, a few observations can be made. The first is that the global debate on internet issues has certainly maintained its relevance and importance. As the internet has become accessible to millions of new users, they too need a place in the discussions on how the internet should be run. The second important observation is that the debate in the IGF today – to a much larger extent than in its early days – focuses on how to maintain the internet's basic features of accessibility and openness. This trend is certainly welcome, and I believe an even further deepening of a human rights perspective in the IGF would be fruitful.

An uncensored, free and open internet is a key condition for economic, social and political development. The fact that the governance of the internet has been left outside the exclusive control of governments has been key to its success. However, there are those who question the current internet governance model. We should certainly reflect upon how the current model can be improved, in particular how to more effectively include internet users in the developing world. In addition to this, it is central for us to maintain the core of the governance model: it should remain a multistakeholder process, where effective participation should be ensured for all relevant stakeholders. Otherwise, we would certainly risk hampering the economic potentials of the internet – not least for the developing world. On this point we should be clear; the future of the internet is not to place more responsibility in the hands of governments. This is a point of departure that should be kept in mind as we prepare for several important international meetings in the near future, such as the WCIT conference in December.

As we promote freedom on the internet, we must also address security of the internet. Protecting the digital flows and our digital systems is key to the onward

success of globalisation. We should also recognise that an increasingly digitalised society leads to increased vulnerability, for individuals, businesses and states alike. Security in an increasingly interconnected world will, to a great extent, revolve around protecting “flows” of different kinds. Cyber attacks, cyber espionage and cyber crime are no longer tales of fiction and these risks and vulnerabilities need to be addressed. Today, this also implies challenges as our traditional tools of addressing these risks have yet to adapt to the global and boundless nature of cyberspace.

In taking on these challenges, we must begin by engaging in an international discussion on norms of responsible state behaviour – state-to-state behaviour as well as state-to-individual behaviour. Despite the particular character of the internet, our established international criteria and legal frameworks do not change. The basis of such a discussion is that existing international law is applicable and that universal values of human rights, democracy and the rule of law guide our dialogue on norms in cyberspace.

It is of utmost importance that we do not let legitimate reasons of security create pretexts for authoritarian regimes to restrict individuals’ freedoms and human rights. We do this by not separating issues of security from issues of freedom, and by clarifying what we mean by security as well as freedoms. In a modern world, the security of the individual, the rights of the individual and the needs of the individual are put at the centre. Security is needed in order to safeguard our core values of democracy such as freedom of expression, openness, the right to privacy and the rule of law. This is not done by silencing the very same people that states are obliged to protect. In fact, a free and secure flow of information contributes to global democratisation and creates long-term international security. Democratic and open societies are vulnerable by nature but simultaneously much more resilient than non-democratic societies. In other words: freedom and democracy enables security. At the same time, security is necessary to protect freedom.

There are clear links between internet freedom, security, trade and development. For instance, a secure and reliable internet enables free and open trade and supports business opportunities. And approaching cyberspace policy holistically is necessary in order to enhance the benefits of the internet for all stakeholders and for all

countries. The Human Rights Council has taken a landmark decision, and this is one important step in operationalising our most important principle. Namely, that the same internationally established rights that we enjoy in the offline world also apply in the online world. However, we still have more work to do, on a broader front and in other fora. Only by recognising that democratic governance is key to maintaining freedom, security and development will we be able to tackle the challenges of tomorrow.

Sweden will continue to advocate an open, global, secure and viable internet where individual freedom and security are put at the forefront so as to create the best possible conditions for true development. And we will do this in multiple fora. Our vision is for the EU to adopt a comprehensive cyber space strategy that embeds the fundamental values of the European Union in its internal and external cyber policy and enables the EU to strategically tackle the area. And in the UN, we will build on the work done in Geneva as we increase our efforts in New York and in the General Assembly. In this work, we will continue to forge strategic alliances as we confirm our very basic but firm principle: our rights in the offline world are equally applicable in the online world.

DIGITAL FREEDOMS AND HUMAN RIGHTS IN A HYPER-CONNECTED WORLD

Marietje Schaake, European Parliament, Netherlands

A selection of different developments around technologies and human rights remind us of the vast scope of these emerging crossroads. A video clip posted online causes violent responses and a debate on whether or not to limit free speech. The EU and US are major exporters of digital arms, technologies used for the most serious repression of people.¹ Women in Egypt use apps on their mobile phones to map which neighbourhoods are safe and where attackers loom. Governments and telecom companies are fighting to regain control over people and markets online.²

Technologies and internet access have drastically changed our world, creating both exciting new opportunities and troubling developments. However, while technologies have changed a lot, universal human rights still need to be protected. The question is how to do this in a hyper-connected world.

According to our treaties, human rights need to be both protected and promoted by the EU.³ But the EU can only credibly protect and promote digital freedom if we have our own house in order.⁴ Through mainstreaming the role of technology in EU trade, security, development and foreign policies the EU can fully leverage its power and act as a global player. We need to more closely align interests and values, and put people first also when working on policies on the role of technologies.

Digital Freedom: the internet as enabler of human rights

Access to the internet is increasingly enabling fundamental rights such as freedom of expression and assembly, access to information, and also the documentation and sharing of human rights violations. Digital freedom is now a fundamental right - also recognised by the UN Human Rights Council⁵ since last summer. This recognition came after the events in North Africa and the Middle East, although the WikiLeaks phenomenon must also be credited with awakening the world to the possibilities of technological developments.

Possibilities for people to assemble online and to access information are countered by new possibilities for authoritarian regimes, who seek to regain control over vocal and empowered populations with the help of the same technologies. Increasingly, mass-censorship, mass-surveillance, monitoring, tracking and tracing of dissidents are among the standard toolkits of repressive regimes. But in the eventual aftermath of the Syria crisis, the collection of evidence and dissemination of images of human rights violations can also contribute to the fight against impunity. Technologies are a double edged sword.

Double-edged sword

Many human rights violations now often include a technology component. Prisons are populated by dissidents confronted with their own (private) internet and mobile communications, compromised by the authorities. Iran continues the building of an electronic curtain, which eventually will cut off the Iranians from

1 <http://www.bloomberg.com/video/79229672-mep-discusses-suppressive-use-of-technology-oct-31.html>

2 http://www.huffingtonpost.com/marietje-schaake/stop-balkanizing-the-internet_b_1661164.html

3 Article 21 of the Treaty on European Union.

4 <http://www.rnw.nl/english/article/clinton-and-rosenthal-should-practice-what-they-preach>

5 <http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/G12/153/25/PDF/G1215325.pdf?OpenElement>

the World Wide Web through the creation of a 'Halal internet'. China is similarly cutting its citizens off from the open internet by means of a mighty electronic fire-wall. In Syria, a monitoring centre was built for Assad's Electronic Army, an arm of government now on both the EU and the US sanction lists.

Export restrictions

It is not only the parties accused of violating human rights in Syria and in Iran that are subject to restrictions, but also the tools with which these governments repress.⁶ In January 2012 the EU restricted the export of ICT tools used for monitoring and tracking of Syrians online, intercepting mobile communications and censoring the internet. The campaign for sanctions of this kind has existed since the 2009 Green Movement in Iran. EU policies have been too slow in response to grave human rights violations. Additionally, by the time 'ICT sanctions' entered into force in January 2012, it had been almost two months since the EU Foreign Ministers announced them. The gap between announcement and implementation of sanctions should be narrowed so that those impacted cannot make alternative arrangements.⁷ And there is more the EU should do to make sure policies are credible. We should not resort to ad-hoc measures, like in the case of Syria and Iran, but establish a comprehensive and general export regime for digital arms.

Credibility

We learned that EU companies are still providing ICTs, technologies and operational support to repressive regimes and their (state) agencies and companies. Human rights defenders deserve EU support and, in any case, should not be targeted with tools and technologies developed and exported from within the EU. To prevent this from happening, we could implement an early warning mechanism that alerts to the export of technologies by European companies to regimes that systematically abuse human rights. By performing

human rights impact assessments in the research and development phase of technological products, we can sooner identify the possible threats to human rights emerging from innovations and new products and services.

The context in which technologies are used is important here too. While building in a technical capacity for 'lawful intercept' is required by EU law, technologies with a technical 'backdoor' are used to permanently trace dissidents in countries where the rule of law does not exist. In a globally connected world, we should look more closely at the hands into which technologies fall. Companies should focus on implementing the 'know-your-end-user' principle, which is an element of corporate social responsibility.

Governments cannot operate alone in an online environment where companies own and develop most of the technologies and services. However, the primary responsibility to protect human rights lies with governments. Companies are only accountable to their shareholders if at all. Instead of over-regulating the internet or coming up with new laws, it is often a matter of ensuring competition, human rights and trade licenses are adequately applied.

Internet and Development

But beyond ensuring that technologies are used for liberation and not repression, we must consider inclusion in the discussions on access to internet. There is a digital divide between the 'haves' and the 'have nots' of internet access in the world today. The EU, as the world's biggest provider of development assistance, has the opportunity to foster rapid progress. Building and installing basic ICT infrastructures to provide access to knowledge and information is one example of how this divide can be bridged.

The EU can enable (online) education in remote areas by developing and providing inexpensive wirelessly connected tablets. In the first critical hours after natural disasters or during humanitarian crisis, ad hoc emergency telephone and internet connections should be set up. ICTs can also be an essential asset for effective (citizen) election monitoring.

The more important the use of ICTs becomes in developing countries, the more important it is to protect digital freedoms in a structural way. As the EU

6 <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+OQ+O-2011-000294+0+DOC+XML+V0//EN&language=EN>

7 <http://www.marietjeschaake.eu/2012/07/blog-the-empty-reality-of-eu-syria-sanctions/>

is investing in the process of democratic transition, it should also prioritise the enormous impact ICTs can have on creating more accountability and good governance. For instance, the mere act of posting the budget of a state online can reduce the opportunities for corruption.

Besides providing for direct investment and development through funding, the EU should share knowledge and make digital freedom a condition for aid. EU regulators or regulatory experts should engage with their counterparts in twinning projects to share knowledge. Embedding basic rights principles in new (media) legislation is an essential safeguard and should prevent undesired and restrictive laws such as Egypt's current ban on encryption. New laws can have unintended effects on human rights that newly or first time-elected parliaments or governments are not necessarily aware of.

Leadership

As people worldwide connect to online services, they transcend traditional borders of nation states, and defy traditional concepts of jurisdiction. New technologies and the internet have proven powerful forces of change, innovation and civil empowerment. But they also affect concepts of security and morality – domains traditionally closely linked to nation states and not yet adapted to the new global lack of borders.

We must critically assess the real impact of internet freedom policies to constantly monitor whether initial policies have the desired effect. To monitor and develop relevant policies, more knowledge about the impact of technologies in societies and on people across the world should be brought in at the government level. As technology is developing so rapidly, it is essential to promote structural collaboration between politicians, business and civil society. Indeed, such ongoing equilibrium may be what best serves the open global internet, to everyone's benefit. But just because the open internet has developed organically through a multi-stakeholder process does not alter the necessity of leadership to protect that very process and open nature.

The EU should take the lead in globally promoting and protecting digital freedoms.⁸ Besides being the world's largest trade block, the EU is also a community of values, which in turn should provide the basis for all our external actions. Only by synergising our trade, security and foreign policies, and by aligning our values and interests, can the EU fully leverage its power and act as a global player.

8 <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+COMPARL+PE-491.252+01+DOC+PDF+V0//EN&language=EN>

INTERNET FREEDOM - AFRICA'S CHALLENGES AND OPPORTUNITIES

Alice Munyua, Government of Kenya

An open and free Internet is a key means by which individuals and communities can exercise their right to freedom of expression, association and assembly.

In recent years, Africa has witnessed a steady growth in Internet usage, with an estimated 140 million users now connected. Increased popularity of mobile phones to access the Internet, and social media as a communications sphere, are enabling more Africans to get connected for various purposes. These include the sharing of information, communicating with friends abroad, mobile banking, fighting corruption, lamenting poor service delivery, and calling attention to conflicts. Despite this increase in access and usage, there are still major gaps that exist. Broadband in particular remains expensive, slow and in many cases unavailable. The reasons for this include a lack of reliable electricity, high operation and maintenance costs of infrastructure, and poor security against vandalism, as well as high spectrum and license fees.

Many Africans still have to learn to consider access to the Internet a basic right and the United Nations' resolution of Internet access as a basic human right is still difficult to relate in a continent that is still grappling with challenges as fundamental as poverty, health, infrastructure, unemployment, civil war and natural disasters. The relationship between the Internet and human rights is also complex. Vint Cerf argues that the Internet is a technology and therefore an enabler of rights rather than right in itself.¹ The Internet, he argues, should be considered among the things needed to lead healthy, meaningful lives.

Enduring innovative solutions have begun to emerge from the region to address the various development challenges, and we are able to witness the trans-

formative potential of the Internet which, with applications ranging from mobile banking to the provision of free education, agricultural know-how and health related information, can serve to improve people's lives. Additionally, several African countries have e-government frameworks and policies that are an acknowledgment of the role of the Internet to enhance public service delivery. The Internet has enormous potential to contribute to social, economic, cultural and human development in Africa and there is therefore a real need to enable its availability, access and affordability.

Some governments are, however, reacting to the increased influence and power of the Internet with methods of control that are becoming more sophisticated, according to the Freedom House 2012 report. This includes, for example, surveillance and new laws restricting user anonymity, free online speech, violations of user privacy, and punishment of individuals who post content deemed objectionable or undesirable. In most cases, the push towards control is an attempt to retain sole access to revenue, and retain ultimate control.

The Freedom House report also notes that some governments are over-zealous in focusing on the problems, real or hypothetical, and, in their over-zealousness, hamper the opportunities of the Internet by placing caveats on the openness and the range of freedoms citizens can enjoy. In a number of countries there have been curbs on Internet rights in the interest of security, arrests of bloggers and orders to Internet intermediaries to pull online content deemed to be hostile or critical to the government.

The push by many governments to curtail freedom of expression and information, while at the same time trying to harness the Internet in the interest of promoting economic development, is a great dilemma. It is difficult and not worthwhile to attempt to distinguish

¹ New York Times of 4 January 2012. http://www.nytimes.com/2012/01/05/opinion/internet-access-is-not-a-human-right.html?_r=3&nl=todaysheadlines&emc=th212&

online freedoms from the freedoms we enjoy in the physical world, or to try to keep the Internet open for economic purposes but closed for free expression and political engagement. As US Secretary of state Hillary Clinton notes (2011), “There isn’t an economic Internet and a social Internet and a political Internet: there’s just the Internet.”

The report of the United Nations Special Rapporteur on Freedom of Expression and Opinion on the right to freedom of opinion and expression exercised through the Internet presented in June 2011 to the Human Rights Council (HRC), and HRC Resolution A/HRC/20/L.13 of July 5, 2012 on “the Promotion, Protection and Enjoyment of Human Rights on the Internet” affirms that the same rights that people have offline must also be protected online, and this must apply to the African region. Further, the Joint Declaration on Freedom of Expression and the Internet of June 2011 noted that regulatory approaches in the telecommunications and broadcasting sectors couldn’t simply be transferred to the Internet, and this circumstance is highly relevant in light of the upcoming WCIT.

The African Commission on Human and Peoples’ Rights (ACHPR) is primarily concerned with online freedom, and the Special Rapporteur on Freedom of Expression and Access to Information have co-signed the Joint Declaration on the Freedom of Expression on the Internet. In addition, the newly formed (December 2011) African Platform for Access to Information (APAI) and the Freedom Online Coalition African Platform on Access aims at advancing the right to Access to Information in all its dimensions, nationally, regionally, and internationally.

Therefore, for Africa to compete, attract investment and capital, spark innovation, nurture entrepreneurship and provide the climate for enterprise development that could provide jobs and enable sustainable growth, there is a need to ensure that the Internet becomes an integral part of both development and exercise of human and civil rights.

Kenya

The Freedom House 2011 report rates Kenya highly, and considers it a forerunner in the area of Internet freedom in Africa. In recent years, Kenya has taken significant steps to strengthen freedom of expression

online. Kenya, after South Africa, enjoys the highest level of Internet freedom in Africa. According to the 2008 Human Rights Report on Kenya, no administrative censorship or technical filtering systems to restrict access to content are employed in the country. Citizens are able to access a wide range of viewpoints. Despite concerns over the use of the Internet to propagate hate speech during the post-election violence in late 2007 and early 2008, and fears that this might be used to justify greater controls on online content, no restrictions have been introduced. However, the regulatory authority, the Communications Commission of Kenya, recently notified telecom service providers of the need to install Network Early Warning System (NEWS), an Internet monitoring equipment, citing a rise in incidents of cybercrime and cyber threats. “This is being viewed as a breach of Kenya’s Constitution which in Article 31 grants citizens the right to privacy, including preventing infringement of “the privacy of their communication”.²

The newly promulgated Kenyan constitution guarantees protection for Freedom of Expression (FOE) (Art. 33), Right of Access to Information (FOI) (Art. 35) as well as Freedom of the Media (FM) (Art. 35). In addition, Kenya is a signatory to the Universal Declaration on Human Rights (UDHR), the International Convention on Civil and Political Rights (ICCPR), the African Charter on Human and People’s Rights (ACHPR) and the World Summit on the Information Society’s (WSIS) Declaration of Principles.

Conclusion

The Internet has become a great amplifier of human potential and continues to open up new horizons for connecting people, and for sharing ideas and information. This is already having a profound impact as an enabling medium for democratization, the promotion, exercise and enjoyment of human rights, as well as for realizing human development and exercising of economic, socio-political and cultural rights. The multi-stakeholder model has kept the Internet up and running, and it is important in ensuring the future growth of the Internet, which contributes so

2 Freedom House 2012 Report. <http://www.freedomhouse.org/sites/default/files/FOTN%202012%20FINAL.pdf>

significantly towards human development and the exercise of human rights. Indeed, it continues to be the best approach towards Internet governance. With the challenges facing African stakeholders in engaging with this model meaningfully, from the lack of adequate participation, to limited resources and skills, an important issue to consider in developing a rights-based approach to the Internet as it continues to evolve, is the impact on the Internet and human rights frameworks by various stakeholders.

Further Reading:

- *Communications Commission of Kenya. Study on ICT Access Gaps in Kenya 2011. http://www.cck.go.ke/news/downloads/Access_Gaps_Final_Report.pdf*
- *Communications Commission of Kenya. Quarterly Sector Statistics Report. 2nd Quarter, October–December 2011/2012*
- *TechLoy. Top 10 African Countries With Fastest Broadband Speed [REPORT]. March 12, 2012. <http://techloy.com/2012/03/12/africa-top-broadband-speed/>*

RESPONSES

**STAKEHOLDER
PRIVATE SECTOR**

BUSINESS AND HUMAN RIGHTS IN THE DIGITAL ERA

Jermyn Brooks, Independent Chair, Global Network Initiative, United States

New technologies have played a catalytic role in support of democratic aspirations in the Middle East and around the world. In her essay Shirin Ebadi eloquently describes how free expression, “the first step to democracy,” facilitates the meaningful realization of other rights, and the impact of virtual communications networks in Iran. But innovations in information and communication technologies (ICTs) present risks as well as opportunities to advance human rights. The challenges of navigating this nexus are too complicated for companies to manage alone, and a growing number of companies, civil society organizations, investors, and academics are collaborating to advance freedom of expression and privacy rights through the Global Network Initiative (GNI).

Although online censorship and surveillance are most often associated with states that Reporters Without Borders calls “enemies of the Internet”, such as China and Iran, these issues are also contested in democracies. In the United Kingdom, for example, proposed legislation would undo existing constraints and potentially pave the way for mass surveillance.

It is important to recognize that governments and companies have legitimate and significant national security and law enforcement responsibilities. Preventing terrorism, protecting children online, and fighting cybercrime are all critically important state responsibilities that require assistance from technology companies. Worrying potential for government overreach surfaces when government demands, either to block content or handover user data, occur with insufficient oversight and public accountability.

The stakes are raised considerably when these same issues arise in repressive regimes, where states will use similar justifications to pursue entirely illegitimate objectives, cracking down on dissent and jailing bloggers, without providing them with any means of redress. Although technology companies that operate

across borders can sometimes take steps to limit their exposure to foreign governments, increasing pressure to open sales offices abroad or regulatory requirements to locate data centers within foreign jurisdictions are eroding this leverage and putting Internet companies in a similar position to telecommunications providers, whose operations require sizeable investments in staff and networks on the ground.

As companies grapple with the human rights implications of their work, several emerging issues further complicate matters. The first is the massive increase in mobile access across emerging economies. There are huge opportunities to address the digital divide, but also new challenges as governments attempt to manage and control newly connected populations. These issues can only be addressed through frank and inclusive dialogue among all stakeholders.

Second, innovations in user-generated content and the cross-border provision of web services have raised the stakes for company decision-making. Companies make decisions about online content based on their own policies as well as on requests from governments, and there are no easy answers to difficult questions.

So what can companies do to make sure they retain the trust of their user base and find an ethical way forward?

First, start with international human rights standards such as the Resolution on Human Rights on the Internet, unanimously endorsed by the UN Human Rights Council in July 2012. Although companies accustomed to working with their home governments on law enforcement or national security may be tempted to divvy up the world between good and bad governments, there is no substitute for international human rights law as an objective framework for handling these issues, and they benefit from wide international support. The Human Rights Council adopted the resolution on the Internet with important support not just from the US

and Europe, but also from Tunisia, Brazil, and Turkey among others. Also, there are now practical tools for companies, such as the UN Guiding Principles on Business and Human Rights, which provide direction for companies on due diligence, risk assessment, and the like. Human rights standards provide direction for companies in tough spots: they can make sure that, at a minimum, demands from governments comply with local law, and they can interpret those requests as narrowly as possible.

Second, companies need not face these challenges on their own. By working together with civil society organizations with expertise on the ground in challenging markets, academic experts and technologists with in-depth expertise on emerging issues, and investors who see the profit opportunities in a socially responsible approach, companies can more accurately gauge risks and identify opportunities to advance rights, and raise their voices when they find governments acting in ways that infringe on free expression and privacy rights.

Third, embrace accountability. Although it is understandable that companies are hesitant to open up as sensitive an aspect of their operations as relations with government agencies to outside scrutiny, users are understandably hesitant to take companies at their word without some means of credibly demonstrating that they take free expression and privacy rights seriously. This is a lesson that has been thoroughly learned in other industries subject to human rights criticisms, from labor standards in apparel to transparency in oil, gas, and mining. The companies in the GNI agree to have their policies and procedures on responding to governments independently assessed, the only such process that exists for technology companies.

Technology companies ranging from telecommunications to web services have enabled access to information and the exchange of ideas around the world with undeniable benefits for society. But as Ebadi notes, governments seeking greater control over the Internet are not sitting still. As governments find new ways to use technology for surveillance and the suppression of rights, companies increasingly find themselves caught between government actions and their responsibility to respect the human rights of their users. By working together and with other stakeholders, including

Internet users and civil society groups from countries where Internet users face the most acute threats, as well as from countries where online free expression and privacy are facing gradual yet serious erosion, they can fulfill the promise of the Internet and help to realize human rights worldwide.

NEW MEDIA AND OLD MEDIA: BOUND TOGETHER IN THE GLOBAL PRESS FREEDOM STRUGGLE

Ronald Koven, European Representative, World Press Freedom Committee, France

Freedom of speech is the first step to democracy, according to Shirin Ebadi. I would go even further to say that it is the very oxygen of democracy, without which other freedoms can only gasp for breath. And freedom of the press, defined as including all forms of the press – print, broadcast and now online – is what makes society’s freedom of speech effective.

Some authoritarian governments have let their people blow off steam by allowing them to speak in places where their voices could not be heard beyond a room or a street corner. That is clearly not enough. To be heard effectively, voices must be allowed to carry through all forms of news media.

Press freedom seems to be under about as much pressure today as it has been since it first emerged in the 17th and 18th centuries. 2012 may prove to be a record year for numbers of journalists killed in the line of duty. Attempts to legislate new restrictions on news outlets are a constant.

Advocates of Internet freedom should not make the mistake of calling for cyber-freedom as if it were unique and divorced from freedom of expression in general in the other, older forms of media as well. The Internet and its most recent applications through social media are indeed important and do present new opportunities as well as legal challenges because of their trans-frontier capabilities. But they are also in many ways only the latest in a series of media technologies, starting with the invention of paper, moving on to the printing press, the telegraph, radio and television.

Each time there has been a major technological advance, the proponents of the new technology acted as if they expected to eliminate the previous forms of media. Yet, each time it turned out that the previous forms continued to live on with vigor alongside the new forms. Major traditional print press media like The New York Times and The Guardian have become the leading purveyors of online news.

So, I think it is absurd to consider that the “Arab spring” could not have happened without the availability of the new social media. As a print journalist, I covered the return of Ayatollah Ruhollah Khomeini to Tehran in 1979. Nobody knows exactly how many people were in the streets to greet him, but the estimates of 1 million persons felt about right to those of us who were blocked in the traffic by the street crowds leading from the airport that day. It was well before the advent of the Internet, and it was obvious that the turnout was organized by the oldest form of communication, person to person.

The Belarusian analyst Evgeny Morozov has shown in his book, “The Net Delusion,” how authoritarian regimes have learned even to turn the new communication technologies to their own advantage to restrict free speech.

What matters is to struggle for, to enlarge and to preserve the right to freedom of expression as a whole – for everybody in all forms of communication.

The annual survey of print press issued by the World Association of Newspapers & News Publishers shows that in many regions, led by South Asia, newspaper circulation continues to climb dramatically, even as it declines in North America and parts of Western Europe. Radio news continues to expand in Africa as the dominant media form of the foreseeable future.

Eight leading press freedom groups that form the Coordinating Committee of Press Freedom Organizations¹ recently updated a declaration they first issued in 2002 calling for press freedom on the Internet, thus recalling that the very notion of press freedom covers

¹ Committee to Protect Journalists; Commonwealth Press Union Media Trust; FIPP, Worldwide Magazine Media Association; Inter American Press Association; International Association of Broadcasting; International Press Institute; World Association of Newspapers & News Publishers; World Press Freedom Committee.

not just the printed press but also broadcast and now online outlets. They also recalled that the first international call for press freedom in cyberspace came back in 1997 from a UN/UNESCO-sponsored regional meeting of European journalists in Sofia, Bulgaria, and that their statement that the media using new technologies should enjoy the same internationally recognized freedoms as the traditional news media was formally endorsed later that same year by all the member-states of UNESCO.

The Coordinating Committee recalled that the long-standing complaints of developing countries that they were unequal partners in world communication ability – bombarded by First World messages to which they could not reply – has finally been answered by the opportunities offered by the new information technologies for interactive, multi-way communication. This opens the way for implementation of the promise of global freedom of expression “through any media and regardless of frontiers” contained in Article 19 of the Universal declaration of Human Rights.

The Committee also noted that those who call for an end to the “digital divide” fail to recall that all the other major new communication technologies also started where they were first invented and spread throughout the world thanks to natural market processes. The rate of spread of each successive new communication technology has been faster than the last one. ITU statistics show that it took 38 years for the first 50 million radio sets to be in operation worldwide, 13 years for the first 50 million TV sets, and just four years for the first 50 million Internet connections. With over 2 billion globally, connections in China already outnumber those in the United States.

But the advent of the Internet is being exploited by authoritarians whose demands for global media controls were beaten back in the 1980s under the guise of a “New World Information and Communication Order.” Some of the same authoritarians are now reviving many of the same restrictive demands on the pretext that the Internet has created a new situation that justifies reviving the same old demands.

There is the same need, now as then, to resist the calls for restrictions on all forms of media. We must all struggle to preserve and enlarge the right to freedom of expression as a whole – for everybody, using all forms of communication. If one form of media is subjected to

international controls and censorship, then that would be the entering wedge to control all forms. And that would be a step to end the global movement toward democracy. Old media and new media, old democrats and new democrats, we’re all in this together.

FREE EXPRESSION + OPEN ARCHITECTURE = INNOVATION WITHOUT PERMISSION & HUMAN PROGRESS

Zabid Jamil, Jamil & Jamil, ICC Pakistan, Chairman Center for Strategic & Policy Analysis

“Freedom of speech is the first step to democracy. Unless a nation is free to express its demands and ideas, how can it achieve its desired society?”

Shirin Ebadi

Freedom to innovate is the first step towards economic growth. Unless innovators and entrepreneurs are free to demonstrate their innovations, how can economies progress or prosper?

Sustainable economic growth and progress for humanity is a result of environments that have an “enabling default”¹ that allows openness and innovation.

Economic growth and progress tends to be unsustainable and at best slow where innovation tends to be stifled and faces the challenges of a closed and “disabling default”.²

Disabling defaults tend to be the antithesis of an enabling environment that not only smother entrepreneurship but also throttle innovation including in the fields of science, research and those elements that are key to human progress and prosperity.

Most developing countries had and still tend to have a disabling default, requiring individuals to ask government to approve license, permissions and “no objection certificates” before they can even begin to test or deploy any new idea or innovation. The internet has flattened this barrier to innovation by providing developing country innovators and entrepreneurs with direct access to a globally networked environment with enabling defaults.

1 Environments where all activity is legal unless declared illegal, i.e. where people have a right to earn their living through innovation, without seeking permission or restrictions, unless it is illegal.

2 Environments where all activity is legal unless declared illegal, i.e. where people have a right to earn their living through innovation, without seeking permission or restrictions, unless it is illegal.

The open architecture of the internet allowed innovators to learn from resources hitherto unavailable, share ideas, collaborate on innovation, test and deploy innovations without the need to seek permissions, licenses or no-objections from governmental authorities. This allowed developing country innovators not only to be part of but play a prominent role in the innovation explosion powered by the internet. Skype from Estonia, Tata, Infosys and Ibibo from India, Baidu, Shanda and Alibaba from China³ are just a few examples.

The recent efforts by some of these governments to voluntarily implement measures that would raise barriers and widen the development gap between their citizens and the rest of the free world, thereby widening the digital divide into a grand canyon tend to make little sense. Why would these governments shoot the economic future of their citizens in the foot?

Is it only a matter of control and manipulation of their own people by throttling the freedom of expression and preserving their ideologies and regimes, or is there more to this madness?

This article argues that there is a further economic motive behind these measures.

The traditional controls of many developing country regimes which used to be able to control and channel prosperity through patronage, permitting economic success only to those who would consolidate the incumbent government’s political power and private economic interests through corrupt means have been bypassed by the open architecture of the internet. Suddenly, economic success could be achieved by individuals in developing countries without seeking permission and without the need to be part of the entrenched establishment of these states. This

3 <http://www.slideshare.net/keleimang/chinas-innovations-on-the-web>

new economic success would also enable power to be diverted to sections of the populace which may not necessarily be aligned with the establishment's views. The internet, through its disruption of the economic and, thus, political status quo, poses an existential threat to both corrupt and undemocratic regimes.

Although the restrictions to access content on the internet being applied by a few countries these days, are usually viewed from a freedom of information and expression perspective, in some of these developing countries the issue has serious and far reaching economic dimensions. The restrictions are not just limited to the curtailment and barriers to trade but extend to economic freedoms and empowerment of the people and their right to the pursuit of prosperity and the hope of improving their lot in life. It is these rights that tend to be the underlying target of such measures.

In some of these developing countries there exists democracy only in name, insofar as elections are held, but these may or may not have been transparent or fair. Votes in such jurisdictions are fraught with corruption, intimidation, patronage and, in some places, bought for a mere plate of rice. The government of the day does not effectively reflect the will of the people at large on issues on an on-going basis. The power structure in these regimes tends to flow from the top down. The view taken by many such governments is that once they are elected, they are a power unto themselves and thus not answerable to the populous for the duration of their tenure. Instead of working for the people, they tend to further consolidate the finances, power, resources and means that led to their coming into power and which, in the future, must ensure their return.

Such countries have little in the way of institutions and processes that sustain or secure truly democratic values. The environment that enables democratic values and processes tends to be scarce and institutions (ranging from the courts to the media) that are supposed to safeguard these values can either be controlled by the government or simply be corrupt. In any case, the bottom line is that the ecosystem does not allow for freedom and democratic values.

Such governments have, over time, created both a political as well as an economic elite whose members are a power unto themselves and who have a vested interest in little other than self-perpetuation. The means of retaining and consolidating this economic

power include the monopoly of information, knowledge and especially access and communication by businesses and opportunity from abroad to this elite. Access to contracts, foreign agencies and global economic intelligence are handed out as patronage. The right to innovate, establish businesses, trade, send and receive capital from abroad are jealously protected through a deliberate, complex and mysterious culture of licensing and 'no objection certificates'. Quite the opposite of truly free and democratic cultures, one has to ask permission for everything even before exploring business opportunities (or doing anything). This maintains control over who can do what and ensures that opportunities remain the preserve of a corrupt elite. It is vital in these regimes that economic power inextricably and solely serves the economic interests and perpetuation of this elite, to the exclusion of a strong (politically or economically) middle class. Such a system necessarily relies upon systemic corruption. Hence, any transparency or distribution of economic power to other classes is a threat to this political and economic elite and its vested interest.

The flattening of this system by the open architecture of the internet and the more even playing field that it creates enables not only access to information and communication but also access to prosperity and power to those who may not belong this elite. This tends to be the underlying reason in several such countries for advocating restrictions to the internet under the guise of security and even religious and cultural differences, etc.

The recent drive by such governments to restrict access to the internet is thus not simply a matter of freedom of expression. These governments like to be perceived as allowing what seems to be freedom of expression and access to information only to the extent that it does not threaten perpetuation of their economic and political power.

As noted above, the progress that is enabled by the internet is not just beneficial for developing countries, but is a benefit to human progress in general. It lets loose the captive energy of not just the men of the developing world but also of women and girls across the globe. It flattens the distinction between age, gender, caste, creed, race, geographic location and background. It enables the human race to collaborate and cooperate for economic progress like never before,

unleashing the true potential of human civilisation as a whole.

The geometric progress of humanity over recent years, enabled as a result of this network based upon the values of freedom and openness, only underscores the great importance of the internet to the human civilisation (not just as an issue limited to bridging the digital gap). It is thus vital that we all work to thwart attempts at rebuilding barriers, created by mighty firewalls and various treaties, within this now networked human civilisation. Only in this way can we ensure the continued pursuit of economic and social progress for humanity (in the developed and developing world), fuelled by innovation without permission and the values of openness and freedom.

RESPONSES

STAKEHOLDERS CIVIL SOCIETY

THE INTERNET, FREEDOM OF EXPRESSION AND DEMOCRACY - CONNECTING OUR RIGHTS

Joy Liddicoat, Association for Progressive Communications, New Zealand

Shirin Ebadi's Internet and Human Rights proposition is well placed in this 2012 Internet Governance Forum. Human rights and the internet are referred to in the founding documents on the United Nations World Summit of the Information Society and the Geneva Declaration of Principles from which the Internet Governance Forum (IGF) has grown. As the Azerbaijan government hosts the IGF in 2012 issues of the internet and human rights must be openly and freely discussed. Shirin Ebadi's proposition, while useful, contains some concepts that need careful unpacking if we are to fully understand, explore and acknowledge the internet and human rights and the relationship between the two.

The Internet, Freedom of Expression and Democracy

The first is her statement that "freedom of speech is the first step to democracy". In fact, freedom of expression, while a cornerstone of the Universal Declaration of Human Rights, only takes its full force for democratic change when we can exercise it together with all of our other rights and freedoms. Not only must we be free to speak, but to do so without fear, equally with all others, secure in our rights to privacy, freedom of association and dignity and in the knowledge that all our rights will be fairly upheld by the rule of law.

Ebadi's proposition is that the internet has fundamentally affected how we give expression to our human rights. Yet while it is true that the internet has had some impact on rights, the impact is not only one way. Human rights have also helped to shape the internet itself, including its core architecture, since the values of freedom, openness and democracy underpin its most basic technical protocols and were hard baked into that architecture by the technical community which developed it.

While it is also true, as Ebadi states, that the internet has increased the ability to exercise freedom of expression, it has, at the same time, made it more difficult to exercise other rights such as the right to privacy or to be free from discrimination.¹ The internet has also made it easier for some (including individuals and businesses as well as governments) to violate rights, a fact very evident in relation to women's human rights.² The interaction between human rights and the internet is therefore more complex and nuanced and we ignore these complexities and nuances at our peril.

Internet Access and Human Rights

Ebadi re-states the now common misconception, that "What the United Nations have backed and declared, is that access to the internet is a human right, which is actually an ethical recommendation, and the ways to implement it should be established". The United Nations has not "backed and declared" that access to the internet is a human right. Instead, Frank La Rue, the United Nations Special Rapporteur on Freedom of Expression, has simply stated that our human rights apply online including our freedom of expression, the right to privacy and freedom of association.³ La Rue has also said that governments have an obligation to facilitate access to the internet and that such access has two aspects: access to infrastructure and access to

1 David Souter "Human Rights and the Internet: A review of perceptions of human rights organisations" Report to the Association for Progressive Communications, May 2012.

2 See, for example, Jac sm Kee "Emerging threads and common gaps: A synthesis" in EROTICS: Sex, Rights and the Internet (Association for Progressive Communications 2010).

3 Frank La Rue "Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression" (26 April 2011, A/HRC/17/27).

content, and should develop national plans for internet access.⁴

Perhaps the real point is not whether or not access to the internet is a human right, but rather that ordinary people now simply demand it. This is a significant step forward and even in many so-called repressive or conservative regimes, internet access is actually expanding. A more serious concern is that, at the same time, the tactics to silence online expression are taking new and sinister forms. In Azerbaijan for example, tactics to intimidate, harass and detain journalists and bloggers, harsh penalties for online expression and other measures have resulted in a significant deterioration in freedom of expression in the country since 2009 with the current state of freedom of expression described as 'alarming'.⁵

Yet, in July 2012, Azerbaijan, along with 84 co-sponsors at the UN Human Rights Council, confirmed the importance of the promotion, protection and enjoyment of human rights on the internet, and in particular, freedom of expression online. And during the first Universal Periodic Review of its human rights record Azerbaijan rejected a French recommendation that it "ensure the full exercise of freedom of expression and of the freedom of all independent media, both national and foreign ones, regardless to their nature: press, Internet, radio or television" (France).⁶ The point is that here at the IGF, and in other national, regional and global spaces, we must hold governments accountable for their actions and statements on human rights. Fine words are one thing: governments must also be accountable for their actions.

Connecting Our Rights

Since 2011 APC has been running its "Connect Your Rights! Internet Rights are Human Rights" campaign working with human rights defenders in the United Nations Human Rights Council (UN HRC) with a simple strategy: hold governments accountable by bringing the voices of those who advocate on internet related human rights issues (particularly women's

human rights defenders) into this global advocacy space. The most surprising part of this work has been the absence of internet freedom advocacy within the UN HRC, despite growing awareness about internet rights issues. In 2012 the UN HRC convened an expert panel on freedom of expression and the internet, partly in response to the lack of thematic examination of internet related human rights issues. The panel provided a critical nexus between not only human rights mechanisms, but also other bodies (both within and outside the United Nations) dealing with internet governance and critical internet resources.⁷

Despite these positive developments, Ebadi is optimistic to think that "Once people are informed about events they will not stay indifferent and will claim their rights and hold their governments responsible". While this is true in some contexts, the events of the so-called "Arab spring" have not been followed in many other parts of the world, despite the awareness of ordinary people. Governments have moved to stem the power of the internet and violate rights by carrying out surveillance, blocking and interfering with online content and targeting online journalists, bloggers and civil society organisations. Well publicised arrests and intimidation (such as the case of the Donkey Bloggers in Azerbaijan) has the chilling effect of self-censorship and stifling free expression even on otherwise open social media platforms.⁸

More people must connect their rights and take up internet issues. Action to resist the growing threats to internet freedoms is needed but to be effective all stakeholders must work together. The important participation and leadership from developing countries is increasing and can be seen, for example, in the growing innovative use of the internet and ICTs by grassroots activists to campaign for their rights and freedoms in the Africa and Asia regions. It would be wrong, as Ebadi does, to simply categorise governments as either

4 Ibid.

5 "Coalition submission to the UN Universal Periodic Review of Azerbaijan by the International Partnership Group for Azerbaijan" 9 October 2012.

6 Ibid.

7 Office of the High Commissioner for Human Rights "Summary of the Human Rights Council panel discussion on the promotion and protection of freedom of expression on the Internet" A/HRC/21/30, United Nations, Geneva, 2 July 2012.

8 Vugar Gojayev "The struggle for internet freedom in Azerbaijan" in Global Information Society Watch 2011 UPDATE I, published by the Association for Progressive Communications (APC) and the Humanist Institute for Cooperation with Developing Countries (Hivos), 2012.

“democratic” or “repressive” and to attribute rights violations only to “repressive regimes”. While such regimes do indeed, as Ebadi rightly points out, carry out disturbing acts of violence against their own people, they are not alone in doing so. In fact, a trend in the last year has been the rise in democratic regimes which are interfering with freedom of expression online whether in the name of national security or intellectual property rights.

The now annual resolution on freedom of expression and the internet paves the way to build on this and for solid progress in broadening and deepening IRHR understandings and commitments. But this will only happen if it is accompanied with some practical concrete actions to retain existing internet rights and freedoms and restrain violations. There is a need to foster broad consensus among governments on issues such as internet access, freedom of association online, best practice in monitoring and reporting on internet related rights violations, and to widen the focus from civil and political rights, to the full range of economic cultural and social rights.

Without such concrete follow up the opportunity will fall away. There are worrying developments such as the increasing use of content blocking⁹ which suggest governments will continue to move more quickly than we can respond and that human rights mechanisms such as Courts will be unable to catch up with pace of change (which many are already behind). A key factor to countering this is a strong network of civil society groups who can monitor, advocate and take action to insist governments are accountable across the internet governance ecosystem.

While Ebadi points to the “ethical nature” of human rights, the reality is that internet activists see their online rights and freedoms being eroded on a daily basis. A major concern in relation to the internet and human rights is that governments might be positioning themselves to use the human rights framework to assert some moral or other authority to take more control of internet governance. For example, by asserting that as they are duty bearers with responsibility for the protecting their citizens’ rights, governments in general should have greater (and particularly decisive

and controlling) power when they come to the table in multi-stakeholder forums.

The Internet and Human Rights in Multi-Stakeholder Contexts

In this regard, the strength of these human rights processes (consensus building among governments) is also its significant weakness, since these are not multi-stakeholder processes. More traditional human rights defenders frequently overlook or do not understand the important role of the private sector in internet related multi-stakeholder processes and how this impacts the internet and human rights, especially the increasing tension in the private sector’s role in relation to internet governance and human rights. This tension is driven by a range of factors including development of surveillance technologies which are sold to repressive regimes by companies operating in more democratic countries and the imposition of criminal and civil liability on Internet Service Providers for the online content of their customers.

At the same time, many governments are creating new offences (such as for intellectual property violations, libel and defamation), often with severe criminal and civil penalties, and are demanding private sector providers (both Internet Service Providers, telecommunications providers and social network platforms) assist law enforcement to locate and prosecute alleged offenders. In countries such as Pakistan, Malaysia, the United States of America and¹⁰, these provisions are being used politically to interfere with human rights and civil society groups are increasingly distrustful of private sector collaboration with governments. This is despite some good efforts for these pressures to be resisted.¹¹

10 See country studies and thematic chapters in Global Information Society Watch 2011, Internet Rights and Democratisation: focus on freedom of expression and association online, published by the Association for Progressive Communications (APC) and the Humanist Institute for Cooperation with Developing Countries (Hivos), 2011.

11 For example, the Global Network Initiative, an alliance of business and human rights organisations focused on protecting freedom of expression and privacy in information communications technologies: www.globalnetworkinitiative.org

9 See for example, “YouTube Blocked in Pakistan” <http://pk-politics.com/2012/09/17/youtube-banned-in-pakistan-2/>

Private sector involvement in human rights discussion has been very limited, partly because the HRC does not generally allow private sector participation and partly because the private sector has traditionally eschewed engagement with human rights. But there has also been inadequate connection in the HRC between discussions about the new United Nations guidelines for business and human rights¹² and discussions about the internet and human rights. The inconsistent application of policies of internet related transnational private sector corporations as well as human right violations by them are being thrown into increasingly sharp relief. A recent example was the action taken by YouTube to take down a controversial film in some countries but not to do so in others, including Pakistan. This prompted the Pakistan authorities to block YouTube in the entire country, generating serious concerns and denouncements from local human rights defenders.¹³ The private sector will need to determine how it will engage in human rights and internet discussion to avert a looming crisis of confidence driven by both government and civil society concerns. For civil society activists, the lack of strong private sector engagement seriously affects their confidence in the internet as a space to claim and exercise rights. The principle of the universality of human rights is being undermined by the individual application of standards within national boundaries by private sector bodies and this is seriously damaging the application of human rights to the internet.

interference with such freedoms must surely be the first sign of repression in any nation. For this reason, human rights must be a main focus of all discussions at the 2012 IGF and the main theme in IGF 2013.

Conclusion

Ebadi raises some provocative and challenging ideas. Discussions about the internet and human rights must become more nuanced and more multi-stakeholder and cannot be left to governments alone. If as Ebadi states “freedom of speech is the first step to democracy”, then

12 United Nations “Guiding Principles on Business and Human Rights: Implementing the Respect, Protect and Remedy Framework” http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf HR/PUB/11/04, United Nations New York and Geneva, May 2011.

13 See for example, Bytes for All “It’s OurTube: Religion-based censorship will only fuel hate speech” Islamabad, 18 September 2012, available at <http://content.bytesforall.pk/node/69>

ONLINE FREEDOM OF EXPRESSION: EDGE CASES AND SAFETY VALVES

Jeremy Malcolm, Senior Policy Officer, Consumers International, Malaysia

Shirin Ebadi makes a very good case that freedom of expression is an important foundation for democracy, that democratic governments have cause to safeguard and repressive ones cause to fear. She also points out that technology can hold such governments accountable, by opening up new channels of communication, and by fostering the development of networks of citizens intent on exercising their rights.

But whilst freedom of expression supports democracy, the reverse isn't also true. Indeed, freedom of expression and democracy are often in opposition. Freedom of expression is the freedom to speak out when the majority wish you wouldn't, and would shut you up if they could. The same is true of human rights in general – they are protections against the tyranny of the democratic majority.

What this means is that democratic governments won't always be inclined to support technologies that further human rights. Respecting human rights is a moral decision for governments, rarely a political one. The Universal Declaration of Human Rights is after all the legacy of modern history's biggest moral catastrophe. Today, even the most democratic of governments still don't always make the moral choice, especially when it comes to the rights of minorities and foreigners.

Equally, respecting human rights isn't always in the best interests of corporations – and corporations have fewer legal obligations to do so. This makes it problematic for us to place too much of our trust in the power of technology to safeguard freedom of expression. Much of the technology on which activist citizens depend (such as Web-based social networks, mobile telephone networks and smartphones) is of large corporations. Indeed, Google's CEO Eric Schmidt once boasted, "The hardware and software created by private companies in free markets are proving more useful to citizens abroad than state-sponsored assistance or diplomacy".

An unfortunate economic fact is that market forces

incline corporations to maximise their profits, human rights be damned. Granted, some corporations do factor human rights into their behaviour, and may even make reference to public interest guidelines in doing so; for example, the ISO 26000 standard on social responsibility, and the principles of the Global Network Initiative that explicitly deal with freedom of expression online. But when profits and human rights conflict, corporations are no more likely than governments to make the moral choice – think of the "three strikes" penalties for copyright infringement, strongly pushed by industry yet denounced by the UN Special Rapporteur on freedom of opinion and expression.

So we can't rely on technologies maintained by corporations to protect our freedom of expression against governments. Neither can we trust governments not to infringe the rights of Internet users through covert surveillance and state-sponsored malware. In some cases, governments and corporations can keep each other's failures in check; for example, Google and Twitter both maintain records of government take-down requests, and governments have applied antitrust and privacy law against the abusive practices of companies such as Microsoft and Google.

But more often we find governments and corporations colluding to defeat the freedom of expression of Internet users. Think of the Indian and Saudi governments demanding back-doors into encrypted Blackberry emails, and the United States subpoenaing communications from Twitter. Between them, corporations and governments are fashioning the Internet into a controlled ecosystem: networks that are silently monitored and logged, and devices that are locked down with patents, locked bootloaders, signed apps and TPMs (Technological Protection Measures).

So to recap: governments can't be relied on to protect online freedom of expression. Corporations can't be relied on to do so. What about civil society? To a point,

the answer is yes; civil society does have an important role to play as a watchdog for human rights online, combating the infringement of those rights by either governments or corporations. Within the limits of its resources, civil society can use subversive technologies, can participate in formal policy processes, and can shape the development of powerful social norms that uphold the right to freedom of expression online.

For example, the key enabling paradigm for civil society's role in shaping technology is that of free and open source software. Open source applications such as Tor can be used to bypass the blocking of social networks (by governments), and open source jailbreaks can cut digital locks (placed by corporations) that prevent consumers from customising their own digital devices. As to participation in formal policy processes, nobody doubts that civil society's intervention was instrumental in the defeat of freedom-threatening instruments such as ACTA, PIPA and SOPA, and civil society's leadership of the Internet Rights and Principles Coalition has produced a powerful statement of shared norms that is explicitly grounded in human rights.

But there are other cases in which there is no accord within civil society. As a case in point, Ms Ebadi calls for an "international regulation", which apart from guaranteeing freedom of expression (as the Universal Declaration already does), could also "assist the southern countries in their attempt to access the Internet". That a basic level of Internet access has become a right of the citizen is increasingly well recognised, with several countries having enshrined this as a legal right. But civil society is split on the appropriate role of government in securing such access as a matter of distributive justice. For example in 2012, two self-styled Declarations of Internet Freedom were released by civil society and private sector actors, one of which calls for policy makers to "Promote universal access to fast and affordable broadband networks," whilst the other warns that "Government is the greatest obstacle to the emergence of fast and affordable broadband networks".

Another case in point is the tension between freedom of expression and the regulation of hate speech, as illustrated by reactions to the provocative anti-Islamic film, *The Innocence of Muslims*. Rather than a difference of political ideology, this is a cultural and religious division that perhaps goes even deeper. The Universal Declaration and its derivative International Covenants

offer little guidance on the underlying moral question of how an appropriate balance is to be struck in such cases. Whilst, admittedly, the Islamic world had little input into the original drafting of the Universal Declaration, and alternative instruments more compatible with Sharia law have since been put forward (with notable deviations on issues of gender and religion), it is both unthinkable and unnecessary for any country to resile from that instrument simply in order to curtail hate speech.

But as to where the dividing line between legitimate criticism and hate speech should be drawn, civil society has found no more consensus than governments or the private sector. Google, for its part, made a decision in the *Innocence of Muslims* case that could most charitably be described as arbitrary, taking the film down in some jurisdictions and leaving it up in others, without justifying this decision even according to its own guidelines, let alone to any external standard against which it could be held accountable. This doesn't necessarily mean that the decision was wrong, but the process by which it was taken was most certainly lacking.

What comes out of this is that civil society, whilst having an important role to play in upholding freedom of expression online, is no more qualified than governments or corporations to make moral determinations on the application of that right. Neither can we prevail upon the Internet itself to sort out right from wrong, as the Internet is not a culturally neutral artifact. Embedded in the architecture of the Internet are design choices that tend to favour freedom of expression over control, but these choices, well-justified as they may be as general policies, carry no moral weight of their own that would assist in the resolution of hard cases.

What, then, is the answer? How can we uphold a right to online freedom of expression that flows from the ethical principles embodied in the Universal Declaration, yet is culturally neutral? If not through government fiat as an expression of the will of domestic majorities, or through decisions made by industry guided by an invisible hand, or through the persuasive influence of civil society research and advocacy, or simply through the effect of the Internet's architecture, how else are we to develop and apply policies to give effect to freedom of expression or other human rights online?

The best answer we have is that we should do so by combining the strengths and weaknesses of all those

stakeholders in a multi-stakeholder policy development process intended to explicate common principles or guidelines upon which governments, the private sector and civil society can agree as a basis for their respective actions, such as passing legislation or concluding treaties, moderating online services containing user-generated content, and inculcating shared norms of online behaviour.

Admittedly, it won't be possible to reach a meaningful consensus on common principles in all cases, as there are some issues that are just too divisive. There is some online speech that many Muslims, for example, simply can't abide, for reasons that are as dear to them as the First Amendment is to Americans. In such cases the default outcome, and the correct one, is that a more specific local policy will override a more general global principle. In this case that means blocking of the offending content at the local level, through a process compliant with the domestic rule of law. But to minimise the overreaching potential of such local policies, it is important to fully exhaust the potential for the development and application of principles at a higher level, before an edge case devolves to the domestic level.

This is nothing new in international law. Take the example of intellectual property law: international law establishes the principle that moral rights and geographical indicators are to be protected. However as domestic legal traditions on these doctrines vary so substantially, this represents only a thin consensus, which is implemented comprehensively in countries such as France, and in much more limited fashion in others such as the United States. Thus, at the higher level the principles established are general and universal, and at the lower level they are more fine-grained and divergent. So too it is with freedom of expression online – and there is nothing new in this, either.

What is new is that policies made at the local level on Internet content regulation, whether by governments or by private actors, may affect users anywhere in the world, over whom the policy-maker has no legitimate claim of authority. It is for this reason that a multi-stakeholder transnational policy development process is required, so that such policies, at least in broad outline, are devised in a globally democratic manner more suited to the borderless medium and community that is the Internet.

This cannot be done in an institutional vacuum; seeking even a rough consensus on policy issues amongst stakeholders with such deep divisions is a fraught task which has to be approached methodically. The task is all the more ambitious when those around the table are culturally diverse and may come from communities at different stages of economic development.

But thankfully, it can be done. There are well-studied and practised techniques of deliberative democracy that can be used to subvert adversarial negotiation tactics, in favour of deep and authentic deliberation on policy issues with the objective of promoting understanding and consensus. There are also forms of organisation, such as the consociation, designed specifically to balance the power of stakeholder groups with deep divisions, in which none is willing to fully submit to the rule of the others. Through the use of these techniques and structures, it is eminently possible to craft an institutional framework within which all stakeholders can collaborate on the development of high-level shared principles.

The closest we have to this at present is the Internet Governance Forum, but in its present form it doesn't quite cut it as a mechanism for policy development. This is not because the IGF's mandate in the Tunis Agenda precludes this – quite the contrary, it calls on the IGF to undertake not only discussion (paragraph 72(a)), discourse (72(b)) and the exchange of best practices (72(d)) between stakeholders, but also to develop recommendations (72(g)) that can be transmitted to decision-makers through appropriate high level interfaces (72(c)). In any case, the Tunis Agenda also calls for a parallel process towards enhanced cooperation on Internet-related public policy issues, which more explicitly includes “the development of globally-applicable principles on public policy issues”, involving all stakeholders in their respective roles, but led by “governments, on an equal footing”.

Whether the political will for such institutional reform exists is another question altogether. Since the enhanced cooperation mandate was agreed in the Tunis Agenda in 2005, it seems that many stakeholders would rather accept a broken Internet governance regime than move towards something better, even if this means that governments and corporations continue to develop Internet-related policies in a fragmented and uncoordinated fashion, without methodically

considering their transnational impacts or their human rights implications.

So let's assume that nothing is likely to change in the short term – does this leave the online freedom of expression that Internet users enjoy to the whim of powerful actors such as the Iranian government, Google Inc and the United States Department of Homeland Security?

Not entirely. A famous aphorism of Electronic Frontier Foundation (EFF) co-founder John Gilmore is that the net interprets censorship as damage and routes around it. Whilst not as accurate as it once was, an underlying truth in this is that when the human rights of Internet users are infringed, there tends to be a safety valve that allows them to reassert those rights. The more egregious the infringement, the more pressure will build, and the more vital the role of the safety valve when it blows. The same phenomenon of the social safety valve is seen in the offline world, when citizens rise up against oppression by practising civil disobedience and physical protest.

Online, we find Wikileaks providing a safety valve against the secrecy of corrupt regimes and businesses. Jailbreaking of locked-down devices is a safety valve for those denied access to liberating communications technologies. Media piracy can provide a safety valve for disadvantaged consumers denied access to knowledge by TPMs or single-tier pricing models. Encryption technologies, such as Tor for the Web and GPG for email, are a necessary safety valve for those whose communications are subject to arbitrary interception.

Each of these safety valves can also be abused to evade legitimate laws and policies that do not infringe human rights. This ensures that governments and the private sector will always treat them warily, and seek to stigmatise or outlaw their use. Not coincidentally, it is mainly through civil society that these platforms and technologies have been developed and propagated. But until we reach that utopian state of cultural and ideological consensus on a comprehensive set of public policies for the Internet, safety valves such as these will retain an important role in counteracting the abuse of human rights such as freedom of expression online.

INCESTUOUS PUBLIC-PRIVATE RELATIONS AND THE DEFENSE OF HUMAN RIGHTS ON THE INTERNET

Graciela Selaimen, Instituto Nupef, Brazil

It's understandable that citizens from countries that are widely recognized as non-democratic – and which are, in many cases, run by repressive governments –, when associating freedom of expression to democracy, fall in the simplification of analyzing the existent threats to freedom of expression and other human rights within the perspective of governmental censorship. However, the focus must be amplified. Today any defendant of human rights must make an effort to understand the multifaceted and complex scenario of violations to human rights in digital networked societies, taking a step further to overcome a historical approach that presents governments (especially in non-democratic countries) as the unique or main perpetrator of censorship and violations of rights.

In contemporary societies, either in totalitarian and repressive regimes or in the so called “occidental democracies”, the governmental bureaucracy aimed at controlling citizens has been automated. This digitalization of surveillance systems enables ever more agile and borderless monitoring, classification, prioritization, and judgment of individuals and social groups. Governmental institutions work hand in hand with the private sector to establish and consolidate their power by identifying, selecting, and tracking individuals' bodies, behaviors, and characteristics. Modern bureaucracy's rigidity and impersonality (Max Weber's feared “iron cage”), has given way to flexibility, decentralization and connectivity of control devices, where individual visibility plays a central role: being visible, in contemporary flows of information, means, on the one hand, creating sociabilities and exercising self-expression; on the other, being transparent to hegemonic powers, in order to be “considered” and to have access to spaces, goods and services¹.

In this perspective, we cannot imagine that “dictators are kept awake at night” fearing that their powers are being destroyed by the citizen's use of technology. Although some uses of technologies do represent a real challenge to the established powers, other uses and devices mean augmented possibilities to governments and other hegemonic powers of exercising control, including through violations of rights – a kind of control which is not limitedly exercised over a territory, but rather over people's behaviors, mobility, relations, over their subjectivity and conscience; it is a type of power that intervenes at the infinitesimal molecular level of a situation and of a subjectivity. It is a continuous, permanent power, which is not exercised under the light, transparency and visibility of the public space, but rather in the opacity of “private” relations [between institutions and individuals; between individuals themselves]. This is the realm in which states and private companies align with their control technologies, both at the level of populations and at the more molecular level, that of individual subjectivity.

According to Hardt and Negri (2001)², this regime dismantles old oppositions between public and private, obliterates and erases political and economic boundaries between states (and I would say it even erases the boundaries between what is today considered democratic and non-democratic), and seeks total elimination of risk by means of sophisticated surveillance and control technologies. The elimination of risk and better governance are the main argument used both by democratic states and private companies to implement systems, processes and policies aimed to exercise surveillance, discrimination, social sorting – in other words, to create spaces of knowledge in which the citizen/consumer becomes observable, measurable, quantifiable, and in short, known, in order to

1 Stalder, Felix. (2010). Leaks, Whistle-Blowers and the Networked News Ecology. Notes and Nodes. In: <http://felix.openflows.com/node/149>

2 Hardt, M; Negri, A. (2001). *Empire*. Rio de Janeiro: Record.

be controlled. Today, global governance mechanisms include not only agreements that are negotiated by governments, by the private sector and multilateral collaborations, but also modalities that are imposed by few and powerful players, including governments a handful of companies that enjoy monopoly or oligopoly power in global markets. It is in this scenario that the threats to human rights – both on the Internet and outside it – must be approached.

The aforementioned asymmetry of power and its concentration in the hands of a few countries whose agendas are not defined exclusively by national interests, but also by the interests of global monopolistic corporations, is a concern to many nations in the global South. The concentration of the telecommunications market in the Latin American region, for example, leads to crescent concern among civil society organizations, social movements and even some government officials in relation to violations of human rights by a market structure that has strong influence over legislators and regulators, prioritizing private interests of international companies over the public interest and people's rights. In a recent open consultation that was part of the preparatory process for the 5th Latin American and the Caribbean Preparatory Meeting for the Internet Governance Forum (<http://www.lacigf.org>), human rights was defined as a cross-cutting issue for the region. Specific themes such as online freedom of expression standards; censorship and surveillance; freedom of association online; privacy; a rights approach to ensure openness; and the increasing trend to monitor, block and filter online content were among the most pressing issues for the majority of the respondents.

The discussion on access to the Internet is also a relevant issue for Latin American countries. In this respect, it is necessary to question the statement that poverty is what prevents people's access to the Internet. What does prevent the universalization of access to digital networks is the lack of policies in the region to regulate a monopolized market not only by obligating telecommunication companies to offer quality services at feasible costs, but also by fostering governmental investment in offering public Internet access to the population. Southern countries do not need the assistance of developed nations. What is needed in the region are regulatory environments that challenge the power of private monopolies, prioritizing public

interest and the democratic allocation of resources for the increase of access to the Internet in the region, both in quantitative and in qualitative terms.

In order to achieve what Ebadi claims at the end of the article, "a mechanism to enable everyone to profit from internet without limitations and discriminations", more effort must be invested in making world views that are embedded in ICTs (Information and Communication Technologies) and the arrangements for their development, implementation and use, more transparent, inclusive, plural, and, at the same time, in making the power relations embedded in technologies less asymmetric. More effort must also be invested in ensuring that ICT development, policies and regulation prioritize the respect for human rights over imperious interests, either of non-democratic governments and/or of an increasingly concentrated global market that frequently sets the rules for governments and populations, deepening inequalities, increasing exclusion and violating fundamental rights under the lenient eyes of some of the world's older democracies.

RESPONSES

**STAKEHOLDERS TECHNICAL &
ACADEMIC COMMUNITY**

HUMAN RIGHTS AND THE INTERNET

Raúl Echeberría, CEO of LACNIC, the Latinamerican and Caribbean Internet Addresses Registry, Uruguay

We have been talking about human rights and the Internet for years, first within the framework of the WSIS and then at the IGF. People often ask what is intended by “Rights and the Internet” and I have even heard some people question the meaning of this expression.

From my point of view, when we speak of Rights and the Internet, we are speaking of what must be done so that the Internet will not only be a place where those rights are respected, but also, mainly, so that the Internet can be a catalyst for the exercise of Human Rights.

At LACNIC we promote an Internet at the service of the social, economic and human development of our societies, and this objective can not be achieved without respect for the rights of individuals and, therefore, without respect for individual liberties.

As Shirin Ebadi says in her article, freedom of expression is a basic right for democratic coexistence. In recent years, the growth of the Internet has introduced a key element for promoting the exercise of freedom of expression.

In countries where communications have traditionally been controlled, citizens have found a new form of expression, one that often violates the firm limits imposed on their rights. Therefore, the Internet as a space for freedom has become an essential tool for channeling popular sentiment.

Ms. Ebadi very accurately states “Once people are informed about the events, they will not stay indifferent and will claim their rights and hold their governments responsible.”

This, however, has not gone unnoticed by some governments of totalitarian regimes not characterized by their respect for human rights and, thus, we have lately seen several attempts to tighten control of the Internet to reduce the spaces of freedom that have been conquered, or, using Ebadi’s words: “They try to decrease

the positive effects of communication technology”. This is something that can probably be successful in the short term but it is doubtful that it can succeed for long.

During the Arab Spring we witnessed how taking the Internet away from the people was not only wrong from a moral standpoint, but it was also a bad idea for those who sought to use this measure as a means to block the flow of information and limit the people’s ability to express themselves, since the only effect that the measure of limiting connectivity had was to further motivate people to go out onto the streets to call for their rights to access.

In Latin America and the Caribbean there is a fairly widespread view in terms of respect for individual freedoms. We feel that the various Internet stakeholders are well aligned behind these notions of freedom. We moreover feel that this alignment has led the majority of players from the region to oppose initiatives that seek to achieve greater control of the Internet and to limit the rights of individuals, regardless of the origins or motivations behind these proposals. Of course, there may well be a few exceptions to this rule.

Interestingly, such initiatives are not the only current source of threat to the right to Freedom of Expression. There are at least two other sources of concern that we can identify. The discussions taking place this year in several countries on legislative and policy proposals to protect intellectual property rights, like PIPA, SOPA or ACTA among others, have shown how, in countries that supposedly respect freedom of expression, there are groups willing to put that right at risk in favor of protecting other rights which, in the opinion of these groups, have equal or greater value than freedom of expression. In the opinion of this author, this is not only the wrong approach but a very dangerous one as well. Placing the commercial rights associated with the protection of intellectual property on the same level

as the right to freedom of expression would mean a potential setback for humanity.

Freedom of speech is also being attacked from another flank. As the Internet has become so important to mankind as a place where countless economic, government, education, and other activities are conducted, the concern for the safety and stability of the Internet has, logically, also grown. The security of information systems, network stability, the fight against cybercrime, identity theft, and child pornography are currently some of the top concerns for many Internet players.

Internet organizations have always advocated a strategy of increasing coordination and collaboration efforts as the best and most efficient way to address these problems. Clearly, however, there is no unique global vision on this and some stakeholders, justifying their actions behind the pursuit of laudable goals such as security or the pursuit of cybercriminals, are proposing measures to increase control, thus threatening the privacy of users and potentially limiting their freedom of expression.

International debates often place the rights to privacy and freedom of expression as a counterweight to Internet security and stability. It's as if to improve Internet security, we must make sacrifices in terms of the exercise of these rights.

This reasoning is incorrect. Far from having to improve one of the terms of the equation at the expense of another, the real challenge is to improve both: we must improve Internet security while at the same time enhancing the exercise of human rights on the Internet.

So far we have been working on how to adapt the Internet to society, promoting access, promoting content availability, and encouraging its utilization. Now comes the time to adapt society to the Internet. The Internet has changed the way we do business, has changed our teaching methods, how we interact in society, and will have huge impacts on government systems.

Now society must learn to live in this new era, taking maximum advantage of the benefits of technology in all human activities. This poses enormous challenges, which we must face on the basis of the core values that have made the Internet the success that it is. The dilemma is whether or not we want to take advantage of the opportunities that the Internet offers to provide growing freedom. In this author's opinion, the answer is obviously Yes.

Shirin Ebadi's final reflection in her article is really a key point: "... it is worth mentioning that the internet has already opened many doors, however many people around the world are still behind these doors and do not benefit from its advantages. We should think of a mechanism to enable everyone to profit from internet without limitations and discriminations"

Every Internet stakeholder has something to do in that respect. Let's assume our responsibilities in a collaborative framework.

INTERNET AND HUMAN RIGHTS: THE CHALLENGE OF EMPOWERED COMMUNITIES

Markus Kummer & Nicolas Seidler, Internet Society, Switzerland

Shirin Ebadi reminds us of the power of ideas and shows how the free flow of information can give hope to people in their fight for a better life. Her enlightening and inspiring reflections also make it clear, if need there was, how central the Internet is in empowering people to claim their basic rights. Human Rights and the Internet are inexorably linked – they are two sides of the same coin and, consequently, the challenges and opportunities related to this issue cannot be considered irrespective of one another.

From its beginnings in the early 1970s to its massive worldwide expansion in the 1990s and 2000s, the Internet has evolved from a research project to a central communication, social and economic hub for more than two billion people. The Internet has driven innovation and economic growth. It has driven the process of globalization, from trade to communication and information and it has spread democratic values.

Less than three decades after the end of the Second World War and the adoption of the Universal Declaration of Human Rights (UDHR), Internet pioneers crafted a set of protocols and designs of a networking architecture, which would end up capturing the very essence of Article 19 of the UDHR, thus, enabling people to “seek, receive and impart information regardless of frontiers” on an unprecedented scale.

For Internet users who are currently able to enjoy fast and affordable broadband connections, the Internet is very much part of their everyday lives – the network exists everywhere – from computers, to mobile phones to tablets and within many other objects and applications yet to be invented. In today’s high-speed information society, once an idea makes it in the multiple pathways of the network, it is immediately available everywhere.

The Internet as a network of networks has also changed societies and the way people interact with one another. Beyond its societal impact, it has political

consequences. Human history has shown that ideas can be powerful agents of evolution and transitions. The Internet unquestionably played a significant role in the Arab Spring. In all the events that led to the uprisings in Egypt, Tunisia, Libya and Syria, it raised awareness and connected people’s aspirations for social and political change. The Arab Spring has clearly demonstrated a shared desire for freedom of expression, self-determination and peoples’ rights.

The Internet’s organic relationship with freedom of expression and freedom of association is not the mere product of chance, but rather the result of specific design choices and considerations that emerged from the development of the technology and the associated protocols. For example, the end-to-end decentralized nature of the network is a fundamental characteristic, which focuses on the edges rather than the center of the architecture. The Internet, by design, empowers users on the margins and acts as a democratic conduit. At the core of the Internet are open and interoperable standards. Their development is based on processes which are completely open. Anyone who is interested can participate. Bodies like the Internet Engineering Task Force (IETF) require no formal membership – anyone can contribute to the development and evolution of the key protocols that enable information and ideas to be broken into bits and packets from one side of the world to the other. Compared to any other communications medium, it is ultimately the users that define what the Internet is and what it will become. The Internet standards and policy development processes are democracy in action.

This democratic spirit can be found in some of the key documents which highlight the mission statement and work ethic of the IETF¹:

1 RFC 3935 (2004): Mission statement for the IETF

“We embrace technical concepts such as decentralized control, edge-user empowerment and sharing of resources, because those concepts resonate with the core values of the IETF community.”

“The mission of the IETF is to produce high quality, relevant technical and engineering documents that influence the way people design, use, and manage the Internet in such a way as to make the Internet work better.”

From its very early days, the Internet has evolved through empowered users and communities, and its very success depends on it. While these basic features without any doubt have a positive impact, there are also downsides to the Internet’s openness. As Shirin Ebadi points out: the same technology that is used to foster free expression can also be used to repress it when it is considered “inconvenient” by a government concerned. In an age replete with information, where opinions and ideas can travel in just a few seconds across the world, it is not surprising that some authoritarian governments would prefer to slow down this process and set-up speed limits. Suspension of Internet access, slowing down of traffic through bandwidth capping, filtering of websites and/or of their contents, surveillance of online activities, disproportionate sanctions, are but few of the measures which threaten both the Internet’s functionality and its ability to promote the exercise of freedom of expression and association. By extension, such measures can further jeopardize many other rights and activities that depend on the free flow of information and ideas, such as education, access to cultural and scientific knowledge, economic participation or innovation.

When authoritarian governments undertake actions to suppress freedom or empowerment online, they do not do so because they necessarily wish to quash the Internet, but rather because this corresponds to their historical approach towards controlling their citizens. As Shirin Ebadi points out, non-democratic governments have never paid more than lip-service to freedom of expression; the only difference is that the Internet makes this clearer to the rest of the world.

The open and global network is challenging the existing international governance system, which is based on the sovereignty of Nation States, as enshrined in the

Charter of the United Nations. The notion of national sovereignty goes back to the Westphalian Peace Treaty which ended the 30-years war in 1648. However, the very architecture and design of the Internet ignore the Westphalian concept of national borders²; the Internet is a borderless technology. This open and borderless nature creates an underlying tension and it is not surprising that some governments would like to change the Internet and to fit it into national borders, often invoking national security as a motivation.

There are plenty of challenges relating to the Internet, also in countries with strong democratic traditions. The Internet has an in-built bias in favor of transparency, the free flow of information and freedom of expression. Therefore, it has an impact on the balance between existing rights and creates new challenges, such as the need to adjust the balance with security, privacy, hate speech or copyright issues. The respect of Human Rights in the online environment can be extremely complex and covers multiple dimensions. As the Internet model has shown, the multistakeholder model is best suited to deal with complex issues. This approach brings together governments, business, civil society and the Internet’s technical and academic communities. It would also seem to be the best approach to deal with Human Rights issues in the online environment.

An insightful study³, exploring the perceptions of the Internet from a number of mainstream Human Rights organizations, provides possible leads. The study reveals what it terms a “paradigm gap” between mainstream human rights organizations and the Internet community. One example is the diverging perceptions of laws and regulations (e.g. the Internet evolved “in spite of” heavy regulation, whereas human rights defenders rely on legal instruments to enforce rights). The study highlights the need to increase dialogue and produce a common understanding between these two communities towards a shared objective: ensuring an open Internet that allows the exercise of Human Rights.

2 Issue thoroughly covered in MIND edition n°2 on Internet Policy Making, see Bertand de la Chapelle framing discussion.

3 Human rights and the internet - A review of perceptions in human rights organisations, David Souter, Report commissioned by the Association for Progressive Communications (APC) <http://www.apc.org/en/pubs/human-rights-and-internet-review-perceptions-human>

The Internet Society has been trying to contribute to bridging this gap, in particular through its participation in the Human Rights Council. While the Human Rights Council follows traditional UN procedures with limited opportunities for non-governmental actors to participate, it provides nevertheless a platform for advocacy work, not least through corridor discussions and proxy contributions. The Council is a very politicized environment, but it can play an important role in setting course for government action, as well as through its essential Universal Periodic Review process. As a concrete example, the Internet Society took the opportunity to participate in the drafting group of the Resolution on the Promotion, Protection and Enjoyment of Human Rights on the Internet, which was adopted at the 20th session of the Council.⁴ We proposed the inclusion of a reference to the “open Internet” in the Resolution, which made its way in the final text, but only thanks to a friendly government delegate who happened to share the value of the proposal.⁵

To use Shirin Ebadi’s first words, “freedom of speech is the first step to democracy”. We believe that the Internet community has a role to play in keeping the Internet open⁶ and to work with other stakeholders to provide the fundamental ground for people to express themselves freely online. Everybody has a role to play and we need to continue working together and join efforts to ensure that different sectors are and continue to feel engaged. The Internet community is committed to open standards and policy development processes, to multistakeholder Internet governance, and to the Internet’s global and decentralized architecture. These key characteristics have contributed to the success of the Internet; they also contribute to human empowerment, progress and self-determination.

4 Resolution on the Promotion, Protection and Enjoyment of Human Rights on the Internet (A/HRC/20/L.13): <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/20/L.13&Lang=E>

5 The UNHRC rules of procedure do not allow Non-Governmental Organizations (NGOs) to make formal text proposals.

6 OpenStand initiative : Principles for the Modern Standard Paradigm : <http://open-stand.org>

INTERNET GOVERNANCE AND HUMAN RIGHTS: THE CHALLENGES AHEAD

Cees J. Hamelink, University of Amsterdam, Netherlands

Abstractions versus Realities

It would seem obvious, given today's global embrace of human rights principles across political and business circles, to take an unequivocal human rights approach to Internet governance issues. Such an approach should, however, be subject to the proviso that this support of human rights might fail to see what the costs of implementing these principles are. Human rights principles are in essence abstractions that tend to clash with the realities of human nature. The principle of a shared humanity suggests that we ought to see the "other" as a bearer of fundamental human values. In reality, most of the time, we prefer our own tribe over others and feel most comfortable with our own group's cultural identity. Universalism is the humanist expectation and national tribalism is the psychological reality. We need to realize that the incredibly difficult task ahead is to give genuinely concrete meaning to normative standards that are often useless abstractions in real-life situations.

Insiders versus Outsiders

As I have argued elsewhere, the key principles at stake in future communication societies are equality, security and freedom.¹ A basic obstacle to their realization is not the lack of legal enforcement or the lack of robustness in their articulation, although there is space for improvement here. It is primarily the fact that most human beings do not accept that the equality, security and freedom they are willing to recognize for their own circle (tribe, family, clan, race, gender, etc.) is also granted to those who do not matter to them. The basic premise of the human rights culture as enshrined in the

UDHR is that "all people matter". But this is a moral proclamation, not a historical and political reality. The reference to the commonness of human beings ("We are all human") is not sufficient to get people to treat those they do not see as part of that common humanity in a respectful way. The differential treatment of "insiders" versus "outsiders" is not necessarily based on moral depravity. It is often inspired by perceptions of the risks the 'others' pose to them.

Culture of Fear

Day after day, communication media (both entertainment and news media and both conventional and new media) offer a discourse of anxiety. Every single day the media warn us of some impending danger. Around the world one finds in many radio and television newscasts and newspapers' lead articles strong references to "crisis" (food crisis, oil crisis, climate crisis, population crisis, terrorism crisis), fear and risk. Much of this language has little to do with actual world incidents. For instance, although there was a decline in terrorist incidents over a longer time span between 1986 and 2007, – governments and their complicit media kept up the impression of a credible global threat.

There is a growing cottage industry of "fear marketers" offering their services to deal with concerns people might not even have realized they harbored. These concerns are about health, lifestyles, after-life styles (funeral fashion), appearance, aging, financial status, home-security, ADHD-kids, marital stress, sexual performance, size and look of their private parts, culinary expertise, vinological knowledge, the psychopathology of their pets, or garden architecture (even if they have no garden). People are made anxious by being told that there is something wrong with them (like advertising or medical TV programs do), by being suggested uncertain and probably very troubled futures (in daily

¹ Hamelink, C. J. (2000). *Ethics in Cyberspace*. London, Sage.

newscasts about issues like the credit crisis), or by being made fearful (by discourses on terror, evil, and war).

Media render fear a shared perspective on life. For the first time in history millions of people across the globe can simultaneously watch stories of fear and crisis. For these global audiences the media construct a world that is filled with warnings that the world is a dangerous place and that things may get worse.

Fear has become a particularly dominant feature of media discourse. Certainly after the 9/11 events the US media prominently displayed a discourse of fear. Many media have generously and uncritically adopted the threat rhetoric by uncritically using words like “war”, “rogue states”, or “axis of evil”, or by describing enemies with animal metaphors.

Culture of Trust

Human principles remain abstractions if we do not manage to control the massive fear mongering that is common in today’s global media. Only if you can be totally secure about your own position and do not feel threatened by the ‘others’, does it become possible to treat them as not different from the members of your own tribe and to feel empathy with the situation of those ‘others’. Only if fear is transformed into trust will it be possible to see fellow human beings as partners in a shared moral universe.

Conventionalism versus Cosmopolitanism

When using human rights standards this usually refers to the conventional human rights discourse which is biased towards an interpretation that assumes all human beings are equally capable of asserting their rights and in which the legal system is formally based upon the assumption of the initiative of autonomous citizens to defend their rights. These liberal foundations of human rights law neglect the reality of widely differing capacities to such initiative. In reality, the powerful are always better at asserting their rights through litigation than the less powerful. The conventional approach to human rights provides anti-discriminatory protection in the sense of repairing the negative effects of social differentiation. Correcting social disadvantages through the equal treatment of unequals does not, however,

structurally change unequal relations of power. Providing equal liberties to unequal partners often functions in the interest of the more powerful. It is therefore necessary to understand that there is a deep collision between the dominant conventional human rights discourse and a “cosmopolitan” discourse on human rights.

Conventional Discourse

In the conventional discourse (very much present in the Universal Declaration of Human Rights, 1948) equality, for example, is contrary to human dignity not an inherent feature of humanity. In fact, human rights are based upon the inequality of power relations between the state and the citizen. There is little the citizen can do about this inequality in power. Human rights manage this inequality by correcting its most obvious negative social effects but do not fundamentally erase it. In the conventional approach human rights may contribute to minimizing the negative effects of economic inequality but do not fundamentally change this. The structural political and economic forces (state and capitalism) that are at the roots of many human rights abuses are not addressed. This does not, however, negate that the prevailing human rights regime deserves credit for limiting the damage that these forces, if left unrestrained, would impose on humanity. The currently prevailing conventional human rights discourse emerged from a tradition that is deeply influenced by the value of human autonomy and the implied freedom of the individual to speak, believe, vote, and participate in the life of society as he/she sees fit and the right to own and protect private property.

Post-Colonial Cosmopolitanism

The conventional discourse has — despite the formal pretense of universalism — no strong interest in the cosmopolitan ideals of communal responsibility and collective welfare. Conversely, cosmopolitan human rights discourse stresses the need to accept reciprocal obligations among the members of a society. To realize such cosmopolitan ideals, this discourse needs to combine (as Immanuel Kant already suggested) autonomy and reciprocity.²

2 Woodiwiss, A. (2005). Human Rights. London, Routledge.

The essential issue of cosmopolitanism is the conversation with the other. How is this global conversation conducted? On whose terms? Often the engagement with the other is managed by a dominant, missionary culture and thus remains a colonial adventure. Establishing a 21st century human rights framework requires a post-colonial cosmopolitanism that accepts that others are different and yet equal in dignity.

Since the prevailing human rights discourse prefers autonomy over reciprocity and individual freedom over collective responsibility, it hampers the realization of equality as distributive justice.

In order to design a constructive approach to the persistent inequalities in social communication, a balance needs to be found between the two normative principles that represent the different human rights discourses mentioned above.

The conventional international human rights regime cannot provide a solid normative theoretical frame for distributive justice in social communication since it lacks a genuine cosmopolitan basis. This is due to the prevalence of autonomy and freedom over responsibility and reciprocity. Reciprocity means being aware of the effects that your acts may have on others. It points to the realization that the destinies of the powerful and the powerless are intertwined. It implies caring about the social exclusion of others, about sharing with others and about reciprocal obligations. Our own claims to equality and freedom necessarily imply the need to respect the other's claim to the same.

The deepest challenge of a human rights approach to Internet governance issues such as the digital divide, or freedom of expression may be the question of whether we are capable of accepting the reciprocal obligations that a genuine post-colonial cosmopolitanism requires.

Internet Governance

In the end, however one defines it, Internet Governance is about making choices. Current discussions between net neutrality advocates and net neutrality opponents are about choices for or against such fundamental human rights principles such as freedom, discrimination, and equality. I believe that the Dutch parliament and senate understood this when, in May 2012, they adopted legislation to protect the openness

and security of the Internet in The Netherlands.

In the context of a realist and post-colonial cosmopolitan human rights framework, such choices will have to be assessed against the criteria of full participation, accountability and reversibility.

Following human rights standards public choice has to be organized through democratic arrangements. This implies that the standard of political equality is extended to the broadest possible participation of all people in processes of public decision making. The issue of the democratization of public decision making in the fields of information and communication has been on the civil society agenda in the re-current debates on the Right to Communicate, in the initiative for a People's Communication Charter (in 1992) and in the non-governmental contributions to the United Nations World Summit on the Information Society (2003 and 2005). A democratic arrangement has rules, procedures and institutional mechanisms to secure public accountability. The principle of accountability logically implies the possibility of remedial action by those whose rights to participation and equality may be violated. Only through effective recourse to remedial measures can fundamental standards be implemented. If those who take decisions engage in harmful acts, those affected should have access to procedures of complaint, arbitration, adjudication and compensation. The process of establishing the responsibility for decisions taken and demanding compensation for wrongs inflicted, secures the egalitarian nature of the democratic arrangement.

The accountability issue concerns all Internet users. The current tendency to give up rights to free speech and privacy in exchange for either promises of security of low tariffs may have dramatic effects on the future use of cyberspace. Also the ordinary user will have to be ready to account for his or her choices.

Choices about future Internet rules and practices have to be made under the condition of uncertainty. The future effects of choices made today are unknown. The future is open, because we have no information about it. If we had such information, there would be no real choice. A serious human rights assessment would point to the risks of realizing choices the side effects of which may not be entirely foreseeable, and that may be irreversible once they are implemented. The possibility of error in public choice making is unavoidable. Therefore, the readiness to learn from past errors

and to revise choices already made is essential to the respect for human dignity. Human rights require that Internet governance conquers the insensitivity to error that Barbara Tuchman has described as the imbecility of government.³

3 Tuchman. B. (1985). *The march of folly*. London, Sphere Books.

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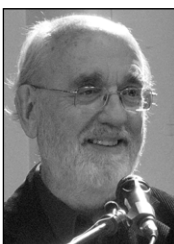


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ABOUT THE CO:LLABORATORY

The **Internet & Society Co:laboratory** is a policy venture platform, that analyzes the developments in the context of the proceeding digitisation of our society from diverse angles with relevant stakeholders. This multi-stakeholder-approach guarantees transparency and independence, the experts' transdisciplinarity in particular allows for the transformation processes to be apprehended in their entire scope for the first time, the possibilities and risks to be identified and their implementation to be discussed in direct dialogue with representatives of politics and administration. Its main objective is deriving a social benefit from the digitisation, for potentials of the internet to be identified earlier, in order to establish ideal circumstances.

For this purpose, the Co:laboratory brings together experts from civil society, private sector and academia, who contribute their expertise in Initiatives or Ohus (Maori for communal working group) on the collaboration platform. The Initiatives screen all facets of a certain subject area over a duration of several months, currently e.g. "Learning in a Digital Society". The collaborative work of the expert groups leads up to a final report, containing recommendations or describing scenarios. The Ohus are long term oriented and thematic, conducting studies, organizing conferences and picking up on early trends in internet policy. Representatives of politics and administration are also involved from the beginning.

The whole range of the discourse on Internet policies will be elaborated and compiled pragmatically, informally and constructively in open workshops, BarCamps and our online platform. At the same time, the German Internet community is offered a public platform, making the experts' opinions accessible to a wider audience and therefore helping the platform grow into a catalyst for innovative and exciting solutions.

Conceived as a Community of Practice, the Co:laboratory is open to influences from the most diverse angles regarding its form, its processes and its results and is continuously developing as a "perpetual beta". It is open to new actors and partners.

The Internet & Society Co:laboratory was initiated by Google Germany in 2010. Today, Wikimedia Germany, Creative Commons, Fraunhofer FOKUS, the W3C office Germany-Austria, the SMBS, the German Chapter of the Open Knowledge Foundation, the DFKI and CSC Germany are among the Co:laboratory's cooperation partners. Since August 2012 it is a registered non-profit based in Berlin.

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