Future Governance of the Internet

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A. Introduction

1. According to its declaration of principle, the mandate of the Committee for a Democratic UN (KDUN) covers "the democratization and strengthening of the United Nations system and of all global governance processes." The future governance of the internet therefore is of particular interest to the Committee.

2. KDUN recognizes with respect and appreciation the work and mediating efforts of the Working Group on Internet Governance (WGIG) created by the UN-Secretary General as a means to have stakeholders from government, the private sector and the civil society work on a common approach to Internet Governance (IG).

3. KDUN strongly supports the innovative practices with regard to transparency and participation possibilities applied during the development of the WGIG's Report on Internet Governance[1]. The constructive and dialogue driven collaboration amongst all stakeholders can serve as an encouraging example of international cooperation in the information age.

4. The internet represents a main environment for collaboration, communication and information. Thus, the internet is a resource meant to be utilized by all human beings. The goal for accessibility has to be free and continuous access for all people to all basic communication and transaction functionalities as well as to public domain information.

5. KDUN calls for strengthened efforts to bridge the digital divide.

Background 1: Sustainable Information Society

CDUN endorses the following statement made in the "Memorandum for a Sustainable Information Society"[2]: "Although Information and Communication Technology (ICT) offers great opportunities for education, participation in markets and politics, the efficiency of markets, the creation of communities, open discourse and intercultural understanding, a trend is ascertainable today that these opportunities are being distributed very unevenly. ICT is threatening to exacerbate the divide between rich and poor, especially between the Global North and South, unless political will is brought to bear so that ICT applications are oriented more towards the local needs of people and to create more educational opportunity for young people worldwide."

B. Internet Governance Working Definition

6. KDUN supports a positive and inclusive definition of IG. All means that facilitate access to and further development of cyberspace[3], and are not restricting essential freedoms and rights as outlined in the annex, are considered good IG.[4]

7. The internet is more than just a new means for information exchange. KDUN thus suggests using the term "cyberspace" to express and emphasize the internet's potential to create a global space for expression and participation of individuals and the society at large in global governance issues.

8. Technological issues, in particular the infrastructure which empowers the people to interact and participate, are to be distinguished from the sociological and political aspect. The technological aspect could be subsumed under the term "net-tech".

Background 2: Conceptualisation of Cyberspace

The technology used for the infrastructure of the internet is the evolutionary result of scientific research, and similar to other modern technology (like the automobile or planes) it has to function and be understood only by the technicians who operate the network. The concept of cyberspace on the other hand expresses the individuals perception of the environment created through the technical inter-network of computers. Given this phenomenological understanding of cyberspace, we would like to point out two fundamental characteristics of the information age, mainly caused be the internet and brought forward by Manuel Castells. The characteristics described are part of cyberspace experience, but also have profound influence on traditional activities and relationships:

"These are timeless time and the space of flows. In contrast to the rhythm of biological time characteristic of most of human existence, and to clock time characterizing the industrial age, timeless time is defined by the use of new information/communication technologies in a relentless effort to annihilate time. On the one hand, time is compressed (as in split second global financial transactions, or in the attempt to fight 'instant wars'), and on the other hand, time is de-sequenced, including past, present, and future occurring in a random sequence (as in the electronic hypertext or in the blurring of life-cycle patterns, both in work and parenting). […] The space of flows refers to the technological and organizational possibility of organizing the simultaneity of social practices without geographical contiguity. Most dominant functions in our societies (financial markets, transnational production networks, media systems etc.) are organized around the space of flows. And so to do an increasing number of alternative social practices (such as social movements) and personal interaction networks."[5]

C. Internet Governance Mechanisms

9. Regarding the concrete options put forward in the WGIG-Report[6], none sufficiently represents the position of KDUN. Model 4 seems to tendentiously embrace the understanding of KDUN, it is therefore seen as the best basis for discussion.

10. Considering the global nature of the internet, it makes is impossible to allow any managing entity to be under the direct or indirect dependency of any single government[7].

11. Furthermore, an exclusionary intergovernmental model would be ill suited to the internet's unique characteristics. In particular, KDUN stresses the urgent necessity to prevent the possibility of excessive influence of governments on IG whose national laws and performance are in constant conflict with essential freedoms and human rights. It should be ensured that any intergovernmental body itself should be accountable and subject to democratic control, for example through a parliamentary assembly at the UN.

12. Only a truly open, multi-stakeholder, and flexible approach can ensure the internet's continued growth and transition into a multilingual medium. A wide variety of institutions and communities shall be involved in the democratic organization and management of the internet. The practices and processes of IG should be mapped, explained, transparent and open for further discussion.

13. It is of overarching importance to clearly assign responsibilities and distribute process ownership, minimizing institutional overlap and task repetition.

14. Therefore under the paramount and coordinating auspices of the United Nations, a decentralized governance framework should be developed which separates technological (net-tech) from socio-political aspects (cyberspace). These aspects should be dealt with through agreements between heterarchic communities.[8]

15. Naturally, technological decisions have to be carried out by people who understand the network technology.

16. When the conditions for system stability and sound management can be guaranteed, authority over inherently global resources like the root servers should be transferred to the global, multi-stakeholder entity.

D. Roles and Interests

17. When discussing the responsibility and interactions of the governments, the corporate sector and the civil society respectively, it is useful to clarify the natural roles and interests of each actor.[9]

18. Principally the internet should be governed to best serve the public interest represented by civil society.[10]. The corporate sector is interested in developing and selling tools and services, while focusing on the maximization of profit. Given the high efficiency of free markets, the organizational management of the internet should be handled by private enterprises within a regulatory framework maintained and controlled by trans-national non-profit organizations. However, because the public interest stands in partial contradiction with the individual enterprises interest to maximize their profit, governments have to facilitate negotiations in a mediator role and enforce the regulatory framework in an executive role.

19. All three actors are called upon to work together to expand the infrastructure and ensure provision of services to all parts of the world, in order to bridge the digital divide. The initiatives in this regard should be harmonized and an institutional lead actor as well as an international fund should be decided on.

20. The Forum – as suggested by the WGIG in section V.A.1 of the final report – is considered a good solution to address, discuss and negotiate most issues related to all non-technological questions of IG. In order for the Forum to become the official, authoritative and standard communication and negotiation space for IG matters, terms of reference, defining the mission and responsibilities of the Forum should be initiated and officially recognized by governments, the corporate sector and civil society.

21. Regarding the net-tech management, KDUN essentially agrees with the proposal that scientific perspectives and principles instead of political or commercial interests should be given priority.[11]

E. Development of an Internet Constitution

22. As the first core mission of the Forum a set of shared fundamental principles and a humanitarian development vision for cyberspace should be developed. The values and rights thus laid down would constitute an Internet Constitution. It is stressed that this concept does not imply that such a document contains provisions for governmental or organizational structures and relations. Rather, it should focus on the paramount principles which should govern cyberspace.

23. In order to secure civil benefits and liberty in cyberspace, the global civil society has to bring forward its demands, interestes, values and vision so that these may be included into the constitutional set of principles.

24. The development of the Internet Constitution shall be transparent and open to the contribution of all interested parties. The rights of those underprivileged should be facilitated. Mechanisms for amendments and additions will have to be put in place.

25. Under this constitution, thematic and social communities should develop, police and enforce their community-specific set of rules in order to create the environment preferred and opted for by the participants.

26. It is understood that all organizations running the operational and management infrastructure of cyberspace are naturally meant to act as keepers and protectors of the defined framework and rights.

Background 3: Internet Consitution

To elaborate on the intention and nature of the proposal of an internet constitution we quote from the work of Larence Lessig, a Stanford University based Law Professor, who specialized on the legal aspects of cyberspace. In relation to the essence of cyberspace and discussing the best approach to harvest the potential benefits, he writes:

"We build a world where freedom can flourish not by removing from society any self-conscious control; we build a world where freedom can flourish by setting it in a place where a particular kind of self-conscious control survives. We build liberty, that is, as our founders did, by setting society upon a certain constitution. […] But by 'constitution' I don't mean a legal text. Unlike my countrymen in Eastern Europe, I am not trying to sell a document that our framers wrote in 1787. Rather, as the British understand when they speak of their constitution, I mean an architecture—not just a legal text but a way of life—that structures and constrains social and legal power, to the end of protecting fundamental values—principles and ideals that reach beyond the compromises of ordinary politics. […] A constitution envisions an environment; as Justice Holmes said, it "call[s] into life a being the development of which [can not be] foreseen" [Missouri v Holland, 252 US 416, 433 (1920)]. Thus, to speak of a constitution is not to describe a one-hundred-day plan. It is instead to identify the values that a space should guarantee. It is not to describe a "government"; it is not even to select (as if a single choice must be made) between bottom-up or top-down control. In speaking of a constitution in cyberspace we are simply asking: What values are protected there? What values will we build into the space to encourage certain forms of life?"[12]

Lessig also notes that the definition and direction of constitutional efforts should be built from the bottom up, and never through the direction of a state.

F. Final Comments

27. KDUN is interested to actively participate in the discussion of the future arrangements, institutional structures and bodies responsible for the governance of the internet.

28. All comments regarding this position paper are welcome and will be given due consideration. Contact Mr Max Senges at senges (at) uno-komitee.de. More information is available on our internet website, www.uno-komitee.de.

Annex. Draft Declaration of Freedoms and Rights in Cyberspace

The following are some beginning ideas and all interested parties are invited to discuss and encouraged to develop the content further. Ideas with the same spirit have been put forward in 1996 as "Proposed Declaration of the Rights of Netizens".[13] *We understand our input as a contribution to the collaborative effort established there. In any future arrangement defining and implementing Internet Governance, the following fundamentals are suggested:*

In order to harvest the political participatory potential of the internet, the means of participation (eGovernment, etc.) have to be developed, institutionally installed and promoted.
Cyberspace is an environment made by and for humans. International Human Rights adopted in the framework of the United Nations thus fully apply. Furthermore, cyberspace must constitute and grant the following freedoms and rights:

I. Free Access
Everybody has the right to freely access all public domain information. The efforts underway (e.g. Open Access, Creative Commons, Open Source) to ensure the growth and prosperity of the public domain are to be supported as they represent the possibility for human creativity, collaboration and innovation. Especially the development and provision of content targeted to educate illiterate and ICT illiterate deserves financial and institutional support.

II. Free Expression
There must be no censorship and regulation on internet content. However free expression is given a limit wherever content harms freedoms and rights of others.
Communities and unions (rings) of trust might be able to select and promote content (e.g. suitable for children). Collaborative filter and rating mechanisms (such as mojo) might also be suitable.
In order to allow individual Netizens[14] or communities not to be exposed to content they consider unsuitable for themselves or their children, all information shall be described by multi-dimensional metadata (ranging from language to labels for violence, nudity etc.). That way, these Netizens can apply individual, client-based filter mechanism.

III. Free Communication
Everybody has the right to use the internet to communicate with whoever he/she chooses to. This universal right to communicate freely is practiced through the provision of email and shall be extended to internet telephony (VoIP) as soon as possible. Efforts to combat the phenomenon of unsolicited commercial or propaganda messages (SPAM) are to be supported.

IV. Global Free Movement
The internet does and must not enforce national borders.

V. Privacy
All Netizens have the right to develop and maintain Virtual Private Environments, and are encouraged to encrypt their communication. Virtual Private Environments are to be treated equal to private property. (see International Private Property Treaties)

VI. Openness
Alternative and new data formats and technologies can always be introduced into the internet. The practice of the W3C to adopt formats and technologies once they have been proven useful for a wide range of users should be continued.

Notes

[1] Report from the Working Group on Internet Governance, Document WSIS-II/PC-3/DOC/5-E, 3 August 2005, www.wgig.org

[2] KDUN endorses the according statement in the "Memorandum for a Sustainable Information Society" by the Working Group "Nachhaltige Informationsgesellschaft" (GIANI) within the Committee for Computing Science and Environmental Protection of the Gesellschaft für Informatik, http://www.giani-memorandum.de/:
"Although Information and Communication Technology (ICT) offers great opportunities for education, participation in markets and politics, the efficiency of markets, the creation of communities, open discourse and intercultural understanding, a trend is ascertainable today that these opportunities are being distributed very unevenly. ICT is threatening to exacerbate the divide between rich and poor, especially between the Global North and South, unless political will is brought to bear so that ICT applications are oriented more towards the local needs of people and to create more educational opportunity for young people worldwide."

[3] "Cyberspace" not a scientifically well defined term. However authors like Larence Lessig, or Albert Benschop have chosen to work with the term as cyberspace expresses more adequately the broader aspect of online activities and transformation caused by the internet.

[4] This definition is considered in line with the broad understanding of IG defined by the WGIG

[5] Castells, M.: "Materials for an exploratory theory of the network society", British Journal of Sociology, Jan-Mar 2000, p. 13

[6] Because the WGIG could not find consensus on the governance mechanisms to recommend, it put forward four different scenarios. For details, see Fn. 1

[7] KDUN supports the position proclaimed in the Civil Society Declaration at the WSIS-I: It must be remembered that the internet is not a singular communications "platform" akin to a public telephone network. It is instead a highly distributed set of protocols, processes and voluntarily self-associating networks. Accordingly, the internet cannot be governed effectively by any one organization or set of interests.

[8] All human activity takes place in a social context. On the internet, this social context is unequivocally defined through the location and the environment. Each virtual environment can develop specific rules and regulations defined by the participants (the community).

[9] The interaction and relations between the three major actors are subject to extensive research. The explanations and representations given by Etzkowitz (although in his concepts applied particularly to university-industry-government relations) describing the setting as a triple helix, seem particularly suitable to express the evolutionary and dynamic development of negotiations; see Henry Etzkowitz: "Innovation in Innovation: The Triple Helix of University-Industry-Government Relations", Etzkowitz Social Science Information.2003; 42: 293-337.

[10] The problem of the legitimization of the representatives of civil society is too broad to be discussed in this document. One possible solution could be that the respective community is responsible to democratically elect its representatives.

[11] As put forward by Ronda Hauben: "The Internet an International Public Treasure: A Proposal for the Creation of a Prototype to Manage the Internet's Infrastructure", 1997, www.wgig.org/docs/Comment-Hauben-April.pdf, accessed on 01.10.2005

[12] Larence Lessig, Code and other laws of cyberspace V2., Ch1, 2

[13] Michael Hauben and Ronda Hauben: "The Netizens and the Wonderful World of the Net", 1996, http://www.columbia.edu/~rh120/netizen-rights.txt.

[14] The term Netizen refers to those individuals who officially acknowledge, ratify and realize the Freedoms and Rights put forward.