RIGHTS AND INTERNET GOVERNANCE: IGF HYDERABAD WORKSHOP REPORTS

Mainstreaming Rights in the Work of the IGF
(Workshop 65 – 11.30, Room 5, 5th December 2008)

Internet Bill of Rights Dynamic Coalition Meeting
(14.30, Room 5, 5th December 2008)

EXECUTIVE SUMMARY

This report is a summary of the discussions and outcomes of two events focussing on human rights issues at the Internet Governance Forum in Hyderabad, December 2008:

- *Mainstreaming Rights in the Work of the IGF* workshop (organised by Global Partners and Associates in partnership with the Internet Bill of Rights dynamic coalition)
- *Internet Bill of Rights* dynamic coalition meeting.

The first workshop highlighted the wide range of rights issues that different private sector, government and civil society stakeholders are working on at the Internet Governance Forum. All discussants agreed that human rights are highly relevant to their work in terms of helping to frame and address issues, and in forming a common set of standards to underpin the values and principles of internet governance. There was general consensus that the IGF community should not be talking about the creation of new rights. Rather, existing rights embodied by the Universal Declaration need to be interpreted and applied to new contexts associated with the quickly evolving communications environment.

The Internet Bill of Rights (IBR) dynamic coalition meeting explored what practical steps could be taken to uphold and realise human rights on the internet. The IBR coalition aims to be an umbrella platform for all people working on rights issues at the IGF and has made significant steps in this direction over the past year. The meeting discussed a proposed merger between the IBR coalition and the dynamic coalition on a Framework of Principles for the Internet. This has since been approved, and the merged coalition is called the Dynamic Coalition on Internet Rights and Principles (http://www.internetrightsandprinciples.org).

Both meetings were extremely well attended, demonstrating the energy and enthusiasm that exists amongst a range of stakeholders for building internet governance processes that are rooted in human rights standards. Members of the Internet Rights and Principles coalition commit to driving this work forward over the coming year.

The remainder of this report consists of notes taken during the events to act as a record of the discussions that were held.

Workshop Report

MAINSTREAMING HUMAN RIGHTS IN THE WORK OF THE IGF
(Workshop 65 – 11.30, Room 5, 5th December 2008)

The aim of this workshop was to bring different stakeholders and dynamic coalition members together to discuss challenges and opportunities to mainstreaming rights within internet governance policy discussions and processes.

The facilitator, Andrew Puddephatt of Global Partners and Associates, began by citing the WGIG definition of internet governance: *"the development and application by Governments, the private sector and civil society, in their respective roles, of **shared principles, norms, rules, decision-making procedures, and programmes** that shape the evolution and use of the Internet."*

The facilitator highlighted that human rights have both a normative and philosophical basis. They are a set of legal instruments, but it is also important to remember that they are underpinned by core values of human dignity, respect and autonomy. The aim of the workshop was to explore how we can ensure that these values underpin the norms and shared principles of internet governance.

SECTION ONE

In the first section of the workshop, representatives from a number of the IGF's dynamic coalitions were invited to reflect on the relevance of human rights to their work.

Gurumurthy Kasinathan, Dynamic coalition on a Framework of Principles for the Internet
- We need to develop a people-centred, inclusive and development-oriented information society. A human rights approach is essential.
- Some rights are better understood than others. We have to remember that civil and political rights are indivisible from economic, social and cultural rights.
- Emphasis needs to be given to positive rights, including the right to education. The theme of this IGF, *Internet For All*, is important, and we should discuss whether there should be a right to the internet.

Shaila Mistry, **Internet Bill of Rights coalition**
- There is a need for a space at the IGF in which people concerned about rights issues can come together to discuss and collaborate with each other.
- The Bill of Rights coalition aims to provide such a space through acting as an umbrella coalition, showcasing and facilitating the work that other groups are doing on rights issues.

Gabriela Barrios, **Accessibility and Disability coalition**
- If we accept responsibility for the worldwide effects of technological and economical activities, we need intercultural and universally binding norms to guide our activities. Human rights are the only universal set of standards capable of fulfilling this role.

- Rights that are particularly relevant in this context are the right to freely participate in life of community, to education, to free expression and knowledge.
- Production of knowledge is increasingly privatised and commercialised.
- The principle of non-discrimination means that access and use of ICTs have to be available to all, without discrimination.

Viola Krebs, Dynamic coalition on Linguistic Diversity
- We can't begin to talk about freedom of expression if the majority of people across the world can't express themselves in their native tongue.
- Only 350 of the world's 6000 languages are present in cyberspace
- The ability to express yourself in your mother tongue is essential for promoting social and gender equality.
- People need access to the resources needed for translation. These shouldn't only be limited to people who can afford them.
- We need to bring linguists together with technicians to find solutions.

Lea Shaver, Dynamic coalition on Access to Knowledge (A2K)
- We can't talk about governance without talking centrally about rights. When talking about internet governance, it's important that rights are present and protected. They should be a major part of the dialogue and a foundational element in the direction that government takes.
- A2K is a right which draws on Article 27 – the right of everyone to share in the benefits of scientific progress and to take part in cultural life. This has a lot of relevance for internet governance. Those should be principles that we claim and insist that internet governance is structured around.
- However, not all A2K advocates are persuaded about the utility of a rights based approach. We too often hear about intellectual property rights and the rights of creators, rather than the rights of users and the right of access to knowledge.
- The rights-based advocates need to demonstrate to those that are interested in multilingualism, A2K, privacy etc that human rights approaches can have benefits for their issues. What is the advantage of framing these concerns as human rights?

Ralf Bendrath, Privacy Dynamic Coalition
- It's been difficult to keep a constant dynamic in the work of the dynamic coalition. It was very dynamic in its first year, but then the momentum was lost.
- It's hard to get government representatives involved – we need an open exchange of views and fresh thoughts, which is difficult when people are afraid that things they say might be reported afterwards.
- There's also been limited participation from the private sector.
- The result is domination by civil society – we could set up an NGO, but the idea is to have a multi-stakeholder approach.

SECTION TWO

In the second section of the workshop, people in different stakeholder groups were invited to contribute to the discussion.

Chat Garcia Ramilo, APC Women's Programme

- The way women exercise their rights in the information society is affected by the norms under which they are living.
- Women's blogs are blocked because they talk about sexuality, or about God and romantic escapades in the same post. We need to bring rights that have already been agreed on into the discussion, e.g. as defined in the Convention for the Elimination of Discrimination against Women (CEDAW) DAW, so that women can exercise the right to information.
- The women's rights movement is significant. We need to demonstrate why internet governance is relevant to them otherwise we won't be able to bring them into the IGF, which will hamper our ability to mainstream rights.

Peter Hellmonds, Nokia-Siemens Networks
- It's important to clarify that I am talking as myself rather than as a representative of my company. That means that I can talk more freely from a personal perspective.
- Nokia-Siemens has a code of conduct that explicitly recognises human rights, and the need to comply with national laws. The problem is when national laws aren't aligned with human rights. However, we aspire to the higher international norms, and we try to introduce these into the way that we do business.
- We think it could be competitive advantage if we are perceived around the world as leading in this field.

Miriam Sapiro, Summit Strategies International
- The notion that we have to talk about mainstreaming human rights at the IGF ought to be an anomaly. We use the word "fundamental" because that's what these rights and freedoms are – fundamental. Implementation, however, could be improved and so this is an important discussion to have.
- I believe that participants at the IGF share the goal of expanding access to the Internet for the next billion and thereafter, and protecting the human rights of those using the Internet. The question is, how do we get to that point? It seems less practical to start with the issue of new rights than to consider better implementation of existing rights and practical measures to encourage broader access. With respect to human rights, we could think in terms of what existing regimes already provide, how they might apply to the Internet, and whether any updating could be helpful.
- It also seems productive to look at the goal of broadening participation in the Internet in terms of values, rather than creating new rights, which could cause governments to step back or become concerned. This is because the subject of rights, especially for governments, is serious business. Questions would likely arise as to what exactly is meant, how would the proposed right be defined, is it clear, and - perhaps most important – is it enforceable and how is it enforced.
- Focusing on values could become a very effective way to encourage all of the different stakeholder groups to work together and try to make progress towards mainstreaming human rights in IGF discussions.

Lee Hibbard, Council of Europe
As the Council was unable to be present at the workshop, these notes are based on a conversation between Lee and the workshop organisers. They may therefore not accurately reflect the Council's position.
- The Council of Europe has been trying to mainstream rights since the inception of the IGF.

- Many stakeholders don't necessarily have an understanding of what rights actually mean in relation to the internet, and we need to address this. We need to look at a number of different layers in the environment, from the technical, physical, regulatory and policy perspectives.
- The Council's work on the *public interest value of the internet* provides a roadmap of these issues. They have also developed practical guidelines, for example for ISPs when dealing with rights issues. These were developed in partnership with the ISPs themselves as we need to bring the different stakeholders we are trying to reach into the discussions.
- In sum, more states need to be involved in these processes, and it's important to have the right people from the right ministries involved (e.g. from both telecommunications and media).

DISCUSSION AND POINTS RAISED BY WORKSHOP PARTICIPANTS FROM THE FLOOR

- Need to focus on **implementation of existing rights**; the problem is that they're not being honoured. We fought hard for freedom of expression to be included in the WSIS declarations, and we succeeded. If we keep talking about rights we already have as if we don't have them we won't be taken seriously by the establishment.
- We have to agree as a group on the **terminology** we use. For example, it's better to talk about the right to knowledge than to the internet, and then translate that into what it really means in a given context.

- It's unproductive to pit expression and privacy against **children's rights**. Children have those rights too. We need to take established rights as a point of departure in order to have a much stronger dialogue with each other and move forward on these issues. We need to look at what the UN convention on the rights of the child means in the context of the internet and internet technologies. Talking about debates in terms of rights could be a way of bringing different stakeholders together.

- We can use established principles like the **principle of non-discrimination** to address the issue of accessibility.

- There are lots of different communities at the IGF who don't have a background in human rights, coming from the trade or communications ministries. The challenge is making these **communities interact** with each other.

- The **high commissioner for human rights** is conspicuously absent.

- The **Global Network Initiative** is an important first step of business self-regulation.

- The **right to communicate** has the breadth to conceptualise human rights in relation to the internet. It isn't a new right; it unites a number of existing rights that bring together all of the areas that we've mentioned and illustrates their interdependence. We're not trying to establish new rights.

- **Governance is a process**; we need to think of it as a process in which we defend the rights of participants to expression, association and non-discrimination.

- The aim of an internet bill of rights could be to have a kind of platform for all of the declarations which are widely accepted, and on which we can go further and work on them, specifying what is needed in those declarations, like the right of access for example.

- The **rights to development, education and communication** are not possible in today's world without having the ability to access the internet.

- It's important to map out what rights and obligations are already in place before we can move forward to any implementation for mainstreaming. For example, the **Convention on the Rights of Persons with Disabilities** obliges states to provide access to new information and communication technology systems, and to promote accessible design of ICTs in the early stages.

- These discussions are quite unspecific and on a high intellectual level. Businesses need discussion on a more practical level. The discussion would benefit from very specific examples. I would rather talk more about **practical applications** than about the high clouds of principles and so on. I am concerned that governments can use child protection as an excuse as a means to introduce sophisticated filtering software, reducing the ability of citizens to access and exchange information.

Dynamic Coalition Meeting Notes

INTERNET BILL OF RIGHTS DYNAMIC COALITION MEETING
(14.30, Room 5, 5th December 2008)

Introduction – Facilitator (Max Senges)
- The internet can be thought of along the axes of Social commons, Service commons, Infrastructure commons
- The dynamic coalitions are based on multi-stakeholder collaboration; how can we get better cooperation with private sector?
- How can the IBR work with other coalitions? Eg working with the Privacy Coalition to translate the terms of service you sign up to online – what do they mean and how are they related to rights? One way to bring rights forward is to come up with a human readable, modular solution.
- The IBR coalition has been growing and has developed a new logo and website.

Meeting agenda
1) Report on needs and challenges of DCs (feedback from session on Mainstreaming Rights)
2) Discussants and practical solutions
3) Discussion
4) Next steps

1) Feedback from "Mainstreaming Human Rights in the work of the IGF" workshop (Max Senges)
- It's important to remember that IBR is a dynamic platform to share and collaborate.
- A representative from the child protection DC highlighted that stronger dialogue is needed in terms of framing rights and interpreting them in internet age.
- It's important to work with private sector and government sectors
- Making rights a key theme of 2009 IGF is an important goal.
- A key issue is how to make the DCs actually dynamic. Most are working voluntarily → difficult to maintain energy that we need.

2) Discussants

Wolfgang Benedek
- Wide range of issues are relevant.
- The common denominator is maybe human dignity, right to self determination.
- When we look at how this is presented, different stakeholders don't necessarily see it as a rights based approach. Eg, in the Diplo book, rights presented as separate rather than cross cutting issue
- Problem of trying to involve governments…mainly CSOs here.
- Some IGOs, but not broad representation…UNESCO and CoE here, but why not the special raporteur for FoE?
- Business sees this gap and is responding to it…hope that it will respond more forcefully in the future.

- Google's standards are too low…they should state that they are enabling, empowering, contributing to a rights based approach. This would help other businesses understand.
- The problem is that rights are often seen as a blame game…a negative approach that makes people uneasy.
- New guidelines are being developed by different stakeholders eg CoE.
- Problem of enforcement…IP rights, trade etc have stronger enforcement mechanisms, but this lack of enforcement mechanisms can be countered through decentralised forms…community acting as watchdogs and making positive contributions.
- IBR DC should act as a platform for debate, but should go beyond that eg establish research groups, networks including teaching, small and large projects in cooperation with business…always trying to maintain multi-stakeholder approach.
- Could also have political agenda → making people aware of rights approach…trying to build consensus around issues at different levels (regional and global).
- Can do it around issues of interest.
- This shouldn't necessarily lead to recommendations to IGF, but it could….substantiated insights to contribute to the IGF.

Facilitator - Idea of research is very interesting…Global Partners is talking to Max about developing project proposals and all are welcome to collaborate.
Ownership of suggestions is key…we need dedication about pushing ideas through. For example, can Wolfang own and push forward the research aspect of the coalition?

Wolfgang Kleinwachter
- This is a DC, not a workshop. IGF isn't a negotiation body, but a DC can produce outcomes. If we are talking about a bill of rights, it's practical. It could be an instrument at the end of the process.
- We have an internationally recognised bill of rights which was a huge achievemnt, but not all are happy. As we move forward, we have to be careful we don't undermine what's already been achieved.
- We have to base all of this on the UDHR – IBR activities have to be embedded in the universal declaration.
- Article 19 already embeds rights to FoE, but we could work on its interpretation, including the element of the right to share….sharing is of practical value in end to end communications.
- Other human rights elements brought into discussions….
- Internet of Things discussion….should it be a right that the RFID chip is silenced when it goes to a person…and the right to forget – should there be an expiration debate on what we put online?
- Access – does it need to be a universal right?
- There is a split between ESCR and ICCPR – need to link them back together and see how they relate to each other.
- Proposal – if we produce something in the IBR DC we should approach the Human Rights Council of the UN….there's no debate about internet censorship there. We can make them more aware of what's going on in the internet world.

Facilitator– we can talk about this with the IGF secretariat – how they can support us.

Marco Pancini – European Public Policy Council – Google.
- The laws we are applying everyday as internet users were written for another era…I'm not just talking about UDHR, but day to day laws that are making our life very difficult.

- What is the role of industry players, governments?
- Google is using Global Network Initiative as a platform to play an active role – to propose FoE and privacy as problems that need to be on the agenda
- GNI = Google, Microsoft and Yahoo effort to create a framework and lobbying platform to put FoE and privacy in the agenda of all governments, and making these alive in all of the services we provide.
- [Max - An internal effort to review practices..a self regulating effort.
- They say they want to work with govs and CS…IGF could be an interesting way to help them so that]
- [Ronnie – wasn't just the companies – civil society is involved; it is primarily a Western initiative]
- I was present at the founding of IGF in Italy with Rodota as a chair…I am committed as we as internet users, players etc need to fit into these discussions about values and rights alongside governments.

Thomas Schneider – Swiss government
- Challenges for governments.
- Governments have a long tradition in dealing with human rights in the analogue world → clear structures on what the rights and duties are, what the rules are at national, regional and global level.
- Eg UDHR, European Convention on Human rights (important as connected to courts). Council of Europe is working to guarantee maximum rights with minimum restrictions; security is a precondition for rights and freedoms, and not the other way round.
- Measures are there to ensure that you can actually exercise your rights and freedoms, but this depends on factors such as government, and the structure of the media system.
- Traditional role of govs has been challenged by the virtual world, and they're still trying to work out how to respond.
- New challenges have been presented for everyone.
- Decision making processes of govs are often too slow…national laws aren't enough to tackle global issues. Have to see what we can do – harmonisation isn't always possible.
- How can we get a rights system into the internet? All actors have to be involved; there is a key role for all actors. Technical decisions have political, economic and social impacts. This is often only realised 20 yrs later.
- When you include all these actors you don't come to binding decisions…govs have to get used to rough consensus rather than binding decisions.
- Mush partnerships→ legitimacy problems…who guarantees that companies are enforcing principles that they announce on their website?
- Govs often try to regain control in a traditional way, and citizens expect same rights t be protected online and offline.
- Don't need new rights…always trying to make laws technologically neutral…don't need to change them every time a new technology is developed. Basic principles that apply online and offline.
- Dangerous to try and elaborate an internet bill of rights → might come to an agreement below what we already have. Was a special time when UDHR was agreed.
- Useful to look at rights there are and transpose them onto the internet so that everyone understands them, even if they don't know UDHR exists.
- CoE is trying to develop practical guidelines, encouraging everyone takes responsibility for fostering HRs on the internet.

Facilitator – there's room for a bill of rights document to be created within the coalition, but it's more of a process at the moment.
We're thinking of changing the name to "rights and principles" as we're a broad platform for discussion.

Chengetai Masango – IGF Secretariat
- DCs were one outcome of first IGF – they weren't planned, they just emerged. The secretariat thought it was an excellent example of how the IGF can produce synergies.
- We're concerned about how to make the DCs more active…throughout the year, a continual process.
- Nitin says DCs are like minded coalitions going towards a shared goal.
- We're very supportive of the DCs…try to give them publicity and provide them rooms.
- If people are having problems connecting with governments or UN bodies, they can come to us and we'll try to connect them.
- The IBR process is very important. When people discuss the issues, they become sensitised to them, so it's important to include people who agree and disagree in the discussion.
- The Council of Europe seems to have a different approach, looking at the current conventions and trying to adapt them to the internet age. It's all good as long as there's discussion and people meet.
- There seem to be competing views on the balance between privacy and security…but there doesn't need to be competition between them. We can have agreement that both are important.

Facilitator Question: is there a way to make it easier for governments and the private sector to participate in the coalitions?

Chengetai: It's difficult….if people make statements in their private capacity it can cause problems as people think they are representing the bodies they work for. In the MAG there are guidelines for this – people participate in their individual capacity, and are protected by Chatham House rules.

Stefano Rodota
- It's important to see that the core business of the IGF is the UDHR.
- The merger of different DCs could be a good step because it can reinforce the trend of producing a critical mass and point of view. We can use this critical mass to improve the process, and to push into specific directions.
- We need to have an official place for this issue of right in the next IGF in Cairo, not just disseminated into different workshops.
- Google suggested having a privacy council at the UN level…we need to formalise new perspectives in the official institutions of the UN.
- Multi-stakeholdersim embodies a paradox: the private sector is leading on internet rights whilst the public sector creates big brother states.
- We have to stimulate a different approach. Can private companies be the only sovereign bodies in the protection of rights and freedoms?
- We must not undermine UDHR, but there's a problem – we have to resist rewriting it, but we cannot leave all decisions as a matter of interpretation. Eg when the European charter was under discussion, there were similar objections that we threatened to undermine the UDHR and the European Convention. But now, even if the charter isn't

binding, it's changing interpretations of rights by institutions. Reinterpretation is therefore important.

- Some new issues can't fit into old framework e.g. internet as a commons.
- I would like not to use the IBR to go back to discussions about different generations of rights…we need to remember the indivisibility of rights.

Thomas Schneider– Supports the idea that we should have one day dedicated to rights and principles at the IGF.
Supports name change as it's important to incorporate everyone, including critics…they might be persuaded along the way.
Including the private sector is important.

Comment from audience – I disagree with including "principles" in the name of the coalition as it will give the private sector the excuse of focusing on principles and undermining rights.
Vint Cerf said we had to keep the internet unregulated, but that would be chaotic.
"Bill of rights" and "principles" are different.
What is the goal of the BoR if you put principles in?

Comment from audience: I don't like conversations about values…about interpreting rights

Comment from audience: Much legislation is anti-human rights…this process in the coalition will make us question legislation which is inappropriate to the internet age; it will force countries to re-visit out dated laws.

Comment from audience: To be strategic, should we call for a main session to define or discuss the norms and principles of internet governance, as referenced in the WGIG definition of internet governance? I think we would be more likely to secure a main session that way. We can then argue that human rights should underpin these norms and principles, whilst including as broad a range of people as possible in the discussion.

Comment from audience: I have been scared away by the coalition name "Internet bill of rights" in the past…but we'd be delighted to be involved in the group if it's talking about advocating human rights.

Comment from audience: Let's take dignity as a principle…it's not a right. How can we apply that…how to turn dignity into a right without clashing with free expression? There are moral and ethical values that we need to build into the discussion. "Rights based principles" are fine as it means we're talking about a regulatory framework that gives maximum freedom with minimum restrictions on rights.

Comment from audience: Principles like dignity can be enforced. Principles can have an enormous binding role when society needs flexible principles in order to be adapted to the dynamic of societies.

Comment from audience: This IBR process grew out of WSIS. I don't want discussion of principles to result in slippage from the rights bedrock. The flipside of developing rights-based principles is responsibilities – the responsibilities of users.

Comment from audience: I am interested in this workshop. After the "mainstreaming rights" workshop in the morning, this is the most dynamic.

I think that the role of government is an instrumental role – a facilitator for the discussion to take place. Italy hosted 2 discussions on internet rights. This effort to better coordinate the coalition is great – we salute the enthusiasm.
The Italian government would be pleased to host a mid-term review of these issues in July.

Facilitator – it would be interesting to reach out to the other DCs and coordinate with them on this.

Comment from audience: how can we ensure that this work feeds into other efforts such as the GNI.

Facilitator: we'll explore this…how we can contribute to the watchdog facility, reaching millions of users.

Comment from audience: Moving forward, there is agreement that we should base or discussions on the existing rights agreements. This is a huge achievement.
We are developing a new understanding of existing rights. If these were based on concrete cases, it would be an interesting development. The DCs could help other institutions that are struggling with these issues…e.g. we could go to the court and ask for decisions, resulting in the emergence of case law relating to the internet.

Thomas – The Swiss government is interested in joining the coalition.

Facilitator – we are also talking to Argentine government.

Comment from audience: We are starting a process of going forwards…
We should look at the WSIS declarations to see what has already been agreed upon….we can do work in gathering the texts together that are important.
We should look at what's already been decided and what is coming through.
For example, the Council of Europe work (187) on the information society is an idea of a charter with basis in governments and the private sector.
UNESCO is also preparing something, and the OECD.
I suggest that comments from the "mainstreaming workshop" are used as well…we can question those people on how they see their roles.

UNESCO – we are very interested in this discussion…We are in charge of WSIS Action line 10 on the ethical dimension of the information society. We should start thinking about how to collaborate for the next IGF, and how to create a HR approach.
You're welcome to join our activities and vice versa…it's the right time.