

**National Research University
Higher School of Economics**

**Human Rights on the
Internet:
Legal Frames and
Technological Implications**

Compendium on Internet
governance

Volume 3

Moscow
2014

УДК 342.7:004
ББК 67.404
H91

Human Rights on the Internet: Legal Frames and
H91 Technological Implications: Compendium on
Internet governance. Volume 3 [Text] / ed. by S.
Maltseva, M. Komarov and A. Shcherbovich;
National Research University Higher School of
Economics. – Moscow, 2014. – 204 p. – 200 copies.
– ISBN 987-5-7598-1177-0.

This compendium comprises transcripts of the two workshops on 'Empowering displaced people and migrants through online services' and 'Free Software and Human Rights on the Internet' organized by the Higher School of Economics on the 8th Internet Governance Forum (Bali, Indonesia, 22–25 October, 2013) and relevant articles on legal and technological issues of Internet Governance in sphere of human rights, prepared by the group of legal and technical scholars of information studies. This compendium is devoted to the 9th Meeting of the Internet Governance Forum held in Istanbul, Turkey, 2–5 September 2014.

УДК 342.7:004
ББК 67.404

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ISBN 987-5-7598-1177-0.

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**WORKSHOP “EMPOWERING DISPLACED
PEOPLE AND MIGRANTS THROUGH ONLINE
SERVICES”**

**8th Meeting of the Internet Governance Forum, Bali,
Indonesia, 23th October 2013**

Background Paper¹

Over the last decade, the service sector has become the biggest and fastest-growing business sector in the world which also influence on quality of life of people all around the world. Our economy is service-oriented and to continue growth services should be easily available and should be more productive and efficient. It is important to remind that IPv6 topic was proposed to be one of the key topics for the IGF-2011 and also for the IGF-2012, but it is also important to notice that it is not IPv6 which influences on the world and our life, but services which go globally with the use of the Internet and data distribution by the “smart devices” from the Internet of Things and Internet of Services. Global services change relationships between the people and companies with the use of Internet, which makes them globally spread and IPv6 technically helps to go further globally by allowing integration of most our belongings into the Internet which will provide strong impact on our

¹ By Dr. Mikhail Komarov, National Research University Higher School of Economics.

life. The main Internet Governance principles of access to the information, human rights protection quite often are not followed on all 3 levels of Internet Governance: supranational, national and community level, for those who had to move from one country to another saving their lives - refugees. From the Universal declaration of Human Rights:

(a) Freedom of opinion and freedom of expression, including freedom of communication (article 19).

(b) Everyone is entitled to realization of the economic, social and cultural rights indispensable for his dignity and the free development of his personality (article 22).

(c) Right to work with free choice of employment und just and favourable conditions of work (article 23).

(d) Right to education (article 26).

(e) Right to take part in cultural life, and share in scientific advancement and its benefits (article 27(1)).

Even though refugees have their own special status, they are not able to continue using their (b),(c),(d) and (e). One of the examples is that there are many governmental services and international services provided in some countries in their native languages or

sometimes in internationally commonly used languages only. The main change introduced into disaster recoveries and refugee camps from what was 20-30 years ago and now - there are new necessities - not only place to live, water, food and medication but also access to the Internet and access to the set of services provided through the Internet for the refugees to help them quickly adapt to the current situation and place where they are at the moment. It happens also because of global spread of mobile devices and PCs. There are many examples around the world when citizens leave their home countries because of nature disasters and civil wars and move to another countries becoming refugees without knowledge of the language, laws, regulations and cultural aspects of the hosting country.

Also, there are climatic and environmental migration issues which standing as a situation, which couldn't be overcome in the present time. Moreover, its level will increase due to failure of national and international policies to solve emerging ecological issues, such as irrational use of natural resources, degradation of forest, land, and drinking water, industrial development without regard to ecology. Because of these reasons people throughout the world, especially in poor countries, where it is impossible to challenge natural problems by them, go to the countries with better climate and probably better economic development and social standards.

The second point is a problem of the equal recognition. This is the situation which all states faced with, and basic needs of migrants, basic rights and freedoms of refugees, should be protected equally with rights of citizens. Special issue is the needs of internally displaced people: their standards of protection shouldn't be lower than in case of the cross-border migration. Internet due to its supranational nature should give opportunities for using cross-border instruments for information support without regards of the state and nationality.

Refugees should be provided with the information and due to the changing situation they should be granted with the Internet access at the refugee camps and also there should be introduced initial, basic set of services provided through the Internet available for the refugees as well as for the migrant coming to the country. Service-developers should also consider people with disabilities as potential users and it is important to provide same quality and efficiency for them.

This topic influences community level of the Internet Governance as there should be local content development support to inform refugees and migrants about traditions, laws and regulations and some cultural aspects of the local community. It influences national level of the Internet Governance as the government should subsidize Internet Governance in the country - private sector to develop and support basic set of services for the refugees and migrants. And it also

influences supranational level of the Internet Governance as the basic set of services should be universal for all the countries.

The development of Internet of Services helps to overcome the socio-cultural problems of forced migrants: illiteracy, lack of knowledge of languages, and the inability to assimilate. It also helps local people in the host countries to understand the different concepts of human rights, developing socio-cultural tolerance.

List of Participants

Dr. Svetlana V. Maltseva, Dean of the Business Informatics faculty, National Research University Higher School of Economics, Technical and Academic Community, Russian Federation.

Dr. Mikhail M. Komarov, Vice Dean of the Business Informatics faculty, National Research University Higher School of Economics, Technical and Academic Community, Russian Federation.

Dr. Andrey A. Shcherbovich, Law Faculty, National Research University Higher School of Economics Technical and Academic Community, Russian Federation.

Mr. Ajay Ranjan Mishra, ITU-T, Technical Community, India.

Ana Lucia Lenis, Google Inc., Private Sector, Columbia.

Yrjö Länsipuro, ISOC Finland, Technical Community, Finland.

Vasif Mammadov, Ministry of Communications and Information Technology- Azerbaijan, Government, Azerbaijan.

Roxana Radu, Graduate Institute of International and Development Studies, Civil Society, Switzerland.

Yuliya Morenets, TaC-Together against Cybercrime International, Intergovernmental Organizations, France.

Nasser Kettani, Microsoft, Private Sector, Morocco.

Transcript

DR. S. MALTSEVA (MODERATOR).

Okay. Ladies and gentlemen, let's start our workshop on empowering Displaced People. The initiative of this workshop belongs to the representatives of the academia community. I'm the Dean of Business Informatics Faculty in the Higher School of Economics and I'm glad to welcome all of the participants, all our remote participants.

Firstly let me introduce the organizers of the workshop. It is Dr. Svetlana Maltseva, Mikhail Komarov from the NRU Higher School of Economics and Mr.

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Ajay Ranjan Mishra that represents the ITU Technical Community.

I'm glad to introduce the panelists; it is Andrey Shcherbrovich, Faculty of Law, Higher School of Economics.

We have Paul Mitchell from the Microsoft Technology Officer for Middle East and Africa.

We have the head of policy for Global Columbia and in Peru.

We have the President of a Chapter of the Internet Society.

And Roxana Radu represents the Institute of International and Development Studies.

We have the founder of TaC, Executive Director of Together Against Cybercrime International Organization.

We can start.

First let me and the organizers, allow us to do some short introduction into the workshop topics. Please show them the presentation. I must say, this workshop, this is to understand the needs of the refugees and displaced people and immigrants and to discuss the abilities to address these needs.

I think it is interesting to see some statistics that indicates the problems of displaced people.

Unfortunately I didn't see this. Okay. I'm sorry. You can see the permanent growth of the amount of displaced people in the world.

You can see, also, that the top destinations of people who are living abroad, it is the United States and the Russia, my native country, now in second place, also you see more attractive countries for immigrants and refugees.

Maybe it is interesting to see that more than half of the refugees come from only a few countries, Afghanistan, Somalia, Iraq, Sudan. It is interesting to see that the Europe, Asia, we can see all of the same number of immigrants. More than 70% of immigrants are of working age. It is critical for them to find job and it is critical services in employment in the skills.

From the point of view from host country, from the point of view services, offer services, maybe you begin to identify main groups of displaced people, if it is newly arriving refugee, low income resident, citizens in the homeland.

For those groups, the services must be different. What are the main immigration and refugee service groups? You can see this, you see the employment and skill combination, housing, healthcare, finance, and maybe it is on the top of the list.

If we think of how we can help in organizing these services using the Internet technologists and the information technologists, we have discussed this in the

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Internet Governance forum, first of all, maybe we can see on their trends for customer services, those strengths are used successful in business and may be critical for the services for these groups or for people such as refugees and immigrants.

Also it is interesting concept, this is the way to look at this, but you see that the numbers here are based on very big deals and for immigrants and for refugees, and here they have many problems in realizing. There are exceptions of all personal information. Also, the immigrants, the refugee, this can be different from the citizen from the host population, maybe it—will be useful and interesting to build some models for our refugees, models of displaced people. Often it is hard to identify groups and group venue.

We have no information about previous and current experience to predict the experience of the immigrant and displaced people using the services, and those with language problems.

I must say technologists and the approaches now have the ability to solve many of those problems. First of all, I think it is very interesting idea for pulling the data and the exchanging of the different open data between the countries.

Of course it is ideal for the concept of big deal with the Internet services. Maybe today we can discuss the ability of the technologists too. I want to finish my

short presentation in showing you the question that we, I think, can discuss today.

Today there are a lot of organizations, governmental and nongovernmental, who can provide services for on displaced people. We cannot see that all problems are solved. I think that services must be more personalized, more relevant and also they must be massive in the course.

I want to ask our panelists to answer those questions.

1. Which services should be provided to the refugees and displaced people?
2. Who should pay for the development and who's going to provide the services: companies, governments, public organizations?
3. If neighbor countries should develop services together, some joint services in case of disaster to one of the country?
4. What is the role of new information technologies and the Internet?

Thank you for your attention in having this discussion. I want to invite to the discussion one of our organizers, Mr. Mishra who will do his presentation and report in the remote mode. He will tell us about the problems of immigrants in India.

A.R. MISHRA. Can you start the presentation, please?

DR. S. MALTSEVA. Sure. Are you ready to start that presentation?

A.R. MISHRA. We're on slide number 1.

Good evening to all, good day to those that are remotely connected to the meeting. It is a pleasure to see Professor Svetlana Maltseva. We have never met, but it is always a pleasure.

Here we are, in this workshop, I'll be talking a bit about the utilization of the Internet, refugees, going to utilize the tools and connect in both the home and host country.

Now, if you move to slide number two, we have seen this quite a lot in India. We have immigration, refugee problem. In fact, in 1970, 1971 it was so big it ended in a war between Pakistan and the creation of Bangladesh. Having said that, if you leave aside the political issues and focus on the people that are displaced, a basic problem they face is. The biggest problem that they don't want to talk to, he or she would be like to be closer to people that know them.

Generally in the refugee camps you see a lot of people that have problems for obvious reasons, how to understand the local land ways, the local dialect. Especially a country like India, there we have 19 national languages, not one, not two, 19.

Then the government will announce the third aid countries, the aid that's announced, the momentum

may move on in countries like in the third-world countries and the real aid never reaches. People don't know how much the government has announced and packages for them, Obama sometimes gives money, houses, but they're not available.

I see another big problem, that's education. Most of the students who are displaced that come as refugees of people, they're doing some education and somehow it is distracted because of things that are not under their control.

I see these four things as one of the key in where the Internet can really help. When I say Internet, I'm talking about Internet in general, not talking about, you know, specific websites dedicated to the refugees, because generally it takes time for these things to come up.

You know, you really get. Go ahead and slide over to three. Through the Internet Messenger, for example, people can be connected to the near and dear when they actually know what's happening to their properties back home. Is somebody taking care of them or is it looted or what is happening with that? They can acknowledge the locals, they cannot only that, but they can get to understand what's being used in the local country or in the host country, they can actually get in touch with the locations, good hospitals.

Okay, here is our problem. What should we do? Generally what happens is that the refugees, the

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amount of facilities that come to the people, there's a huge gap between it that could be understood from there.

Then the local laws, people may not know that is another piece, that these things are free for everybody, for example, the hospitals may be free. When these things happen, even those that don't know the law, they may end up in pain and may end up in hospitals. Whether it is free, say it may be a dollar, just sign in yourself, that's all, you can get treatments for free. There are people standing outside of the hospital, so on, telling these people, you know, we can get you the work done for free. We can get you a license, we can get you help. People are able to portray them, at the end of the day, at some point they may be caught, put in jail because of having a fake identity.

And last but not the least, people can actually continue education online, especially women and children, all school age, education is really on there. So, online education is there. Even if somebody's displaced from the home country to the host country, there is lots of courses to do. They can get education, get some jobs because sometimes in countries as big as India it may be better to take more people to go back to their, you know, home country, it is very difficult, we have a lot of people from Bangladesh staying in India. They have not gotten their cards, work permits; they didn't know what X, Y, Z means.

At the end of the day, as a human being, I'm not really concerned about whatever they're representing. I think they need good advice. They can always go back to another country, the law, to go by the UN principles; people should have the basic conditions and should not be butchered. This is crucial.

If we can go to the last slide, I think the Internet, this is a best means to get connected from the home country, the host country. People really go get an education on the laws, about the health system, applications; they can actually get the help.

In fact, Nelson Mandela once said food, water for all. He said let there be food, water, Internet for all for the good life. Thank you. Thank you very much.

DR. S. MALTSEVA. We have questions from the floor, from the remote participants. Thank you very much. Of course we must do introduction to technology statistics for the problem which we want to discuss today and I want to give the microphone to Mikhail.

DR. M. KOMAROV. Thank you very much. I'll try to be as quick as possible. From the technological perspective anyway, I would probably like to to emphasize that we're talking about economic development which is based on technological progress and here you can see some basic phases of the progress when we talk about the communications and when we talk about the communications itself.

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I just would like to announce that our technologists, our cellphones, the most common devices and technology used around the world in terms of services provided using the help of these devices.

When we're talking refugees and displaced people, you're also already seeing some services provided via cellphones through short message services and cellphones to connect families to check quality and to find medicines outside of the countries, outside of the home countries to inform people about emergencies and disasters. Even if the High Commissioner, he already says that we should change our policy in terms of obligations that should be provided to refugee, displaced people, we should also provide them Internet and we should provide them with basic services, Google earth, so on.

So that's where actually the Internet service has come. We just had a discussion about many things, but it doesn't matter whether we're talking about the things or services, I want to emphasize we're talking data, talking about data and we're talking about data utilization. We're talking about Internet services, personalized, as it was already announced, so customer, citizens displaced, people should be at the center and we should provide the services for the people, definitely.

Now in terms of the massive services, we're talking about the different services. What I want to say, we're talking about the Internet services as the

mechanism which will help us to empower people, empower displaced people, empower immigrants with the services they need based on some applications case by case. What are we talking about? Services ready to be used, we have many devices around us.

We have many services around us already introduced, and not just the informative services but also services on a level of communications, a level of a number of things and make sure that these services, they would be quite useful for the refugees and for the displaced people, but they're not just abducted for them and actually the manufacturers and the service producers, developers, they haven't thought about, you know, these people when they were proposing services.

In terms of government enrollment, from my perspective, we're talking about the government as a policymaker for the application and services and in terms of et cetera, we are talking the government of a developer, for the educational services, government as involved in providing culture and the traditional services, just, you know informative services for the displaced people. That's some basic governmental services.

We have a technology side as a basis. We have different hardware platforms, but we're not talking about just hardware platforms we're talking about data which is provided by the hardware and software firms.

This data-driven services should be introduced to displace people, to help them assimilate in terms of informative services like traditions, culture, in terms of

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services for the job seeking, for the grants, so on. Just try to be, you know, as discreet as possible.

Thank you very much.

DR. S. MALTSEVA. Thank you, Mikhail.

The organizers and me, we have tried to outline the raw data for discussion and now we must discuss the critical questions. I think we can start from the first question, which services should be provided to the refugees and displaced people? I think I will ask some of our panelists to give us their opinion and, first of all, we'll do that and then we'll have the questions from the floor and from our remote participants.

N. KETTANI. You covered a lot of those. I would like to add two things to what you said in terms of the basic services that need to be provided.

I look at it from the angle of that, first of all, we need to have up and running infrastructure. I think we tend to forget that in many cases when we have the refugees, we may not even have Internet connection up and running in those places. In some cases, even if we have it, it may not be at the scale of supporting hundreds of thousands of people in a very small area. It was not designed that way.

So I would say the first thing is to have basic infrastructure up and running to support the needs of the population at the right time. That's a difficult problem to solve. That's number one.

Number two, is to have the basic services that we talked about. The services just as the education, the communication, healthcare and understanding their rights and response and responsibilities and obligations in the country, et cetera. These are sort of basic services.

I would argue, we're in the world of innovation, technology, there may be another level of additional services that will be provided by, you know, smart developers that are not in this room but who may understand the needs of these people and may come up with crazy ideas and innovative ideas to support the needs of certain categories of those people.

I look at it through these three things, you know, basic infrastructure, second thing, basic services, communication, you know, being able to indicate to their parents and to talk to them, being able to understand their obligations and rights and the third pillar, it is really about how do we do it to enable the innovation and bring different services to different people.

DR. S. MALTSEVA. Thank you.

DR A. SHCHERBOVICH. The services that need to be provided, first, I would like to, you have to have the access to the legal protection, access to courts, according to that, this court accessibility, it is the best practices for services which are important to be provided. First, it should be in the relevant language.

For people that are foreigners, not in a good ability of speaking the language of the country, so the

immigration, so they need to access information, how to get the local attorney, how to access to the court service, how to access the refugee migration services on the language they could speak. That's the first point.

The second point is the other related service, which I think need to be provided, they are a kind of a library or a legal place with the major legal acts, for example. I could see the example of the best practice from Indonesia so when I arrived in the country I filled the immigration form, I'm not a refugee but that's an example. It is written in red capitals that the drug traffickers are sent to the death penalty here. That's good to have that kind of information to know that coming in the country. I don't know about the refugees issues with the drug traffic but that's okay. That's my point of view.

DR. S. MALTSEVA. Thank you.

Y. LÄNSIPURO. First of all, I have to confess, this is a subject, an area which is not very familiar to me. Since I was asked by my friends who I met in Paris in February to be here, here I am.

First of all, I think that we are talking about very different groups and types of people. Talking about migrants and migrants, you know, they can be actually people who are quite well to do, come to Finland to work as NOKIA engineers, and then on the other hand, you have all sorts of migration and they need - we're talking here about a very different thing from each other. Then, of course, at the other end of the spectrum we talk about

refugees, we talk about the displaced persons after some disaster or political crisis maybe living in camps, so on, and so forth. So, they're really very different needs for hierarchy of needs for all these people.

Finland happens to be a country which people used to emigrate from Finland and not so much take immigrants into Finland, now; of course, we have immigrants in the basic policies to integrate them as fast as possible. That means that the service, the net services, the Web services, they're mostly integrated with whatever agencies there are that provide those services. They try to integrate them there.

The language, of course, is a problem; Finland has a very difficult language. The people who come, they have different languages. Anyway, one of the applications is introduced, the web application for language training. That's a first thing to be able to function in a society. Yeah, it is true; you want to talk to your home country. I think that that's mostly actually the telecenters that are ran by the immigrants themselves, they're really springing up in various parts of the city, especially where the immigrants are living. So, that actually provides business opportunities for immigrants that are savvy technology.

Then at the other end of the scale, we're talking about people living in camps and so on and so forth, I don't know much about that. I saw that on the link provided in this book, they were referencing this, there was a story. I followed the link; I found an organization

called Refugees United. What they're doing, they're a good example of how this technology can be used in a novel way, and that is to say that it is a tracing, a family tracing service. One of the problems is, if you're in a camp, displaced somewhere, you lose touch with your relatives, sometimes with your children and apparently this service has been - it can actually - it can be accessed even by cellphones now. It has been of great use for that sort of thing.

The one thing, if we have time, I could touch on that subject, that is related to this a bit, it is also about the disasters. It is a disaster in which the people of your country happen to be victims of a disaster in a faraway place. I'm talking about the tsunami in Thailand. We developed some improvised solutions at that time - perhaps that's another story. I'll come back to that if we still have time. Thank you.

DR. S. MALTSEVA. Thank you very much.

Y. MORENETS. Thank you very much. Good afternoon. Thank you for this invitation. I'm very glad to be here today.

I'm from an organization TaC-Together against Cybercrime International, and we started to work in the area of what we call vulnerable people but obviously the vulnerable people could be refugees and immigrants as well as defined by the information society.

So, how we arrived actually to this question of vulnerable people in the information society, or how ICTs could assist or better integrate the migrant, the refugees in the society and economic and social life, we mainly work in the area of cybercrimes, cybersecurity protection.

Being in the field, we realize that a target group, the vulnerable group, particularly, they don't have they don't have enough information, not because of the information not existing, but because they cannot access the information due to the linguistic problems, other problems concerning how to be safe and responsible. Particularly what we realize, they're fragile online; they can be involved in the legal activities and can be easily victims of the cybercrime.

It is how we arrive to this, to the conclusion, which we do need to raise the question of how to protect or empower vulnerable people in the information society and launch the discussion two years ago during the IGF in Kenya.

I think the question was which services should be provided to the refugees and displaced people? It was the question is about Civil Rights. We talk about waits they have. We don't have a simple answer to this. If we want to summarize into words, we would say the same Human Rights as every human. It is included and it is written in the Universal Convention on Human Rights.

First of all, I think it was referenced to a number of times, access to the Internet and information,

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whatever it is, the information concerning how to be safe and responsible or not online or how to be integrated in the life of the new society.

I would like to share our experience particularly concerning migrants. To speak about the project we have developed with a number of prepare partners at the European level. First of all, I think before we speak about services we need to provide, we need also to communicate and raise awareness about the services existence or potential existence of the services of the local authorities who are in direct contact with these people, they deal in the field with these people.

We need to empower them with the knowledge, you know, that the information society today can bring new opportunities for migrant, you can implement these solutions, the solutions in the field of economic integration, social, cultural integration, how to be safe and responsible online, et cetera, the locals themselves, they're in the aware of the existence of the solutions or the existence of the possibility of the solutions.

What we have done, we have launched a year ago a project that we call the spring, it was mainly developed with ourselves and other partners at the European level, it was a youth funded project. We developed a course for local authorities, representatives on how to use it on the better integration of migrants.

So, particularly it is an online available course which has five chapters. The local authorities, representatives, they can follow online and they have an evaluation afterwards, the certificate can be provided so the main idea was to, you know, to raise the awareness and to bring to their attention the fact that we have solutions in different fields, all fields that were discussed before even concerning the economic and medical, health assistance area with the users. When they know, the authorities know that the services can be provided; they can implement or help to implement the services and bring them about. They're in direct contact with them.

For the moment being my two cents, I would be happy to discuss afterwards. Thank you.

DR. S. MALTSEVA. Thank you, Yuliya. Some questions from our remote?

AUDIENCE. I have a question, the question is, if governments and the Internet is provided to the citizens, who do you suggest fund the strategy and how to put in place this by the request of government?

DR. S. MALTSEVA. I think it's the next question. Maybe I can ask to answer this question maybe Mr. Vasif Mammadov.

V. MAMMADOV. Thank you. First of all, I want to express my gratitude for this, the reason is, the colleagues, they have attached the legal background and the structural background, and this point is important.

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As you have all known, we're having a problem which was almost we had 1 million refugees, and therefore we were having for the last 20 years we have acquired enough experience and best practices on dealing with the issues of refugees and IDPs. Starting with the experience, to directly answer the question, I know we have a limited time, the services, different camps, they deal with different services.

In Australia they have the refugee's cash assistance, they just do it in cash, and they do have medical assistance. We have a specific law, we have dealt with the issues of refugees coming and the IDPs.

We have a law that was adopted in 1999, a law, and some specific amendments. The law provides this kind of specific service for the refugees and they're fluid communication, free healthcare and also the foods, the groceries, then for specific concessions. The main part of this law is not only on normalizing the life of the refugees but making it better than the normal citizens. They have been moved from their life they have built on, or their career that they have built on, specific emergency that they went through, they lost their family members.

So, in this case, particularly I guess we won't have time to touch one by one. If it is okay I'll touch all of the questions and just briefly, simply talk about it and the things regarding that will fund it, well, major funding from the government and daily average is over \$300

million. In 2008 it was 300 million and almost the same as the Euro. This funding is all about the building the new ministries for the refugees and IDPs and providing them every single assistance.

Going back to the ICT: if you have a chance to look at the website of the state, it is quite, quite modern. You can see that there is e-services of the government for refugees and really interesting that we found out, some camps, they tried to involve as much as possible Civil Society or private sector for the implementation of the funding of the projects they have gotten, refugee, IDPs but at the end as I indicated, the questions, there is a need of strategy that strategy is the mission that should be backed with a legal background.

Legal background should be backed by experience. It is the kind of triangle relationship between them.

Going back to the issue of the neighbor countries, the national disasters, how they deal with that: This is an example from around the world. Most of you know, like, the issue of back-to-school initiative that was organized and conducted together with Lebanese and Palestinian Autonomy and the aim was for providing the refugees, the Lebanon refugees from Syria with main school items in order for them to have it leak into that small infrastructure for them having the education, of a perspective of that.

They'll actually think, you know, the point is not only normalizing the life of the refugees but trying to

make them better than the normal citizens. The point is to see and to have this balance. There is one thing when we can't ever reimburse, that's actually their mental things they have gone through. There is no price for that. Therefore, actually, when we think about preparing anything for the refugees we have to take that point into account. Thank you.

DR. S. MALTSEVA. Thank you. Do we have another question from the remote participants?

REMOTE PARTICIPATION. Yes. Does the simple iOS requires a certain level of information and literacy, but the immigrants and refugees are not often educated enough to use the profile. May I suggest the possibility of solving this problem?

DR. S. MALTSEVA. Andrey?

DR. A. SHCHERBOVICH. I'll try to answer that question. Several periods ago I was employed with the UNESCO Information For All Programme, which is active with the Internet Governance Forum. They're raising the issues of information literacy.

This is a global part of the informational users; those items are interconnected with each other. It is possible to be the information without the information culture where problem also exists.

When we're talking about, for example, issues called the Arab Spring and after that we have the refugees from the Middle East those are revolutions in

Arab countries, it was done by using the Internet technologies.

You know, when they could use Facebook and other applications to make the political regime, I think they could use the Internet technologies more properly for using applications which could save their lives, which could maybe accommodate them to the whole society.

That would be my answer. Thank you.

DR. S. MALTSEVA. Thank you, Andrey. I must ask our panelists to maybe refer to it in the answers, in maybe 3 or 5 minutes for the answers. Have we anymore remote questions? No?

AUDIENCE. This is from Fred, *Aberystwyth University*. Could the online services play a greater role in the provision of food in crisis situations?

Y. MORENETS. We don't have a simple answer to this question. For example, just an example, we had an example to work with colleagues from Kenya, and I know in Kenya for example they use the online services like emergency SMEs and other disaster management or in cases of crisis of course this can be a solution because ICTs could bring even the information closer to the population.

Another example actually, I just remembered, we worked with a project: In Latin America the professionals in the agriculture sector, they were receiving actually the SMS via mobile phone which was

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a mobile service on which products are available, for example, for Syria, you know, maybe you're better about this one than this one. Of course, we can use it, it is a question of the access to the information which can be easier. Thank you.

DR. S. MALTSEVA. Thank you. I think we started to discuss the second question. I ask for a short presentation.

A.-L. LENIS. Thank you. I think we can't continue without some examples, can't help to understand how the mobile technology and Internet will help with this kind of problems. For example, after the 2010 earthquake in Haiti a research team, I don't know how to say it, but it is an institute, it was a medical school in the Columbia University and they worked together in the developing of the tool that used information from Haiti. They used this information to talk about how the people was moving inside a country before, during and after the earthquake, the disaster and they provide information, to the humanitarian agencies with updates on the population movements and this information. It was very useful for the authorities and for these organizations to allocate resources more efficiently.

So, I think that's sometimes when we have a natural disaster, for example, the lack of information and where the people is moving inside of a country or in our region makes them the most vulnerable group because

there is relief organizations that they don't know exactly where the people is looking and how to deliver the right amounts of supplies for the right places. This is a huge concern for a discount of different organizations.

In this case, the universities are using it for the information available in the mobile networks to provide this kind of information to this different organization. The other great example is Australia, the responses there. It was an example of when we have a disaster, an earthquake, another kind of disaster, for example, a massive flood that happened in India in July this year; thousands of people were displaced from their own homes. When we have technology, we can use or create a crisis app with route information and the localization of the relief cams, the medical centers, food supply for the people that was trying to find information about this.

So for example, we can use the technology to find people during the disasters and we can use tools like that, a person can find the Web application to allow to post and search for the relatives and friends effected by the disaster.

So this is only two examples of that, how we can use the information on the platforms to provide good services for refugees, or displaced people, for immigrants. I think that we have the tools and the challenge is how we're going to innovate, create new tools that will be helpful for everybody. I think that we have only two ideas, we need open platforms and open data to create these skills.

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If we don't have access to the information, it is going to be very difficult to innovate and create new alternatives, new tools for displaced people or for immigrants.

DR. S. MALTSEVA. Thank you. I want to ask Nasser Kettani to add.

N. KETTANI. On the question is who pays? Who's funding? The way I look at it, it is a combination of, you know, it is sort of public partner, private/public partnerships. Government has a role to play, private sector has a role to play, and I think NGOs have a role to play. I would argue that even as we mentioned and will probably go to that later on, we have the discussion about, the new innovator also come in and like others that can come and build new stuff based on the existing infrastructure. The governments had a role to play. They have the infrastructure they own, they have a role to play.

The private sector has a role to play we have seen in the crisis that prevention. Organizations such as Google, Microsoft, others have dealt with the applications, put them in there and will continue to do so. There are many participating in this.

I think NGOs have a role to play as well in that. They understand the issues; they're core to the issues. People that are in health, food, Human Rights, they understand those things better than anyone else.

They may have a funding mechanism to support; it is a combination of those things.

The fundamental issue which was just mentioned, if we don't have open data that's provided by, you know, governments, even some private sector, that's out there we cannot be innovative and create things, you know, in the situation of emergency. These are things that are not important before emergency and in many cases they're developed with the urgency, so we have 24 hours to react. Initially we are talking about building the applications, innovations in the matter of 24 hours, 48 hours to react very quickly to address that specific problem that we're facing. In this case the cooperation is important, not just somebody fixing it, but how do we work together between public sector, public sector government and NGOs, industries, whatever, as a group to address the problem.

Second: how do we have people with the data, they ever to put it on the table to go fast and innovate? This is very, very fundamental into the process. So, funding is the multistakeholder but the collaboration is there as well.

DR. S. MALTSEVA. Thank you very much. Maybe you want some words?

V. MAMMADOV. I would like to make a quick remark. The question of the moderator, I know that we already mentioned this, but I want to give a quick example, it is a good example.

Today I'm wondering if there is a possible negative consequence: Two years ago there was an earthquake in Turkey taking more than 300 lives in one night. Why I'm mentioning these specific examples if they initiated the online campaign it commends, within a week, they're collecting more than the amount of money that government made a month later as a support to the one. This is a good example of how actually processing the line, helping them to assess the relief to use up their ICT and how the special network is even sometimes more powerful than others. Thank you.

DR. S. MALTSEVA. We'll move to the third question If neighbor countries should develop services together, some joint services in case of disaster to one of the country? I would like to discuss it with Roxana. I ask you to use 2, 3 minutes.

R. RADU. I just would like to make two points. The answer depends on the point's context and it is great to have the cooperation. I'm afraid it is not possible in all of the cases and if the people are displaced by the water conditions, that's impossible as we know. The development of joint services could be done, however, on platforms that would be available for sharing codes and could be implemented outside of the conditions of political tensions if we use open source code, trying to integrate the community working in a different way. That may be hard to achieve.

I want to make two points: One is on the target groups we're looking at. In this case I think we want to look at not only the temporary conditions in which the groups are placed but also at the long-term implications, what's it mean to be a forced migrant or displaced people in a country? What's that mean for the rest of your life? So, if you take the concept of vulnerability in the long-term, we observed beyond the language difficulty and the literacy rates they face, poverty and aggravation to the other cultural norms and the transition will make it very difficult for them to move on with their lives: discrimination, inequality, and social exclusion.

If you think long term, I think we need to add another layer to this differentiation of the service. We have to have some empowerment services long-term. These people need more than just the temporary intervention. In this case, maybe we should also think of just empowerment possibilities. Thank you.

DR. S. MALTSEVA. Thank you. Andrey, 2 minutes, not more.

DR. A. SHCHERBOVICH. Thank you. There are also two points, not the same as reached by Roxana. The first major point, it is the relation towards the Refugee Convention. It is the major document adopted by the United Nations, as you know, in 1951. Really all states are the members of the Convention but the application of this Convention is different from state to state.

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One of the best practices of developing these services of providing real kinds of rides for the refugees, the migrants, it is not shown by the states. They're shown by the intergovernmental organizations led by the United Nations and led by the United Nations commissioner on refugees. Under that, under the services, of what developed, the services related to also fulfilling the basic needs, improving the living conditions, also those services are related for education, for fulfilling cultural needs.

I could remember that the convention provides a wide spectrum of the Human Rights which should be guaranteed for the refugees. They should be not only basic rights, but they should be a rightful for the normal conditions, even for the development of the rights, of the intellectual properties and this kind of rights. The best practice I see is not by states but by the intergovernmental organizations.

The other question is the relations between the states. The relations between the states are sometimes not so good to develop joint services. Thank you.

DR. S. MALTSEVA. Thank you. We have a question from the floor, two questions.

AUDIENCE. I think the examples you give are great, but I wonder if you have evidence of governments misusing that information to stop the immigration flows or to, you know, block the financial

transactions from the immigration camps or the refugee camps because if it is all open data, it could be misused.

SOUTH AFRICA. If I may, actually, this is linked to the same question. I was going to ask in the same vein. Honestly I did the title of today's topic, I thought, okay, great, this is probably speaking about migration, about immigration, about internally displaced persons, I will be honest saying I'm quite surprised that it doesn't touch on as much as I expected it would.

Perhaps if I could pose to the panel a situation: I'm from South Africa, and the phenomena that happened a few years ago, I think it was 2008 in South Africa, where we had the largest number of internally displaced migrants which was unprecedented in the refugees, what is it? The UNHCR? Sorry, they get to me.

Yeah, just to actually put to the panel, sometimes many of the persons, the IDPs, the refugees, they don't want the personal information shared, governments can abuse that information and lady luck can shift that information when coming to this country and given the internal race relations in politics and now you have a group of persons coming in from the continent, we had black-on-black violence because they were immigrant communities of the same skin color as our locals.

Working at the Human Rights Commission people would come to us, we had thousands in one night. We worked two days straight until 4:00 in the morning.

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Just to get these people's names, they didn't trust any other agencies besides Human Rights Commission.

I want to put to the panel if that was happening today, what technologies are out there, what could be done to have averted something of greater violence or a mechanism in place to address that sort of issue and gaining trust with the persons at the same time. Thank you.

DR. S. MALTSEVA. I think we have to answer that third and fourth question. What is the role of new information technologies and the Internet? Who will answer those questions?

Y. MORENETS. I just want to make sure. I wanted to before bringing that example to the table; I recently had an occasion to work on the development of the interception of communication legislation. So particularly, after the government example, after the end of the crisis, the disaster they had, they developed online services to emergency, to get the access to the information. The point is, they don't have any legislation for the moment in the information society. They don't have the legislation or the information society. Any framework, including the cybercrime, more or less it is ready.

I'll not bring you the example, but bilaterally I could give you a number of them. When we speak about the solutions, we need also not to forget about the legal part and the need for the legal framework because if we

see today we don't have the framework, which underlines marginalized communities or links, the marginalized communities and the ICTs, the information society. Thank you.

DR. S. MALTSEVA. Roxana, maybe you have some words.

R. RADU. I wouldn't be able to answer what technologies are right now available. I can pass the microphone on. I guess in terms of the data protection I'm sure there is much more to be done in this sphere and the problem with emergency services is that everything happens so fast. The collection of information is also very fast.

With the recent management of a system to manage that information in place or not, that depends on the local capacity and could be probably handled relatively easy with some sort of encryption out. I would throw it back at you; maybe you can give us more answers regarding what can be done technologically.

N. KETTANI. There are a lot of technologies involved in the market, when I look what sort of technologies are available today that can be used in cases of emergency we're thinking about cloud computing which obviously has huge power in terms of being able to do large scale things in a very fast, you know, time. In a more secure way. That's one thing that's usually a powerful set of technologies available on the market.

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The other thing is other technologies that needs to be used to some extent, they're, you know, how do you use social networks, social networking technologies to support, it is very powerful.

Technologies such as the voice, the voice override, that's another set of technologies because this has been encrypted, it is usually based on the Internet, fast, you can use any device, et cetera, et cetera, so, that's just a few examples of how technology, specific technologies can be used to address the problem.

The reality is I think consists of two elements. The countries today have to be prepared. They have to be prepared and they have to put in place legal frameworks and policies. They have to put in place technology infrastructure and even processes and prepare their own people to the issues of emergency response, disaster management, and those kinds of things.

We don't know how it will happen. Public awareness, it could happen internally, externally. We have to be prepared, not wait for the disaster and address the problem differently, that's number one.

Number two, I think technology is going to keep evolving and providing opportunities for new scenarios, new solutions, and new things to do. We should not prevent ourselves from using the latest technologies.

Interestingly, when I see what's happened in the last two years, how the industry has been able to react very fast by using the latest technologies like the new mapping tools, big data, cloud computing, et cetera, it has been very innovative, very inspiring actually to see how people get them to use the latest, et cetera.

I'm optimistic, you can see, I'm optimistic on how, you know, developers can come up with the right ideas and use the latest.

DR. S. MALTSEVA. Yes?

A.-L. LENIS. It is very aligned with what you said. It is only I wanted to highlight that we have all of this innovation to create this kind of tools, to support the people that need help. Initially we need a balance in the legislation between the protection of the human rights and the development of the new technologies. It is a challenge for the religious legislators in our country. I think we need to follow general principles, for example, in the privacy. I think we need to create legislation for every tool that is developed that we use in that technology. We have general principles of protection of Human Rights in constitutions. So the most important thing is we need to create this balance and innovation to protect the human rights and the general principles.

DR. S. MALTSEVA. Thank you.

Y. LÄNSIPURO. Thank you. I promised to say a couple of words about the tsunami, 2004 which was not very far from here. Of course, 178,000 died in

that tsunami. They were holidaying in Thailand at that time. Of course, I'm on a machine talking about that, I know in Indonesia, they lost so many in tens of thousands of people.

Anyway, as an example, the bad news was, the Ministry of Foreign Affairs which was working at the time, we had brand new software precisely this purpose, for, you know, getting information, looking at people that are missing, so on, so forth. It is bad news; however, that nobody had been trained to use it. That meant that if it was unusable in that situation and people had to literally they had to go back to paper and pen.

However, a good example wasn't that we were able to improvise something in those, during those days, needless to say that the airline organized an evacuation flight. When we relayed this information to those that were in Thailand, they were about 6,000 Finns and 3,000 in the disaster area.

We were able to get everybody together, the operators, the authorities, and agencies, so on, so forth. We decided to send a text message, an SMS to all phones in Thailand that were connected to the operators from Finland. They did those text messages telling the Finns, all of those that had mobile phones to go to specific place, to use words where they're evacuated. That was successful.

One thing for tsunami, everybody who had mobile phones, if there was any connectivity; they were

informing their friends and relatives immediately in Finland, a tremendous flow of information.

Back to Finland, immediately on Sunday, there were people in Finland separated that knew all about this. However at the Ministry of Foreign Affairs we were not a part of that information flow and didn't know anything for a full day.

For a full day we thought a not one person had been effected. He gave us applications that could somehow use media, which would make that sort of information available, a pool, which can be aggregated which would be successful for the disaster situations.

DR. S. MALTSEVA. Thank you, Yrjö. Vasif?

V. MAMMADOV. First of all, thank you, the lady from Africa, a real challenging question, as well as from the audience. The case about it, the real good precedent of this, the Rwanda genocide, 1994 in April, at that time the government was able to disguise the information for a while and there were other issues regarding to the UN Security Council. But the cases nowadays, it is the extent of the ICT, and civilians and the tourists and journalists have access to the most contemporary ICT gadgets. It is a bit difficult to stage two, to look at that information and the good examples. Today it is Syria, what's happening there. We have different pictures on one hand and the other hand. Thank you.

DR. S. MALTSEVA. Thank you very much. We have some questions from the remote participants, a lot of questions?

REMOTE PARTICIPATION. One question and I'm sorry. We're 10 minutes late? Is it okay for the panelists, 5 more minutes? Is it okay? Just a question from remote participant, it is important to speak with the remote participants. The question is from Travis from Aberystwyth University. Following the earthquake in Haiti, crime and violence increased dramatically especially against vulnerable groups. My question is: Would the panel comment on the use of the Internet technologies like that created in Columbia University to provide better security for domestic and displaced populations through these technologists?

DR. S. MALTSEVA. Mikhail, I think you must answer this question.

DR. M. KOMAROV. In terms of the Internet technologies for crime and violence after the earthquake, the most important thing if you're talking about the Internet technologies helping to decrease the levels, to prevent the increasing level of crime or violence, the services should be established before any disasters. That's what we actually mentioned in terms of providing services before the disaster in order to help. The services, like the physician services, the services for technologists, for personal belongings, probably some let's say surveillance services and establishing the

infrastructure as it was noticed, you know, at the beginning, then I think, it would help, it would definitely help to prevent, you know, increasing of a crime and the violence even after a disaster, even before the disaster, right.

In terms of conclusions and summarizing the workshop, it is really nice that all of the panelists made it finally. We have such a great panel, quite fruitful discussion here. I would like to thank you and in terms of summarizing and conclusions, I would like to some several points.

First of all, talking about services for displaced people or immigrants, think about infrastructure and whose doing it or if it already exists, talking about a particular country, of course, as mentioned in the beginning, then some basic services from technologically sides, that perspective should be introduced, some information technology.

Then services, which we're talking about, should be relevant, and relevance is they should be massive and provided in a relevant language which is quite important. There should be a legal database to implement the services. You know, legal aspects depend on particular countries.

Another thing, in terms of some basic services, it is quite important to develop services under some legal aspects in terms of family tracing, even if the service is helpful, there should be some legal aspects for that. There should be special services for pro detection of

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displaced people, immigrants, information society so how they should interact, how they should work online. They should be having the work done with the local authorities.

In terms of the mechanisms, how they should be spread, the services. So it should be studied case by case, but some basic services like, you know, education, should be free, healthcare, should be free, some probably basic services according to the convention. As it was noticed, there should be strategy with legal ground to support the displaced people and refugees and the immigrants through the services.

The services, the development of the services should be based on open date and platform concept and approach, which is necessary and which reaches the necessity in terms of providing them globally.

As it was, again, just to emphasize, the empowerment services, they should be related to the convention in terms of the applications for some particular, you know, countries.

If you're talking about basic rules, there should be basic privacy so just ordinary general data protection rule for all the services independent, you know, results of developing some special cases for the particular service.

I do hope that actually we'll be able to continue discussion along this issue as mentioned here as a

multistakeholder approach, you know, which is actually, you know, a multistakeholder approach which is necessary in order to be able to implement, you know, what we're talking about here. Thank you very much.

DR. S. MALTSEVA. Thank you very much, Mikhail.

I want to thank you for the participants. The time was very short for the discussion of this very importance and I think multiaspect problem that is connected with different aspects of policy and technologies.

I think that we have good prospects to discuss more about these problems and about this prospects maybe next year. We have good plans, good prospects and I think it will be great to make new meeting in new place and to discuss all those problems.

Thank you very much. Thank you for your participation.

Conclusions drawn from the workshop and further comments

1. There should be infrastructure provided by the government for services implementation.
2. There should be basic communication services provided by the government to be able to utilize services.

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3. One of the technological concept which supports services development and implementation - Internet of Services concept.
4. Services should be provided in relevant language; they should be focused on mass-usage and related to the particular persons from the whole group - within citizen-centricity approach.
5. Services should be developed and implemented on a legal basis - there should be special legal database introduced for services implementation.
6. There should be services introduced for protection displaced people in information society as well as there should be introduced basic services which would help to avoid "computer or internet" illiteracy.
7. Services should be developed and implemented on the basis of using Open Data\Open Platform approach.
8. Services should be developed as well as provided on joint private-public partnership basis with the NGOs participation to help to understand issues where and which services should be developed for the displaced people and migrants.
9. All services should be developed according to The 1951 Refugee Convention in terms of legislation aspect.

Workshop proved that there is a big interest in a topic from all stakeholders groups and that it is necessary to get the topic of empowerment displaced people through online services for multistakeholder discussion. There should be more focused discussion on multistakeholder collaboration in terms of service-development as well as more focused discussion on open data principle which should be used for empowerment of displaced people and migrants within services developed according to that principle.

**WORKSHOP “FREE SOFTWARE AND HUMAN
RIGHTS ON THE INTERNET”**

**8th Meeting of the Internet Governance Forum, Bali,
Indonesia, 24th October 2013**

Background Paper²

The Information Law science has long discussions on the fact that what is the information and how it should be regulated by law. The right to information is composed of two elements - the right to information and the right to disseminate. The first relates to public law. Really the transmission of information is the civil- legal content, it is an exclusive right. The first step is to decide the question of what is the information in the relationship, including in the case of the exchange of rights to results of intellectual activities (RIA). Intellectual property rights also include the exclusive right to use the RIA. At present, Russia has developed amendments to Part 4 of the Civil Code.

Civil Code goes on to talk about the information in several senses:

² By Dr. Anna Zharova, Dr. Mikhail Komarov and Dr. Andrey Shcherbovich, National Research University Higher School of Economics.

- 1) the right to information as part of the legal status of members of the association;
- 2) information as to civil matters (contract for the provision of information services);
- 3) duty of public authority to provide information (Article 131);
- 4) obligation of the parties under civil law contract for the provision of information;
- 5) ability to restrict access to information (secrets, confidentiality).

Information and RIA is an object that has the attributes of objects corporeal and intellectual property. In connection with the above, need to pay attention to the concept and content of the information as the object of civil rights at the legislative level.

In Russia, there are changes in the expansion of the rights of users of computer programs, through the distribution of software, open source (free software), but there are a lot of problems in this area. For example, the terms of future use software, which is based on free software. In Russia in 2009, this software has been used extensively by public bodies, ministries, departments. However, problems still exist because at the moment turnover rights to such software based on the practice of trade. The use of the territory of the Russian Federation of open source programs represents the development of

qualitatively new phenomena in the relationship and the user's software with open source.

The main advantage of open source software is the ability to enable other computer programs. In addition, intellectual property rights in such programs have no territorial restrictions, as well as many other constraints specific to closed- source software; it allows you to participate in the development of many programmers, which in turn determines the creation of high-class program.

Now the Internet could act as a major base of distribution of the free software. It is also necessary to remind that it is not just “free” software, but also software which is called - “open-source” software, when the basic version is developed and open for improvements or changes to others free of charge. In terms of free software there are several dangers which should be considered: there is no malware protection which could possible lead to personal data thefts and quite often free software includes viruses deep inside the source code which leads to the PC being integrated into global virus networks without user's permissions and notifications. There were many incidents with the free software stealing personal data and forming special data bases for the further activities like spam and illegal actions. It is important to mention open-source software as quite irresponsible mechanism for the free software distribution. Typically there is always first basic version

of the software which might follow some Internet Governance rules, and after that software is open for editing by others all around the world. However anyone can make changes in the software, it is easy to find the malware in the source code. But there is also absence of any rules which guarantee that second and other further versions of that software will follow the Internet Governance rules and will not break laws within the pornographic data implementation or distribution etc. Open-source software is a great mechanism for the further development of the software but at the same time there are no policies and regulations against inappropriate content included etc. Usually users of the software agree to use it as it is and authors do not responsible for the software they only follow the rules of free distribution of the further developed version (which is included into the open-source licenses).

There are also no rules for the open-source software and free software to provide functionality for persons with disabilities and this topic is quite important for the development of universal rules for software distribution.

Dr. Norbert Bollow believes that trustworthy privacy protection is possible only when there is a strong community that is empowered to check and fix any security related bugs in the software that you're using for processing your private data including communications. That is a very key benefit of using Free Software.

List of Participants

Dr. Svetlana V. Maltseva, Dean of the Business Informatics faculty, National Research University Higher School of Economics, Technical and Academic Community, Russian Federation.

Dr. Mikhail M. Komarov, Vice Dean of the Business Informatics faculty, National Research University Higher School of Economics, Technical and Academic Community, Russian Federation.

Dr. Andrey A. Shcherbovich, Law Faculty, National Research University Higher School of Economics Technical and Academic Community, Russian Federation.

Roxana Radu, Graduate Institute of International and Development Studies, Civil Society, Switzerland.

Dr. Norbert Bollow, FOSS (Free and Open Source Software), Civil Society, Switzerland.

Dr. Tracy F. Hackshaw. DiploFoundation, Civil Society, Trinidad & Tobago.

Transcript

DR. S. MALTSEVA (MODERATOR). Good evening, ladies and gentlemen. Let me introduce our panelists.

Dr. Norbert Bollow represents free and open source software, and he will tell us about free HTML and the right to development.

Dr. Andrey Shcherbovich who represents the Law Department of The Higher School of Economics will focus on the legal and human rights issues caused by distribution of the free software on the Internet.

Roxana Radu represents the graduate Institute of International and development studies, Geneva, Switzerland. The topic of her report is human rights, community environment, and social justice.

Dr. Tracy Hackshaw, DiploFoundation, Vice Chair of the Internet Society, and his report will focus on the potential opportunities, challenges and implications of open source software for Small Island developing States.

Dr. Mikhail Komarov represents the Higher School of Economics, Business Informatics Department. He will tell us about open data approach.

The agenda for our workshop includes the session of reports of panelists and a session of questions and answers followed by and general discussion.

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Before we start the session of our reports, I want to make a brief introduction to the issues revised on our session. And I must say that before we start, we just have a small discussion about the word “Free” and the term “Free software”.

Of course I think it's better to say ‘*libre*’ or ‘fair’ software. But today we will speak maybe not about software itself. First of all we speak about providing human rights by this kind of software.

I must say that design, development and use of software is increasing in all countries, in all societies, and today this software largely determines capabilities for communication, and social activities. This means building social movements, and promoting democracy as well as general government and health services. So software permits layers of economy and has transformative effects on all spheres.

Discussion on the role of free and proprietary software in terms of society and promoting human rights is carried out from a time when the term “Free software” appeared. And I must say that both proprietary and free software have the advantages and disadvantages, but speaking about free software, *libre* software, you can see that it's in the encompassing concept for the reliable, sustainable and dependable information and knowledge society, involving all stakeholders.

In this workshop, we would like to consider a different human rights related issue, rising instead from

free software distribution. Among others, the copyright issues, dangerous threats such as viruses, spyware and malware and combating them. Also, we will consider ethical and legal issues, arising from the regulation and policymaking on the national and supranational jurisdictions.

The next question is multilingual software, special kinds of software, for example, software for persons with disabilities, for inclusive environment, software for accessibility rights. Among the more specific issues, we could introduce themes like the following. Firstly, change in copyright and licensing policies; secondly, creating software for free worldwide distribution; and, finally, the issue of blocking policies, and a little bit of software and hardware regulation. Thank you for your attention.

Let's start the session of reports. First of all, I want to pass the microphone to Norbert Bollow and he will tell us about Freedom HTML and the right to development.

DR. N. BOLLOW: Thank you. By way of introduction, I would start and say a few words about why I care about free software so much. I have become part of the free software movement and just to repeat, when I say "Free software" I do not mean "Free" as a beer, something that you get free of charge, even that is often the case. It's not always the case. Some free software is actually expensive and that's quite all right. No problem with that.

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The key definition of free software is that you get freedom included in whatever the price is, and that is the freedom to use it for any purpose you like. The freedom to make copies, give them away. Other freedom is to read the source code so that you can learn from it. The last freedom is to change it, to make it exactly as what you want.

So that is free software. And why I care about it is because I care about privacy. I know people who live in countries where it's really dangerous to speak your mind, where it's dangerous to communicate even to friends electronically, freely. And they need to protect the privacy of their communication. That's what motivates me. This communication needs to be protected. How can you protect it? Well, you can encrypt it. But when you encrypt it, you have to trust the software that you use to encrypt it. And you also have to trust the operating system that the encryption software is running on. Because if the operating system has a back door then you have lost before you start.

So how do you find software that you can trust? Well, many people used to think no problem; we just buy Microsoft, because we can trust that. It's known by now, very well-known, that that is actually a strategy to get software that is guaranteed to be not trustworthy. So the strategy, the only real strategy that is left is to use software where the source code is freely available and

where there is a lot of people reading that source code and checking it for problems.

For example, this little thing here, it runs new Linux, which I'm choosing not only because it meets my needs for computing, but also because it's a very widely used free software operating system. Lots of people check it for security bugs. So I don't need to trust everyone in this community I only the need to trust that there are a few people who are really carefully checking that stuff. And in a big community of security researchers, some of them will be trustworthy, not everyone. No problem. It's enough that there are some good ones there. So that's why I love free software. And now let's talk about being able to actually use this free software in an environment where other people use other software.

And I want to interoperate with them. I want to visit the websites that they visit, and be able to read the same things. So there needs to be some standard that makes the free software understand the same things that the other software also understands. We need to standardize things for the Web, so that everybody has freedom to communicate.

I use the Web because I want to communicate. I want to access information. I want to access culture, all of that. And I can only do that if my free software is actually able to access it. That means creating standards. One of the big important organizations where such standards are developed is the W3C and I'm going to

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quickly address two of the things that are going in the W3C. One of them I strongly dislike and the other I strongly like. This I dislike is a standardization process for something called EME. And I will not go into the details. It's about standardization, digital restrictions management more precisely and the interface for the restrictions management which has the idea that some companies, they have this idea of putting millions of dollars into making an expensive film and then they want to sell that film expensively. And they think well, our intellectual property, it's protected by international law; it's protected by national law, so that it is important. Everyone has to adapt. And the problem with this is that the models that will actually encrypt that stuff, they will most likely be built into the operating system and with free software you simply don't get that built in. And you'll not be able to access those cultural goods.

It will make people choose between either giving up the human right to privacy or giving up their human right to culture, to participate in cultural life of which films just happen to be a part. To many people it is a significant part. And I would say, stop. Don't make us choose between giving up one or the other. This is our human rights. And everything else is less important.

Intellectual property may be protected at the level of International law, but it's not protected at the level of human rights law. So that is the part that has to give. That is the part where changes need to happen when

simply not everything can be maintained anymore. Something has to break. We must make it break at the right point where our human rights are not the cost. Unfortunately, the leadership of W3C has a different idea on this. They are going forward, at least it looks like it, they are going forward with this process and there is this crazy guy sitting here who said oh, stop. Let's write a specification which defines precisely which parts of HTML are proper to use without violating any human rights. More details about that little project are at www.freedomhtml.org. This is the first half of the title of what I wanted to say.

But there is something else and I'm actually more excited about it, because it's something positive. It's about the human right to development and it fits really well into the theme of this IGF, which is about sustainable development. There is something going on also at W3C. It's not all bad. There's something good there. There's a community group on Web payments. What are Web payments? It's about using this fundamental idea that we have on the Web of this universal addressing system of URLs. Use that as a basis of a payment system and that is so totally undermining a lot of things. It's undermining actually some business interests, some seriously powerful cartels. But in that area, at least, we have the advantage that there is no International law which says this cartel must interest. There are goes going to be a lot of changes at the national level. And again I say hey, we must enable people to make payments, anywhere, even if there is no

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bang nearby. And this must be an International payment system. Not just a national one.

I would say this is an essential right of development to enable people to make payments. Just what kind of development are we going to have if we're not able to make electronic payments? This is a human rights issue. And I'm very pleased to see that right here in this room we have the Chairman of the Web payments community group at W3C. Could you please stand up, please?

This is the guy to talk to if you want to know something about that. And he actually gave me an idea. I would have loved to own this little marvel, but I don't. It's not available yet for general sale. This is a smartphone. It runs a free software operating system, Firefox OS. It's entirely free software. It has the payment stuff built in. We are not talking about a pipe dream here. This model, it exists. It works. It's not mine so I'm not familiar with this.

Anyway, this thing works. The key point here, this is free software. You don't depend on a company somewhere in this faraway country if you need something changed. If you are a developer here in Bali, or wherever you live, you can develop apps for this thing if you need a change in the operating system; it's possible to make it. It's possible to write a patch, get it included. It's the same kind of process like the Firefox

browser. It even comes from the same place, the software.

This is free software. It enables the local business. It enables freedom of commerce. This is development, if we can have technology that we can develop and improve locally where we can build the competence locally. I'm excited about this. And I think it's high time we get rid of that gap between being excited about technology and being excited about human rights. This little marvel, it does both. Thank you!

DR. S. MALTSEVA. Thank you very much, Norbert. We understand that you must run to another session. Okay. And I want to pass the microphone to Dr. Andrey Shcherbovich who will tell us about legal and human rights issues caused by distribution of free software on the Internet.

DR. A. SHCHERBOVICH. Thank you. I move to the presentation. Begin with the slide show. The legal issues, which are caused by the arising of the open and free software, and its distribution on the Internet. Most legal researchers are dealing mostly with private law issues in scope of the case of software and free software itself. And in case of public law issues and the problems with human rights definitely are related to this. The problem was not discussed in the sphere, in focus of Russia. Maybe this is a kind of a gap and we will fill this gap, I think.

So what is the free software? It's not the kind of free of payment. It's free and open code software. Some

researchers are using different terms, free software and open software. But, this of course is very important freedom to distribute the open code software to modify it, to do it to the local conditions and other.

And there is the free software movement, which originally initiated by R. Stallman. And also, there is the issue of the free software or programme codes and its licensing. Most of the licenses were used by the free and open software, the creative license, and it was not incorporated by something in the middle between absolutely free and copyrighted software. Most of the free software used under the creative license, but it creates a lot of different problems mainly by the private law dealing with the civil law regulations. For example, in the Russian Federation there is no legal ground for dealing with the creative comments license. But in general, I would like to say, according to R. Stallman idea that copyright, according to its name, was dealing especially with software absolutely free from any kind of regulations. It was also good dealing with the Russian concept of Internet. Initially, it was a kind of free space. It also caused some legal problems, especially in the rush than legislation not covering kind of defense of the software, not in cases of a proprietary one, because the proprietary software user is protected by laws. The user of free software is not protected, even in the case of losing information while it used the free software. In Russia user of free software is using it at his own risk.

And now I'd like to explain some principles of the free software movements, the kind of distribution, knowledge, free access to information, social activities, collective authorship and responsibility, transparency of methods, partnership, and kind of ethical network which is used by the free and open source software distributor.

And now I would like to move to discussion about three levels of regulation of the free software. I usually make a division of the Internet Governance issues into three levels: international, national and the community level. And in case of issue of human rights while using the free software, it also could use those three levels.

The first level is kind of using free software. It's not written in any kind of International agreement. But in general human rights instruments submitted by the United Nations, we have references for everyone to enjoy the scientific progress, the freedom of information, inclusion of science and culture. And now moving to new generations of human rights, which is related to the right of development, some rights of communication, and some educational rights especially the eLearning programmes is mainly could be outlined by distribution of the free and open source software. But I'd like to say that of course there are no appropriate legal instruments on the International level which are providing I think protection of this kind of event like the free software, especially in the sphere of protecting human rights.

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I'd like to say that personally I am a proponent of this kind of International Treaty or Convention or maybe kind of a new declaration of digital rights of citizens, but is still in the near future.

Now I would like to move to the national level. As far as we know, we are facing here to the issue of piracy when we are using proprietary software in the underdeveloped States. We are using mostly pirated software. So this is according to the Business Software Alliance, 94 percent of software used in Vietnam is pirated. Also, I refer to Article by Simpson Garfinkel, the Article is old but I don't know exactly the kind of new instruments related to this topic. For example, in 2001, in Mississippi, 49th US state 4 percent of the software was pirated.

According to the situation in Russia, we know that Russia has some Governmental programmes which are providing use of free software in governmental structures, for example, an infrastructure of Governmental websites of the executive power of Russia. Especially we have the Russian automatic system on elections. So, according to the prescription of the Central Electoral Commission of the Russian Federation, non-secret parts of this system should be moved to nonproprietary and free software.

This programme of development of the free and open software and Governmental structures of the Russian Federation is developed even when we have an

absence of the terms of the free and open software and legislation of the Russian Federation. And accordingly, no legal defense in the civil code of Russia.

As we face on the national, state level, some risks of usage of the free and open software. First as I said previously, free and open source software is not protected by the law, and Russian users of the free are not protected. There are no issues of the legal and judicial court protections of the free and open source software.

Also, according to the Russian judicial practice, the courts, there are no references to the free and open source software in traditional court practice. So this code has no legal values for the merits of the disputes, according to the St. Petersburg city court. Of core, those products which are made by users show the free and open source software, there is no evidence to the court, according to this judicial position.

So also there is a problem of the viruses or the malware and that kind of vandalism when people are using free and open source software to create dangerous things, this is also possible in case we have no appropriate means in the Russian legislation, which is protecting people from this kind of behavior where it is especially endangering this kind of software.

For example, we have a kind of people called ‘trolls’ when they are using trolling for destruction of Wikipedia articles. The Wikipedia platform is also a kind of free software. And especially in Russia, very

often people are destructing articles written in the Russian language segment of the Wikipedia.

On so called community level, I would like to raise a question of the potential clash of cultures. When network communities are facing the issue of free and open source software, and have to raise the issue could it be used to protect human rights, to monitor human rights protection? I'd like to make an example when we have a programme called Ushahidi, which provides a platform to create a human rights report, an aggregation of information of the human rights, originally developed in 2008 in Kenya. This Ushahidi created a map reporting the human rights violence. It's one of the examples of free and open source software to protect human rights. Now it's kind of a platform for monitoring human rights infringements.

So I think I would like to come to a conclusion that it should be developed for protection of human rights, but we should have an appropriate legal base with legal references so that creators, distributors, and users of the free and open source software should be legally protected. This is my general position. So even in the sphere of absence and not so developed legal information culture, usage of this kind of software could be a real problem for everyone who are trying to use the free and open source software and even in a kind of appropriate legal environment. So I think that is the end

of my presentation and I'm open for questions. Thank you very much.

DR. S. MALTSEVA. Thank you very much, Andrey because you tell us not only about problems of human rights, human rights in connection with free software, but also with open data. Maybe some questions from the floor and our remote participants?

AUDIENCE. Hi. My name is Minas Bornee, I'm with the World Wide Web Consortium and we have a number of companies that use creative licenses. I was interested in hearing more about why there is an issue with creative common licenses in Russia. Specifically what part of the legal code makes it problematic to use a creative common license in Russia.

DR. A. SHCHERBOVICH. I can answer this this way, Russian legislation is created to work properly. Only we have a kind of appropriate definition. We should know that, in legislation, especially in civil court, it's a very difficult system to deal with. And this kind of license is not a real facing coverage in the civil court of Russia. It used to have a copyright protection, but not for other kinds of licenses. But there are some legal projects to amending the civil court in the way to protect creative comments and other kind of licenses. But they are all stick on hold in Russia. Thank you.

DR. S. MALTSEVA. Another question? Okay, please.

AUDIENCE. Thank you. I'm from Morocco. Just that you are using Windows in this presentation, and to promote open source and free software philosophy, we should try to use it on a daily basis something like GNU, Linux. I love Linux is because it's good. It comes through my mind that we had a discussion between ambassadors about cybersecurity. We talked about this and we tried to propose some solution from the end-user side, basically. Something like using, for example, new Linux as an example of operating systems. It has been known that it's a human from viruses. So I don't need antiviruses and flowing of updates from antiviruses and put in a lot of money to get it, to download it. It's not the case I think with Microsoft. So this is the first part of my contribution.

The second part is the definition of "Free." It was good to remind that "Free" is not free of charge. It's free, it's freedom. It's liberty. It's '*libre*' in French. And the opposite is not the commercial software. It denies your freedom. This is the opposite definition to the open source system, like any kind of commercial ones. So, the commercial software, doesn't respect your freedom, because you are not allowed to share, you are not allowed to modify, you are not allowed to see the source code, et cetera. That's it.

DR. S. MALTSEVA. Is there a question or is this your contribution to our discussion?

AUDIENCE. Both.

DR. S. MALTSEVA. Thanks a lot. You have a question? Yes? Contribution? Okay. Maybe the contribution you can provide after the whole discussion. Thank you very much. And we will follow to discuss Human Rights in information society. And I ask Roxana Radu to tell us about Human Rights, community environment, and social justice.

R. RADU. Thank you very much. I'd like to start by discussing two examples, which are relatively different. So the first one is the pharmaceutical industry where we have a very high protection of the intellectual property rights. Yet, there are also exceptions for medicines or vaccines that are so-called liberated from patents.

In the accepts that they are deemed to be for public utility and in most cases they would be too expensive for developing countries to use, with the prices that pharmaceutical companies would apply to them directly. So in this case I think there is an interesting comparison that we can draw with the protection of human rights online through particular features of the software we are using, and maybe we can think of the elimination of patent for such features that are impeding distribution when the affected outcome is directly impacting on human rights.

And maybe one way to move forward in the discussion would be to think of a set of principles by which we can identify that part of the software or that part of the patent that should not we applied to features

which in the future might affect the human rights or might just impede that. Only if we think in terms of time that is also important, because just reinventing the wheel each time doesn't make a lot of sense. And we have to think of standardization for particular features. This is the first example.

The next observation relates to MOOC (*Massive Open Online Course*), the massive open courses developed around the world. And these are developed on platforms that are functions both open source and under proprietary rights. They are supposed to enhance access to education, especially in developing countries. And the model usually works by having well-known universities providing courses with open access to everyone. And usually they have up to 2000 students in courses like this one. And of course it's interactive material, videos, some sort of assessment system that is debated. But just in terms of the choice that the citizen has, and we can think of this model as being a model that in the future will become even more popular because eLearning is already increasing its presence.

Also, what about traditional universities? So if you think of this, and the choice that the student has, it's relatively limited. You are actually locked into a particular configuration based on the flash platform that the University has chosen to use. And of course the quality of the education you might get there is massive.

Applying some sort of social lens to aspects of the cyber-environment I think is necessary at this point. Also, to stimulate the kind of thinking that would increase Public Policy influence on this. And I think there is no common understanding of human rights as being universal all across the globe. But we can all kind of agree on some set of principles, and in this case I will just draw on one of the reports that the Internet Society released on human rights and Internet protocols. And here is a very interesting classification of how to think about the human rights principles, and that includes universal equality and nondiscrimination, so human rights belonging to everyone of where, roles and responsibilities, the kind of division in which the States have duties to respect, protect and promote human rights, participation, voluntary adoption of new standards. Stakeholders might have other limited roles, i.e. accountability and monitoring the freedom. In this category we can have a lot of divisions: freedoms to develop, freedom of expression, free flow of information, freedom of association. And last but not least, fairness and rule of law.

So if you start from these principles, and we look at the way in which the product codes and standards are developed for human rights and separately for the Internet, we realize we have very different fora in which we are playing out these elements. So, on the one hand we have the UN system on the global level, trying to handle the human rights protection. And on the other hand for Internet and Internet standards, we have

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primarily the so-called organically developed institutions. The technical community working for developing such standards that include human rights approaches or not necessarily.

And here it's interesting to look at how little the interaction between these two fora is. So the UN does not participate directly in fast movements or in setting some sort of principles that could be used. And at the same time, the technical community is never consulted in the case of treaties negotiated within the UN.

Of course, we have bodies that try to breach the two by writing experts or opening access to all experts, so IETF (*Internet Engineering Task Force*) is one of those. But this is still not some sort of approach that would actually allow permanent interaction. So if this happens from time to time, it's good. We are happy to have it. However we are not debating who should be involved all the time at what level and how exactly we can think of the Internet in the framework of the UN by approaching Open Standards as such.

The third point I would like to make in regard to the role of the States in protecting human rights. This has been the case historically. However with the online environment we have a relatively big change as we have the rights, right now, the rights framework right now not only under the oversight of the state, but also under the oversight of the public sector and also of the private sector and the technical community.

So, so we need actually to move the discussion beyond just having the States protecting human rights. And we need to think of frameworks which private companies tackle human rights in a way that is meaningful for all of us. And the way in which this could help empowering local communities. Thank you.

DR. S. MALTSEVA. Thank you very much Roxana. Some questions to Roxana? But only questions, please.

AUDIENCE. Hi. I'm with the World Wide Web Consortium, Chair of the payments group at W3C. We currently don't have anybody involved in the work that is looking at the human rights aspect of this. We would love to get somebody involved. Who should be involved and of which organization? Is there anyone in specific that you can think of that could help us with the Web payments work? Because this really has to do with the freedom to develop, right? So where can we find someone to work on this?

R. RADU. Thank you for acknowledging that there is some interaction with the human rights community. I cannot think of a name right now, but I'm sure the best approach would be to involve as many different organizations as possible. Also, there are a multiple voices speaking for multiple concerns within the human rights community. So maybe we can talk after the session and think about some of this.

DR. S. MALTSEVA. Another Question? Maybe we have a question from remote participants? No? They are not active.

Okay. I think Roxana you started a very, I think, important part of our discussion about potential opportunities of open source software. And I want to continue this issue and I ask Dr. Tracy Hackshaw to make his report, the potential opportunities, challenges, and implications of open source software for Small Island Developing States.

DR. T. HACKSHAW. Thank you very much and good afternoon to everyone. So I'm going to take a little different spin to the discussion and focus on the human rights aspect but not necessarily at the level in which Roxana may have drifted into. But talking about a contextual approach to countries that I come from, the small island States.

For those who don't know, I'll briefly explain. So who are the small islands? So there are about 52 of them and on the board there you see that there are several that are UN members and about 14 that are not. As a matter of fact, in the Indonesia spectrum, I think there are 17000 islands in Indonesia nation. Some of those islands are in fact small islands, although Indonesia itself as a state is not considered a small and developing state.

So the lists that I have here, although it is Nation States that are small developing island States, the issues that we talk about for Internet issues and broadband and

so on affect small islands within States as well. But for this particular presentation, only the small island developing States are listed here.

So in case you didn't realize, they do fall in a large part of the world, 62.3 million people are in Small Island States. The GDP is 75 billion dollars and growing. There is population growth. And critically there are issues that I'll explain shortly that affect these States, especially as the climate changes, environmental challenges. In some cases you see 5.4 percent of the island area is below sea level and about 10 percent of the populations of these States, so about 6 to 7 million people, live below sea level. And that has implications.

I'll not go through all the stats there, but there are really a lot of interesting challenges that they face, and to show you where there are, how about an upside down vision of the world according to the world map. You see that they actually sit generally at the bottom of what the world map looks like, to a large extent. They are located in large bodies of water that we generally fly across and we don't realize that we fly across these bodies of water. And these are the little dots that set primarily in the Pacific and India Atlantic oceans and so on. And I come from one, the one that is Trinidad and Tobago, and there are many of them in the Pacific region in particular. And some of them are actually here in the conference. It's difficult for us to get to the place, to get to Indonesia, to get to travel and to share these views with you so I hope that you understand where I come from. There are

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significant issues and challenges facing our countries that are still based around issues that may have affected other countries and they have gotten out of it.

We are very much an extraction based economies, that means that we draw our exports basically from the earth, whether it be anything from agricultural resource, mineral resources, mining, they are primary industries. There is a total dependency on the developed world, if you want to use that word, which has implications for the open source issue. And a lot of economic challenges face these States. ‘Multiprotectionism’, environmental challenges, resulting socioeconomic problems that we face that do not relay to open software, crime issues, social inequity, poverty, and a lot of dependence on the state welfare strategies. A lot of that may not seem like open source strategy. But I'll get to it.

Before 2003 which is when the whole Internet Governance process started, we would see a weakened telecom infrastructure. The ICT development in those countries was really thin to nonexistent. Governmental initiative on ICT and a lack of ICT initiatives, and what I call the digital canyon, some call it the digital divide.

Today we have had increase on the telecom sectors, which happened in many of the States around the same time. The mid 2000s, which began opening up, and we began looking at new issues that would have affected these States. And in particular, the rise of

mobile broadband, mobile wireless communications. So in many of the small and developing States, wired communication is very difficult to deal with. So it's primarily through wireless communication. And that needs leads to a mobile question. Most of the software is used and that is emerging in the small and developing States are going to be mobile type software development applications.

And again, it has implications for open source and the human rights issue. The private sector, industry investments have things that emerged, implications are coming as well. 'P-3' partnerships, the private/public partnerships. We have had regional and International things emerging. We have ccTLDs, and that is a UN interest, and particularly the rapid take up of social media, cloud technology and Web 2.0 technology. Of course, as another country, the people use the Internet and there is Internet activism.

I'm treating with the whole FOSS issue, free and open source, FOSS. We are this extreme domination in the sector of what we call the boxed providers. And that is not just simple in terms of usage. It's in terms of what they do. They are seen as multi-national corporations. As you might see large corporations or large company, I won't flame the companies, but they are large multi-national corporations in small island States. What does that mean? That means that they do significant investment in the country. That means they do corporate social responsibility as well. So you tend to find that the

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large companies might be investing in anything from a basketball courts to crime initiatives, to things related to the universities. They sponsor academic centers, centers of excellence and so on.

In addition to that, we have significant developments. When it's done, it's done usually with the sponsorship of these large organizations, and again I won't name them. But you'll see the mobile take up move moving to the large organizations.

And linked to what I just said is a general ambivalence between the sectors, academic sectors to software that is not based on software, so open software, free software, is not something that would be taught in our local schools at the secondary or the tertiary level. And if you think about it for a second, that means that when someone comes out of a school, to develop, the first thing they will see is not anything open. They have learned only proprietary technology and they intend to develop on that platform. And in my own job, I've seen that personally, that even where we are encouraging open source development in the job, the students can develop. They are not able to work with the platform. They only know a certain level of development, a certain level of language. And to unlearn what they learned it's difficult. The same thing is in our country.

On so is it we are issues of power, water, and crime and so on, I mean, why bother with open source software when we have all of these things happening?

These people are willing to help fund some of our initiative, so why do we bother with open source software? So there are significant opportunities that I think we have and we need to take advantage of, and I'd like to have that discussion as well, in addition to the human rights perspective, because human rights means more than simply freedom to be online and privacy and so on. So in terms of the problems that are faced in this small and developing States, I think that open source software, free software provides development for local contextual solutions to local problems.

Today you'll not find the off the shelf software involving a water problem, a transport problem and crime problem in our countries. However, using local talent and open technology, we may be able to solve those problems on our own, without having the help of others. So I think it's a useful and very important dimension from the human rights perspective to look at, that local solutions to local problem, and we can use this environment to deal with that.

FOSS also allows our people to actively participate as developers, and that speaks to what we spoke about earlier. So in terms of actively participating in the development process, the whole lifecycle from the initial code straight to the end product and the commercialization if necessary of that product, that platform allows our local developers to actively participate, which as we see today it doesn't happen. So there is a strict consumption approach to software today

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in the small developing States as opposed to an upload or a creating culture.

In terms of things like IP, and so on, we believe that this platform can allow the reduction of what we are calling blacklisting. And in many of the small and developing States, and I heard this in one of the presentations earlier, there is a huge percentage of piracy in small and developing States and developing countries as a whole. In Trinidad and Tobago, we have protection and copyright laws, but we are not very good at doing that. And as was mentioned earlier in the panel, some sort of movement towards that environment, understanding of it from both the creative comments copyright type perspectives, into the normal perspectives needs to happen. So that we understand on the one hand we have protected software, proprietary software, and on the other hand we can do stuff on our own that can be licensed in a different way. We believe that open source software is effective and can enable effective knowledge transfer without legal or political restrictions.

And that's a very important point for many of the states in the region. And we also believe it will close the digital divide and it complements our education system in terms of teamwork, project management and so on.

Again, another issue may not be immediately apparent in the open source world. Building open source software, using community approaches to in fact build teamwork, it builds at a level of understanding and how

to work together and collaborate that is missing in many of the aspects of our environment.

And in particular, it can create new employment opportunities, new job, and especially in our states, entrepreneurship opportunities. We don't have many of that, because as I said before, our industry is very limited. Our industry is based around that approach. So the local industry tends to sell and resell software from the multi-nationals. But this approach, if it's built and implemented correctly, we can build new software, not just the software on existing platforms that are proprietary. But using creative methods to build tools on the open platform and build communities of practice within our own countries.

So that is my contribution. I'd be happy to answer questions on how this can work in small and developing States. Thank you.

DR. S. MALTSEVA. Questions? Please. Your question?

AUDIENCE. Thank you. Hi. My name is Nasser, I'm the chief technology officer for Microsoft in Eastern Africa. A few comments about what you said, but as an introduction, I want to make just two, to look into how the industry has moved. And how software has moved in the last, you know, just five years. And one of the examples I would like to take, two major trends that I have seen and we can agree on them, is one is the idea today that software is everywhere. It's in the cars, aircrafts, nuclear plants, PCs, mobile phones, healthcare

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devices, everywhere. I think we can agree to that. And we are talking about Internet of Things and, you know, software. The software, the fuel of the economy on all fronts, everywhere, and many people are actually developing software. So that is number one. And that's a big change. That's really a major change in the industry.

And the second interesting trend I see is the, you know, the sort of mobile and mobility, whether it's tablet, you know, mobile phones, et cetera, where just to pick an example, recently the Apple announced that there are a million applications on the Apple App. store. It's fascinating, one million. That one million means probably thousands of companies perhaps out there that have developed those applications. And perhaps many of those are individual developers that have contributed, and innovated.

And they have innovated on sort of a closed platform, right? Because Apple does not provide the source code of their apps, but the reality is that there was a lot of innovation based on the platform that Apple is providing. I can use that for Android or Windows dories, but that's just a general statement.

So the point that I'm trying to make is that the industry has evolved and software distribution has evolved, and the way you use software today has evolved. You were mentioning, and think about this, the typical things that you do every day. You search using Google search. You don't have the source code of

Google search. You tweet. You don't have the source code of Twitter. You go to Facebook, but you don't have the source code for Facebook,

So it's not just the operating system that you're using. There is a lot of software that you use, that is delivered differently, whether it's as a cloud service, as different things. I mean, if you don't have Google every day to search, how your life would be different. But your e-mail system, et cetera. So there are course services that you use every day for which you don't have source code. And in fact, you cannot have it, because there is no point in having it to innovate. You can innovate without having the source code of that, right? So there is a different form of innovation, and I showed that by using the app, the sort of the example of the app store, et cetera, where innovation comes from.

So that's the kind of set of interaction I wanted to make here. Because it is human rights, there is the right for innovation as well. And what we have seen recently is that innovation is also coming from people who do not want to share their source code.

And so the Question, and one comment, I don't see any reason why open source should not be taught at universities. In fact, I am an activist on saying we should teach open source in universities. We should. There is no point in not doing that. I was a student myself. I learned Unix, Linux, C++ and C, and I had the source code for that. So I'm a fan for that and we should teach that in the University, as we should teach other things, right? We

should not be exclusive one or the other. We should do that.

But my Question for you is why, in your country, you need to have the source code of an operating system in order to innovate? I don't get it. You know, the world has moved into application development. And you can innovate on existing platforms. You don't need to have an open source of something to innovate, the source code of something to innovate. The reality is you can innovate by adding to something without having the source code and changing it. I don't see why you have to have that.

In the UK, just in the UK, an example, there are 200,000 developers doing Facebook applications. Can you just imagine? They don't have the source code for Facebook. They have APIs.

DR. T. HACKSHAW. So I would respond by saying first, I didn't say that, right? I'll correct you. And secondly, I never said that you needed the source code to develop. I don't have that source code anywhere on my slides. I don't have the word source code anywhere. I can go back and show you. What I was saying is that the way that in these countries, this the multi-national types of organizations to operate. This is to respond to your first point about open source being taught in schools is that it's not encouraged that open source is being taught in schools.

So that's what I'm saying. And I live with this. So
I'm explaining that to you.

Secondly, in terms of having the source code to develop or not having the source code to develop, it's not the issue. The issue I was making is in terms of developing local contextual solutions to local problems. It would be more difficult, it has been proving to be more difficult, and I've had experience with this, to build solutions using proprietary software than with open source software that is contextual to the environment.

I'll explain to you what I mean by that. When you're building something on, let's say a database that is proprietary before the law. Let's get to that discussion, of using a particular database solution to build a solution that might scale to something that a Government may want to use, right? So let assume a transportation solution, right? And that transportation solution requires some level of scaling, resilience and so on. And in the proprietary world, that solution is quite costly on many levels. In terms of acquiring a solution, of accessing the support for that solution is very important.

AUDIENCE. Now we're not talking about free in the terms of liberal. We are talking about free in terms of price. And that is a very fundamental confusion.

DR. T. HACKSHAW. I was explaining at the start that I'm not here to talk about the dilemma of free, 'Libre'. So I'm talking to that in particular. So that is a different discussion.

AUDIENCE. My name is Arman. I'm from Indonesia. I've been using open source for around ten years. And what I see in Indonesia right now, you know,

the Government doesn't like open source because it's not making some tax for them.

And when I asked you, when I go to some province in Indonesia that, when I tell about Linux or something like that, they see that Linux is a difficult thing you know, more like for a server but it's not for using it every day.

What I want to ask is how to educate people in a state that has so many islands, like Indonesia. Because it's quite difficult, based on what they taught that if you're using Linux it's very difficult to use it. And the Government also does an interesting thing, too, to educate them. And the Academy in Indonesia is like more likely to cooperation with a company that is selling proprietary software, because it makes them have selling power or something like that. So I want to know, maybe based on experience, how to educate our people in Indonesia, especially, to know about free and open source software. Thank you!

DR. T. HACKSHAW. Thank you for the question. That's an extremely good question. In island nations, Indonesia is a big one, but you have small. I would suggest something reasonably; it would be creative in that sense. What we're trying to do in our country is have the Government itself use open source software in the mobile world. So what you tend to find in Government is that you have a process where they are identified. So I have a particular solution. I want to build

a taxis tem or whatever that solution is. You do a requirements document and you put out a paper and it might take two years. And generally speaks because of all the requirements of tax and so on. A vendor would win who would use a non-open source solution, right?

However, there are certain types of solutions that may not be of that nature. There may be small point solutions that may be mobile friendly. And what we're seeing is that from the University level or from the prior vocational school level. The Government can in fact open up that sphere of application development and procurement to those institutions, using the school, the school system. So going to the school system and saying I'm looking to build, as an example, a tax calculator, to do that using a mobile interface. Can you, school X, do that for me. What you tend to find happening is that the schools themselves, when the Government reaches out, provides a demand for those schools to provide that service to them. I'll find the learning and the things happening naturally. So you'll find a situation where the schools and the universities themselves, in addition to teaching the traditional software, will also open a door for that other software to be taught and expose the students to it.

So the students coming up with learn both views and build applications that are on demand. Because you find that Governments in particular tend to draw demand more than the private sector for these types of solutions. We have a lot of ability to sway. They spend the most

money in the country, and they will generate the training that you are looking for.

So I do not suggest, you know, you go out and you preach and evangelize open source software. Appear those things don't really work that well. But you need almost like a champion, to the Government in this case, to buy into the process and to go to the schools. How do you sell the Government on it? That's another very good question. Another thing you can do is use your local societies, your computer societies, your ISOC, if there is an ISOC in Indonesia and has the Government understand that open source is not what they think it is. It's not a rogue type of technology that has no support. It's free, so it's useless. Because most people think that if you don't attach a price to something, it will be useless. So just encourage the Governments that it's not like that. And open a door for the schools to teach it using that approach. I would suggest.

DR. S. MALTSEVA. I'm sorry. But we have small time. Okay. A short question, please.

AUDIENCE. Sure. Let me one quick comment and one quick question. The reason we need access to the source code, responding to the gentleman from Microsoft, is to build devices like this. Something that can be deployed in some place like Indonesia and have the local population build solutions into the core of the device. Yes, you do, please don't shake your head. You need to be able to do that. There's proof in this. We tried

to approach Microsoft to create a new payments mechanism; you weren't very responsive to us. Mozilla because the source was open. We could go directly in there and make the changes ourselves. That's why you need access to source code. And I'll ask my Question after the thing is over.

DR. S. MALTSEVA. Dear colleagues, please, do the questions to the panelists, okay?

AUDIENCE. Just to raise again the point of treaty. It is the best, and the good, the good points. There is no lobby behind open source systems. So, who can encourage and who can push Government and ministers to use on a daily basis some software, some open source software? It's not the case with open source. And it's the case with Microsoft, with this private software. So we can't, for example, with the human sites and University, why we are teaching office and not open office, for example. So this is not the operating system. This is just an office basis application. So Microsoft makes cooperation with many Governments to push them using on a daily basis.

And in this case you are paying a double license on operating system which is the Windows and office. Does it make sense?

DR. S. MALTSEVA. It's a combination of in part discussion and question.

AUDIENCE. Mime Prasash from Malaysia. To add another point, we are talking about software and

hardware; I think in this digital era, we should not rely on any big corporation or big companies to develop and to come out with usable hardware and software solutions. And of course there is a difficulty in promoting free and open source software, it's not cool. We have to start using it peer-to-peer, develop publicity materials and coverage. The past four years ago, in our organization, I'm from a human rights organization, and we implemented full Linux based system to run our office, and just the hardware, the PC.

And also, there are a lot of talks, even in like technical talks and other groups, to build social media. Of course, there are activities and other activities for come willing up with alternative solutions. You can act on it. It's open. You can develop based on the source code that is available. Thank you.

DR. S. MALTSEVA. It was a question... maybe we can give the board to our remote participants?

REMOTE PARTICIPATION. Yes, this is a question from HSE Moscow. The question is why creative commons is not working properly in Russia?

DR. A. SHCHERBOVICH. I mentioned creative commons licensing, as a legal instrument. To work properly, it should have some requirements, like definition, a kind of means of legal protection. For example, access to courts, different legislation. We are not a kind of a case law. We are in the continental legal system which requires legal prescription of procedures

that provide protection of this or that, especially in the sphere of licensing. We have no this kind of proper legislation which could protect creative comment licensing. Thank you very much.

DR. S. MALTSEVA. Thank you very much. Unfortunately, our time is up. But maybe some comments from the floor.

AUDIENCE. Hello. I'm Flavel Linz from the Ministry of Communications of Brazil. And probably as you all know, Brazil is being monitored by allied country, which is the U.S. And it has been done in the Government level, in the citizens' level, in companies' level. So what I want to say is that I see that the only solution for the world for not risking to have things monitored, and this is an issue related to the other countries, is for open solutions. I'm talking about software; I'm talking about hardware as well. I cannot depend on the trust that I give to the provider of some solution that he is not having some back door or some bug on my mobile phone or whatever, right?

So the only way that I can guarantee that I'm not being spied by anyone, and that includes all countries, and that includes all technology providers, is that I have a way to make an audit on the solution I'm using. And the only way to do that is if I have an open solution. So I don't feel that either the free software has a future because the incentive to innovation is very low, if you don't have a paid solution. But I see that the open solutions are the real thing that we need search for, not

the free one. It can be paid. But it must be open. And the Governments can play a real role on this by using its procurement power to buy open solutions. And I'm sure that Microsoft will soon open its solutions.

DR. S. MALTSEVA. Thank you very much. Another question, comments?

AUDIENCE. A couple comments, very short. I don't want to give the impression that Microsoft is against open source, et cetera. It's an absolute wrong statement for people who think that Microsoft is against open source.

Just to make clear that we are Microsoft and we can prove that, it is the single most contributors to open source today in the industry. We contribute millions of lines of code every year to the open source community. So that's number one.

And the other thing is we are a company and a corporation, the way we look into our business is that we are not competing with the open source idea or concept, we are competing with products. So in the database business, for example, because you took the database example, we compete with Oracle and we compete with DW 2 from IBM, et cetera. In the case of office, we compete with open office, we compete with Google apps. It's not against the open source idea but we compete against products and companies and we have to keep that in mind. But we contribute to open source and we like open source and we pay for open source and we

do open source ourselves selves. And we work with the open source community.

I think there are ways for you to audit non-open source. You know things. Because there is no way that you can audit the whole system. I mean, think about the full chain, from the network to the hardware, to the routers, to the satellites, to everything that you need to audit. It's just I don't think you can put it.

But from our side, we can give you the source code to audit it. We just don't give you the source code to do something else with it. But to audit, we are ready to do so.

DR. S. MALTSEVA. Thanks to all the participants and we have some comments from our panelists.

DR. M. KOMAROV. Thank you very much. We are out of time so I don't want to make a presentation. I just wanted to emphasize that as it was told, by one of the panelists, we are talking about public and private partnership. And the main feature, it's a main trend; it's a main solution for the future development. And I guess a good example of public/private partnership, it's an open data programme, an open governmental data programme and also open data itself. There are some interesting statistics, some descriptions you probably all know about it, about the initiative on Open Government Data. In the United States, they have got more than 90 000 data set already released on the website there. And why I put it there, you know, with the

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cell phones, with all of the things, because we are talking about mobile. We are talking about apps we are using, right? And there is another slide showing how apps using our data are also there. And we are not talking about payable software; actually, we are talking about free software. Yes. But it's not probably open source software. That's a tricky thing, right?

But in terms of data, because we are talking about, you know, mobile device, so there is a lot of data generated and actually data collected. You know, in terms of Governments, we have the Open Government. In terms of principles, you also can see here, I've run out of time so I can't comment so you can find it actually on the Web site, it's the Internet, right?

But the thing is that this picture shows which data is still not open. And when we are talking about violations of private, you know, privacy, we are talking about violations of our personal data. Probably we should think about some universal, you know, mechanisms of keeping, you know, some let's say open private data, probably the thing is that if it can prevent a violation of that data. So, another way is to think about trying to control distribution of the data. But anyway, we are talking about open data environment, where Government spreads, you know, the data sets with all the data to the companies, to increase the level of competitiveness, right? And to help companies, let say, provide more efficient service. But

actually, when we are talking about data, we are talking about the era of mobile devices and the Internet of Things. And the big question is what is private now when we have sensors around us. And some companies use census data to create new services, let's say not just forecasting, but traffic analysis, and whatever. And it's not our positioning from one side. From the other side, the census is collecting that data also, and that's where we should probably also think about some new definitions, what is private there and what is not in terms of the sense around us.

That's what I wanted to say. And I guess the open data would help us with that, when we would also focus on public/private partnerships with NGOs involvement. Thank you very much.

DR. S. MALTSEVA. Thank you very much, Mikhail. I think we found some ideas for the session, for the next year. Not only open source but open data. And so on and so on.

Andrey, some words from you to return to human rights and open source.

DR. A. SHCHERBOVICH. I'd like to tell a couple words about prerequisites of the usage of the open source in terms of human rights development. They should be first technological development; the second is legal protection on all levels, on the International, national and the community level.

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Where the software is involved it should be protected on all levels. The third prerequisite is the general economic and social development of different States, as was mentioned by a report of Dr. Tracy Hackshaw, which is especially important for developing States.

And the last prerequisite is development of legal and information culture of users.

All these prerequisites are needed to make open source software a kind of field for the human rights protection and development.

The last words I would like to say. It's the Internet Governance Forum and the multi-stakeholder cooperation of the Internet Governance or the global Internet Governance Forum should be the best field of discussion of this kind of issues. Thank you very much.

DR. S. MALTSEVA. Thanks to all the participants. Thank you for your opinion, for your Question, so it's very, very important. And this topic is important I think for all human beings, for the Information Society development, for our future.

Thank you very much.

**Conclusions drawn from the workshop and further
comments**

1. Outlined distinction between free and open source software, use of term “libre” (from French).
2. Legal regulation of human rights issues must be divided into 3 levels: intergovernmental, national, and community level.
3. Need to streamline regulations on national level to provide a legal and judicial defense for producers and users of the free software.
4. Key point is protection of the free software as a factor of development, especially in the small island developing states.
5. Strong need for increasing legal and information culture of free software activists.
6. We should continue dialogue on the issue within framework of the multistakeholder environment of the Internet Governance Forum.
7. Open data approach appears as a key point of dealing with the issue on governmental level.
8. Private sector and other stakeholder group approaching close points of view on the issue in multistakeholder dialogue.
9. Free software could help in realization of all basic human rights, as in the Internet freedom of expression and right to access information could be recognized as a basic human rights.

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10. We still in need of the basic instrument of international protection of human rights on the Internet with specific relation of the issue of the free and open source software.

INTERNET GOVERNANCE AND HUMAN RIGHTS PROTECTION: RULES AND INSTITUTIONS

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Keywords: Internet Governance, Human Rights, Child Protection, Censorship, Blocking, Filtering.

Abstract. The idea of this paper appeared after the workshop on ‘Human Rights on the Internet: Legal Frames and Technological Implications’, organized by the Higher School of Economics on 7th Meeting of the Internet Governance Forum in Baku (Azerbaijan) on November 2012. This paper shows importance of the trilateral Internet Governance model in context of the example of governmental insufficiency to control the Internet.

Internet technologists contribute to the practical realization of human rights. First of all, they can improve effectiveness of existing institutions. Unfortunately in the same time Internet technologies give rise to new mechanisms of human rights violations. So we need to create new means, new technologies for human rights protection. We need new technological means, identification and classification of violations, based on predictive analytics. But to improve the situation, we should improve the existing means, and build new

models of communication. Perhaps such models could be based on the concept of Web 2.0 and Web 3.0.

3 levels of Internet Governance

During 7th Internet Governance Forum the Higher School of Economics organized a workshop on ‘Human Rights on the Internet: Legal Frames and Technological Implications’ [1]. Firstly we should indicate some outcomes from the workshop session.

Philosophy of cyberspace stands for maximum freedom of Internet from any governmental and other intervention. However it is impossible to refuse any kind of Internet governance or regulation of its infrastructure. Internet looks like a mirror reflecting the real world, where we have moral and legal rules called to provide and ensure freedom of expression and information accessibility rights, protection from abuse of those rights by criminal and other kinds of wrongful behavior.

The same rules should exist in cyberspace. Nowadays in fact we could discover three levels of Internet governance: *supranational*, *national*, and *self-regulation*. By virtue of specificity of the Internet none of those levels could be proclaimed self-sufficient or unique to set up governing rules. The main purpose of this paper is to compare these three levels of Internet governance and to allocate their roles in this process according to their functional characteristics.

So, to the *supranational level of Internet governance* should be stressed on the following issues.

- Design and establishment of programs and policies devoted to perfection of Internet governance theory, ideology, and methodology.
- Arbitration, counseling, intermediary, and other methods of the dispute settlement between national jurisdictions in sphere of Internet governance.
- Development and propagation of ethical standards of Internet governance, which include development and perfection of the Codes of Ethics for supranational (global and regional) and national levels.
- Explanation and training for perception of internationally approved programs and policies of Internet governance.
- Development of obligatory rules prescribed in multinational treaties and conventions which directed to preserve basic human rights in sphere of information, such as freedom of expression (of speech) and information accessibility rights, with special regards to cyberspace.
- Assistance in ratification of those treaties and agreements, and their implementation in national legislations.

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- Monitoring of states observance of the established rules of Internet governance for the purpose of guaranteeing freedom of expression and information accessibility rights.

National level of Internet governance should be assigned for compliance of following functions.

- Ratification of international treaties and conventions in sphere of Internet governance, and their implementation into national legislation.
- Establishment of the favorable legal environment for realization of the freedom of expression and information accessibility rights in the Internet, including modernization of national legislations according to the modern development of WEB 2.0 and other newest technologies of cyberspace, especially possibility for making user-generated content on websites.
- Protection of constitutional freedom of expression and information accessibility rights on the Internet by judicial and administrative bodies according to legally prescribed order.
- Prevention of abuse of information rights in the Internet by lawful restrictions based on constitutional provisions, for defending

constitutional interests, such as health, morality, another person's rights, national defense and security.

Self-regulation on web resources should be allocated with following functions.

- Formation and development of social networks of users on different websites, establishment of user communities, and increase their information literacy and legal culture.
- Development of rules of the behavior formalized in the user agreements and Terms of Service, their conformation with legal standards.
- Dispute settlement arising in process of realization of freedom of expression and information accessibility rights on different websites in the non-judicial order inside users' network communities, possible arbitration by means of specially appointed conflict commissions, moderators and managers of those web resources.
- Formation of usual (community) rules of Internet governance, on specific websites, which have both ethical and legal character.

These three levels couldn't be declared self-sufficient enough for effective Internet governance, and should be connected to each other in order to make

relevant Internet Governance policy for the realization of human rights. Uniquely, each level has its positive and negative effect.

Baku Workshop concluded that we cannot rely on individual governments to respect human rights; we cannot rely on corporations, and civil society to do so. Certainly the Internet Governance Forum community can act as a human rights watchdog and can provide certain tools to help with the exercise of human rights online, but the IGF hasn't enough power or resources or influence to make much of a difference on our own account.

Case Study: Governmental Insufficiency Dilemma

The goal of protecting children from information, which prevents their normal and healthy moral development, is, of course, good. Opponents of these legislative provisions suppose that this goal is ephemeral, but the real purpose is to provide the political, ideological and other kind of censorship. Legislation protecting minors from harmful multimedia products is adopted in majority of developed most countries. And this is certainly positive exercise.

In this aspect, one cannot but agree with Russian constitutional law scholar Mikhail Krasnov, who believes that the cultural component of human rights

definition is the way these rights are restricted. The issue of limitation of rights is a key issue of this problem.

First of all, the restrictions contained in the nature of human rights declared in the European Convention for the Protection of Human Rights and Fundamental Freedoms and other international and European regulations. More specifically, the restrictions are formulated in law enforcement, including practice of the European Court of Human Rights.

The idea here is reduced to the issue of limitation of human rights implicitly contained within these rights or of the limitation of the state power. Although the consequences, it would seem as the same. If limitations are implicitly contained, the legislator is just trying to find these restrictions, which were originally put inside the very human rights. But in fact, if the restrictions are implicitly contained in human rights, the government will just have to recognize that human rights are based, are based on ethical principles [2].

Russian Law on child protection

Recently, in Russia there is a lot of problems is moral nature. They are associated with the breaking experiences of the moral disaster of the twentieth century, which became a turning point. This affected moral principles not only of the younger generation, but also of the society at large.

Now Russian society has no moral authority – even such institutions as church or the family, is no

longer among the authorities, but on the contrary, become an object of ridicule and criticism, including the Internet. The RUNET, Russian segment of the Internet is an outstanding example of the information space, where illegal material (including child pornography and other perversions), could be placed on social networking sites in the public domain. It is real mirror reflection of the moral state of our society.

At present, according to the Constitution of the Russian Federation, Russia is a secular state. No religion can be recognized by a state as obligatory. This means that today the state has no legal grounds to give any guarantees of the authority of the Church. Crisis of the family as an institution, whose value to the Russian society has traditionally been very high, caused many negative social and economic processes in the present time in Russia. There is no public awareness of the meaning of the article of the Constitution, which states that “motherhood and childhood and the family are protected by state” [3].

However, the resent amendments of laws governing the Internet, to ensure the functionality of the law “On the protection of children from information, which prevents their moral and spiritual development”, caused many public protests of the Internet audience.

Debate on the new law

The law “On the protection of children from information harmful to their health and development”

(paragraph 8 of art. 2) defines the information of a pornographic nature. Such is information provided in the form of naturalistic images or descriptions of genitals and (or) sexual intercourse or comparable to sexual intercourse sexual acts, including such acts committed against animals [4]. In July 2012 the law and other legislative acts of the Russian Federation amended to involve filtering of websites of the “blacklist” and block certain Internet sites.

Thus, the law “On Information, Information Technologies and Protection of Information” is supplemented with Article 15-1, introducing automated information system “Single register of domain names, page indexes of sites on the Internet, and network addresses identifying Internet sites containing information, distribution of which is prohibited in Russia”. This register includes sites containing pornographic images of minors, information on narcotic drugs and their precursors, as well as ways of committing suicide. Websites are including in the register either by the court or by a decision of the authorized federal executive body [5].

The adoption of the law has caused a great public outcry. Thus, the Russian segment of Internet encyclopedia "Wikipedia" was closed July 10, 2012 in protest. On behalf of the community "Wikipedia" was issued the following statement: “Wikipedia in Russian language was closed on July 10 to address the community in protest against the proposed amendments

to the law “On Information”, the discussion of which will be held in the State Duma of the Russian Federation. These amendments can be the basis for real censorship on the Internet, building a list of banned sites and IP-addresses and their subsequent filtration.

Lobbyists and activists who support this amendment, claim that they are directed exclusively against content such as child pornography, “and things like that”, but following provisions will entail the creation of a Russian analog of the “Great Chinese Firewall”. The enforcement exists in Russia, indicates a high probability of worst-case scenario, in which soon access to Wikipedia will be closed throughout the country” [6].

The largest Russian Internet portal Yandex has changed its logo “Everything would be found”, dashing the word “everything”. Chief Editor of Yandex has also issued the following statement.

“For civil society are obvious the need to combat child pornography and illegal content in general, and the maintenance of the constitutional principles of freedom of speech and access to information.

The State Duma is working on a draft bill № 89417-6 “On Amendments to the Federal Law on Protection of children from information harmful to their health and development, and some legislative acts of the Russian Federation on the restriction of access to illegal information on the Internet”. Among other things, the

bill proposes amendments to the law “On Information, Information Technologies and Protection of Information”. They relate to important issues and affect the interests of many parties: the citizens, the state of the Internet industry. Such decisions cannot be taken hastily, as it does now.

The proposed methods provide the way for potential abuse and cause numerous questions from users and representatives of Internet companies. We believe it is necessary to balance the public interest, as well as meet the technological features of the Internet. Therefore it is necessary to postpone the consideration of the bill and discuss it in the open air with the participation of the Internet industry and technical experts [7].

We should keep in mind that the Russian law on the protection of children from information that is harmful to their spiritual and moral development primarily concerned for multimedia products. And its age ranking is not something outstanding. Such age-ranking of media products is used in the user agreement of Microsoft in the case of computer games to be installed on operating system Microsoft Windows 7.

In background documents Microsoft explains that special commission should create recommendations for video game content for different countries and regions, assigns evaluation of games. The commission usually assigns each game age assessment. Review Commission also examines the contents of each game and together with an assessment gives a brief description of the game.

Assessment and brief descriptions are very similar to the system of assessing and reviewing movies. Age assessment contents divided into types of games that are appropriate for different age groups – young children, older teenagers or adults only [8].

Ambiguity of interpretation of ‘censorship’

Let us analyze the situation from the standpoint of constitutional law. Censorship, as we know, is prohibited by Article 29 of the Constitution. But what this means? Is it relating of any restriction on access to information?

Article 3 of the Federal Law “On mass media” censorship is understood as a call from the editorial board of the media by the officials, government agencies, organizations, institutions or associations to coordinate previously messages and materials (except where a person is the author or interviewee), as well as a ban on the dissemination of information and materials, their parts [9].

In the Russian historic Brockhaus and Efron dictionary the following concept of censorship is outlined. It is an oversight seal to prevent the spread of information which is harmful to the dominant government [10]. However, there are no current concept of censorship is broader and includes, for example, self-censorship, although target criterion in the definition of censorship does not exist. This creates difficulties in enforcement and denies the value of the constitutional

prohibition of censorship, designed to protect the freedom of speech and expression.

In our view, however, a more effective protection of morals could be made not by censorship (prior control the content of sites on the Internet), but by bringing perpetrators of morality to justice. However, in fact there is inefficiency of the law, leading often to the fact that the pornography and other harmful and inappropriate content is available free on Russian resources. This was the reason that the Russian sites have imposed bans in other countries.

Thus, in accordance with the two court decisions (№ 230 and № domain vk.com 55,210 for vkontakte.ru), taken in Istanbul on May 2, 2012, a Russian social network "VKontakte" recognized questionable from an ethical point of view, and the Service, and access in Turkey was banned [11].

In the Russian criminal law there are rules on the responsibility for the illegal distribution of pornographic materials or objects (Art. 242 of the Criminal Code), manufacture and distribution of materials or objects with pornographic images of minors (Article 242.1 of the Criminal Code). In this case, given the fact that the rules of criminal law apply only to individuals, it is unclear how to apply these provisions of the Criminal Code to regulate the Internet, although the area most in need of legal regulation. From our point of view, the web content filtering preventing abuse of freedom of speech and the

right of access to information, i.e. in order to combat the spread of pornography is justifiable practice.

International experience of filtering and blocking inappropriate content

T.J. McIntyre recalls policy initiatives carried out from 2006 and supported by the European Union, which contribute to blocking immoral content. It was one of the first Action Plan CIRCAMP (project against Internet resources, offensive for children), adopted by the European Chief Police Task Force in 2006. This project, funded under the “Safer Internet Plus”, assists member countries in establishing national blocking systems.

This trend continued in May 2007. The European Commission issued a policy paper [12], which determines the general policy on fight against cybercrime. It argues that Europe is becoming more and more accessible sites that contain materials on violence and sexual material. Enforcement action against such sites is very difficult to apply, as the owners and managers of sites are often located in other countries and often outside the EU. Websites can be quickly moved outside the EU. Determining the illegality also vary considerably across countries.

In response, the paper proposes to introduce policies to encourage public-private agreement for the Europe-wide blocking of sites of illegal content, especially of a sexual nature. In March 2009, this approach was developed in Commission's proposals

concerning the Framework Agreement on the fight against sexual abuse of children [13], which required the Member States to block access to such material on the Internet. With the entry into force of the Lisbon Treaty it is replaced the draft proposal for a Directive, which requires the same penalties.

The effectiveness of Internet blocking is hotly contested. Some proponents argue that the blocking and other technological mechanisms to ensure the rule of law are necessary to meet the democratically enacted laws.

At the same time it is suggested that in practice these national blocking systems are often ineffective. Proponents of this view argue strongly that the Dutch law on child pornography blocking system was adopted without adequate research, not achieving its objectives and is based on the “naive faith in technology”. Human rights groups have gone further and call blocking counterproductive activity that offers only the illusion of action, reduces the effectiveness of policies that can be implemented by the international community to address this fundamental issue.

Leaving aside the question of effectiveness, we should mention the almost unanimous opinion of the researchers that the blocking system creates special challenges for the fundamental rights and freedoms due to excessive blocking (including legitimate content), and their regulatory framework, in fact, is opaque (especially in the implementation of policy is not legally blocked). In some countries, this may lead to a violation of the

constitutional provisions on freedom of speech. Thus, even the proponents of blocking generally agreed that the implementation of lock-out policy must take into account the above problems [14].

Bruce Mann, professor at Memorial University in St. John's (Canada) noted that the general wording of Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, describes the right to respect for private and family life, home and correspondence. But in the context of social networking section 2 of Article 8 is a double-edged sword. On the one hand the authorities can intervene only if there is a question of national security or public safety. On the other hand, the non-interference of public authorities leaves “innocent” people “at the mercy” of those who can use this information for illegal purposes. In addition, Article 10 of the Constitution on freedom of expression, suggests that any restriction of the right to say all users, including the disclosure of private life is a denial of their right to freedom of expression [14].

In addition to European, should, in our view, include a different of such filtering and blocking of inappropriate content. On the website of Etisalat, the only Internet access provider in the UAE is the full list of banned materials in the country. When trying on a similar site, it is redirected to the page of the network provider [16].

The UAE has banned a number of top-level domain (TLD). This category includes internet content for top-level domain names that offend, are undesirable, or contrary to the public interest, public morality, public order, public and national security, morality, religion or otherwise prohibited by any applicable laws of the United Arab Emirates.

Thus, it seems clear that distribution of the pornographic and other harmful to health and development, materials, and couldn't be the realization of freedom of expression, access to information, or any other was the rights and freedoms of citizens. In any case, distribution of these materials is a crime, punishable by strict enough in the jurisdictions in which we have in the country is considered to be democratic.

Among other things, the availability of illegal content on the Internet is in our view no more than a violation of a number of human rights (and not only children), in the first instance, the right to privacy, the protection of honor and dignity. Therefore, along with the right of access to information on the Web, it is time to speak and the right to restrict access to harmful content. Of course, we are not the problem in the exercise of freedom of expression and political rights and freedoms. Legislator should finally settle the relations in order to protect the most vulnerable segments of the population, as is done in many other countries, where such restrictions do not cause protests.

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So how do we regulate the Internet in a way that respects human rights if we cannot rely on governments, corporations or civil society to do so? The best answer we've is that we should do so by combining the strengths and weaknesses of all those stakeholders in a multistakeholder 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 in common shared norms of online behavior.

The Internet Governance Forum can be a good place to start developing global policies for human rights online, particularly in areas where there are no other global fora that have responsibility for particular issues, such as, for example, privacy and cloud services. However, the IGF, as it is currently constituted, is not quite up to the task. Its mandate does call on it to develop recommendations on emerging issues that can be transmitted to decision-makers through appropriate high level interfaces, but it hasn't yet developed the capacity to do that.

One of the questions that come up first is whether to treat the human rights regime in a comprehensive manner as the so-called package of intersecting rights, or whether to keep the rights separated and have this list of independent things. We already have several core legal

instruments in place at the international level, but their interpretation is by no means uncontroversial. Access to Internet, for example, as a human right has been derived from several articles of the universal declaration of human rights, such as Article 2 on equality, Article 19 on freedom of expression, or Article 26 on education. Secondly, at the international level on the international human rights regime remains strongly dependent on enforcement, which is done through government and through the court system. The tension here is between two conflicting paradigms. On the one hand, the traditional human rights regime, which assigns a major role to states, and on the other hand, an emerging Internet rights paradigm in which the role of the state is kept the at a minimum or is ideally kept at a minimum, and discussions are now going on regarding a set of norms applicable to the Internet, but also in regard with conserving, for example, different frameworks of intellectual property rights.

The Internet is recognized as one of the most valuable public resources available to humanity in the current age. Navigating in "cyberspace" is a challenging and interesting journey that broadens horizons and unleashes potential. However, this experience is not without risks. Young people and children face threats of abuse and exploitation online. As the main users of the internet, youth have an intrinsic interest in exploring constructively ways to preserve it as a forum for freedom of expression, while being a safe place for themselves and the next generations. To achieve this goal, a

participatory approach involving youth, as well as different stakeholders, is imperative.

Generally, Information and Communication Technologies (ICT) are changing the way people, think, learn and act. The New technologies have offered them new instruments to cope with their societies and environments. Politically, the Internet offers a forum for expression that is open to everyone, as well as innovative means for advocacy and conflict resolution. For example, the role of ICT as a facilitating mechanism within various aspects of the conflict cycle and in humanitarian interventions has been recently recognized. Economically, the Internet empowers people, especially youth with tools for a more efficient means of living. Culturally, ICT creates platforms, applications for multicultural dialogues that bypass geographical, religious and cultural boundaries. ICT's contribution to society helps shape a better future, with opportunity, prosperity, harmony and peace.

According to these points, we could make conclusions.

Necessity of establishment of Internet governance policies, where all roles will be precisely determined, follows from the analysis of *three levels of Internet governance, i.e. supranational, national, and self-regulation*.

Legal responsibility for the *user-generated content* should be beard by its author, but neither Internet

service provider nor the owner of web resource. Difficulties of user-identification should induce interested parties to develop more precise mechanisms of user-identification to avoid attraction of the legal responsibility to non-guilty side.

In case of realization of *content-filtering policies* it is necessary to prefer alive, instead of an automatic filtration as last one could display incorrect results and finally threat realization of information accessibility rights of their users.

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CHANGING MEANINGS OF PRIVACY IN THE AGE OF INTERNET

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It would be more honest and [. . .] more useful to investigate carefully the juridical procedures and deployments of power by which human beings could be so completely deprived of their rights and prerogatives that no act committed against them could appear any longer as a crime.¹

Rules are empty in themselves, violent and unfinalized; they are impersonal and can be bent to any purpose. The success' of history belongs to those who are capable of seizing these rules, to replace those who have used them, to disguise themselves so as to perfect them, invert their meaning, and redirect them against those who had initially imposed them.²

Those charged with foreign policy – the Secretary of State (Byrnes) and the President – did not have either the facts or an understanding of what was involved in the atomic energy issue, the most serious cloud hanging over the world. Comments [...] have

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*been made and are being made [...] without
a knowledge of what the hell it is all about –
literally!*³

*The strong do what they will, and the weak
suffer what they must.*

Thucydides

The quotations serving as a preamble to this work, signify the complexity of issues surrounding notions of privacy in the context of the virtual domain: legal, social, economic, among others. An overview, though a rather superficial one considering the relatively young age of cyber and its early scholarly debate, reveals that challenges surrounding the concept of privacy have proliferated as a result of this new technology. Yet, are these challenges truly novel ones? Already for many decades, political theory thinkers and philosophers such as Michel Foucault, Carl Schmitt and Giorgio Agamben have pronounced intellectual notions which quite presciently describe the inherent tensions embedded in “the art of governance,” or “governmentality,” as Foucault coined it. Cyber space, even in its youth, has become a medium in which these tensions are more flagrant⁴ and thus open to public debate, while paradoxically being more subtle⁵. For users’ “perceived ability to maintain control over her online information is largely illusory, as that information —may remain viewable elsewhere to the extent it has been shared with

others — even if the user removes the information from her profile or deletes her account.”⁶

A clear consequence of the spread of Internet is that because the business models of social networking websites “require them to capture and hold the attention of a fast-paced society, [they] are among the most prone to anticipate — the way the world is moving.”⁷ Further, “[t]he populated profile becomes —a multimedia collage that serves as one’s digital face in cyberspace using images, video, audio, and links to other profiles and websites.”⁸ Such disclosure of personal information “directly benefits the web site business “which uses targeted marketing to generate revenue.”⁹ Therefore, it is clear that internet users do not realize the collateral implications of disclosures they make daily in cyber space, and are not aware of how these leads can be used by third parties, such as private businesses or the government itself.

In her November 8, 2013 interview with Bill Moyers, Heidi Bhogosian, the Executive Director of the National Lawyers Guild, offered that the corporate world has more and more influence on legislation (or “making laws”), or on those who “govern.”¹⁰ According to her, the lines between the government and “privately-owned” big corporations thus are becoming more blurry. In a cyber context, this “corporate world” has a major presence on Internet (*Google, Facebook, Ebay, Amazon*, to name just a few large corporate entities, who maintain visible online presence) with virtually unfettered access

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to their users' personal information, including daily user searches that may reveal users' psychological makeup¹¹. Ms. Boghosian stressed that, considering the rapid development of such new technologies as Internet, people's protections must be shaped with at least the same speed as the new developments take place.¹² As derived from an overview of scholarly literature addressing the issues of privacy in the context of cyber, such appropriately-paced protection has not yet taken place.

Interestingly, five academic experts who participated in "Can You Hear Me Now?: a Panel Discussion on Edward Snowden" at the Maurer School of Law of Indiana University on September 6, 2013, voiced quite similar opinions. Every panelist, whether a historian of the intelligence community of the US, a political scientist, an international law expert, a privacy law expert, or an ex-congressman, agreed on one broad point: the US government's powers of surveillance have been expanding, especially so after the events of September 11, 2001.¹³ Panelists were further united in the notion that the US government has exceeded its powers in administering massive surveillance schemes domestically and internationally. Panelists also concurred that the Snowden incident is timely and necessary in raising public consciousness and generating public debate over the use of legal powers by the US government in general and its application of intelligence resources in particular. All speakers agreed that the

government's powers of surveillance have been expanded by interpretation of existing laws and policies.

As observed by Foucault, “[t]he population now¹⁴ represents more the end of government than the power of the sovereign; the population is the subject of needs, of aspirations, but it is also the object in the hands of the government, aware, vis-a-vis the government, of what it wants, but ignorant of what is being done to it.”¹⁵ This excerpt points to the difficulty in establishing an open dialogue between those who govern and those who are governed; the governed public (in its “awareness of what it wants”) is limited in addressing the government due to its relative lack of “knowledge.” This notion was underscored by Prof. David Fidler when he highlighted that “what is alarming is [that which] we are not seeing!” his reference to the amounts of intelligence materials that are being collected.

At the conclusion of Lee Hamilton's presentation, the ex-congressman mused: “I'd like the Congress to re-write their laws! American intelligence community has to loosen up!” Legal scholars have noted that cyber space, while currently being the primary realm of government surveillance, has been chiefly monitored and regulated by various intelligence¹⁶ and military agencies, with highly classified and opaque¹⁷ administrative structures, unavailable to public scrutiny. To use Giorgio Agamben's “camp” analogy: “[t]he camps are [. . .] born not out of ordinary law [. . .] but out of a state of exception and martial law,”¹⁸ and “[t]he

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state of exception thus ceases to be referred to as an external and provisional state of factual danger and comes to be confused with juridical rule itself."¹⁹ In the context of Internet, it appears that the US government is "claiming the state of exception," by using the "national security" argument to expand its powers of heightened surveillance over its population (hence, the passing of Foreign Intelligence Surveillance Act, that founded Foreign Intelligence Surveillance Court²⁰). In the context of historical expansion of governmental powers, can it realistically be hoped that the intelligence community, the "observing eyes" of the government will ever "loosen up"?

Hamilton actually states quite the opposite by acknowledging that: "This policy of massive collection won't fundamentally change! The program won't stop!" Once again, all five experts agreed in various ways, some more explicitly than others, that US government's powers of population oversight not only have been steadily increasing, but will likely continue at an even greater speed as new technologies become more easily accessible and ubiquitous.

In view of the present tensions between US national security interests and civil liberties of nation's "population" (to use Foucault's term of art), the arguments of these five contemporary experts are quite close to those of philosophers of preceding generations. Further, such tensions are not novel in the discourse of

American legal scholars. A similar historical example of the development of another new technology, preceding the Internet by over half century, is that of US nuclear industry right after WWII.

The cyber security debate is analogous to the development of laws and policies regulating the once young nuclear industry, when anti-nuclear opposition in the US was virtually nonexistent, while scientists and political leaders extolled the great benefits of atomic research and nuclear energy in general. However, popular nuclear opposition steadily emerged through a growing public awareness of scientific and regulatory issues as well as the impact of the first nuclear accidents. Unfolding events highlighted the reality and risks of nuclear power danger. Accidents in particular precipitated urgency in the anti-nuclear voice of an increasingly informed opposition. Distrust of science also slowly led to suspicion of administrative processes responsible for regulation of nuclear energy in the US and throughout the world. Thus, the activism of informed public might be seen as an important antidote in challenging the interpretation and application of present day privacy laws in cyber space. The Snowden incident may be seen as an event that established a “space” for such debate by “awakening” the public and making it conscious of how laws have been interpreted and utilized by the intelligence and military communities.

Recounting Foucault's approach to governmentality, the "art of government" by those who are in charge of "tactics" is used "to achieve certain ends":

There is a whole series of specific finalities [. . .] which become the objective of government as such. In order to achieve these various finalities, things must be disposed - and this term, *dispose*, is important because with sovereignty the instrument that allowed it to achieve its aim - that is to say, obedience to the laws - was the law itself; law and sovereignty were absolutely inseparable. On the contrary, with government it is a question not of imposing law on men, but of disposing things: that is to say, of employing tactics rather than laws, and even of using laws themselves as tactics - to arrange things in such a way that, through a certain number of means, such and such ends may be achieved.²¹

[P]opulation is the point around which is organized what in sixteenth-century texts came to be called the patience of the sovereign, in the sense that the population is the object that government must take into account in all its observations and *savoir*, in order to be able to govern effectively in a rational and conscious manner. The constitution of a *savoir* of government is absolutely inseparable from that of a knowledge²² of all the processes related to population in its larger sense: that is to say, what we now call the economy.²³

Two important points encountered in the above excerpts are: (1) the government is “employing tactics rather than laws”²⁴ and (2) “the constitution [. . .] is absolutely inseparable from that of knowledge.”

It is important to mention a revealing factor from Foucault’s younger years: he experienced intolerance of patriarchal figures since childhood because of his difficult relationship with his father. Relatedly, he devoted much of his life to probing psychological understanding of political concepts, including those of governance and of social control.²⁵ Some may perceive such formative experiences as negative because of high potential of bias in later life. However, Foucault’s early experience provided him vision to perceive the exercise of social control, including surveillance as one of its forms, in their “early stages.”²⁶

So, theories of governmental power and control, as discussed by three expert figures, from different points in time in history of civilization, have clearly evolved. It can be deducted from Foucault’s works that he juxtaposed the idea of Panopticon and the governance of a population:

[I]t is possible to suppose that if the state is what it is today, this is so precisely thanks to this governmentality, which is at once internal and external to the state, since it is the tactics of government which make possible the continual definition and redefinition of what is within the competence of the state and what is not, **the public versus the private**, and so on; thus the

state can only be understood in its survival and its limits on the basis of the general tactics of governmentality.²⁷
(My bold)

More importantly, as previously noted, according to Foucault: “the population is the subject of needs, of aspirations, but it is also the object in the hands of the government, aware, vis-a-vis the government, of what it wants, but ignorant of what is being done to it.”²⁸ Hence, the idea of “knowledge” is raised.

Similarly, insisted Schmitt, primary questions to ask include “Who is responsible for that for which competence has not been anticipated? [W]ho is entitled to decide those actions for which the constitution makes no provision; that is, who is competent to act when the legal system fails to answer the question of competence?”²⁹ “Competence to act” is based on knowledge and/or power that goes beyond constitution itself, for it is the sovereign (or the one who governs), who decides what a constitution means, not the governed. Hence it is clear that the scope of a constitution is more limited than the potential power of the sovereign.

Prof. Fidler referred to an important legal document executed by the President, the *Presidential Policy Directive 20* (“PPD20”). “Obama officials have repeatedly cited the threat of cyber-attacks to advocate new legislation that would vest the US government with greater powers to monitor and control the internet as a

means of guarding against such threats.”³⁰ The eighteen-page *PPD20*, issued in October 2012 but never published, stated that what it called Offensive Cyber Effects Operations (“OCEO”) “can offer unique and unconventional capabilities to advance US national objectives around the world with little or no warning to the adversary or target and with potential effects ranging from subtle to severely damaging.”³¹ One of the consequences of this document was the execution of Foreign Intelligence Surveillance Court (“FISC”) Order, signed by Hon. Roger Vinson on April, 25, 2013. The order was to expire on July 19, 2013, and, more importantly, it was to be treated by the government officials as classified for more than two decades, until April 12, 2038. However, it was prematurely declassified as a result of Snowden incident in June 2013. A notable excerpt from the order reads:

Telephony metadata includes comprehensive communications routing information, including but not limited to session identifying information (e.g., originating and terminating telephone number, International Mobile Subscriber Identity (IMSI) number, International Mobile station Equipment Identity (IMEI) number, etc.) trunk identifier, telephone calling card numbers, and time and duration of call. Telephony metadata does not include the substantive content of any communication, as defined by 18 U.S.C. §2510(8), or the name, address, or financial information of a subscriber or customer.

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IT IS FURTHER ORDERED that no person shall disclose to any other person that the FBI or NSA has sought or obtained tangible things under this Order, other than to: (a) those persons to whom disclosure is necessary to comply with such Order; (b) an attorney to obtain legal advice or assistance with respect to the production of things in response to the Order; or (c) other persons as permitted by the Director of the FBI or the Director's designee. [. . .] Anyone who discloses to a person described in (a), (b), or (c) that the FBI or NSA has sought or obtained tangible things pursuant to this Order shall notify such person of the nondisclosure requirements of this Order.³²

One notable feature of this order is the broadness of its content: not only in the duration of its application, but in the large number of people who can be closely monitored. In legal terms, one can refer to such a sweeping undertaking as a “fishing expedition.”³³ Engaging in such legal “fishing,” by either defendant or plaintiff, may result in a judicial finding of contempt of court. Hence, wary of court oversight, parties are generally careful in not risking extension of their privileges. It appears, such surveillance agencies as “FBI and NSA” are “excused,” given a privileged position by the judiciary, for the text of the order is inherently broad. As a result, these governmental agencies have a right to legally collect “[t]elephony metadata [which] includes comprehensive communications routing information, including but not limited to session identifying

information.”³⁴ Ms. Boghosian pointed out that a primary governmental justification in collecting so much data is that it only collects information *about* the electronic communication, not the content of such communications.³⁵ However, in the broad context of social networking websites, the clear judicial policy on Internet privacy is that “generally, one loses all privacy expectations in what is shared with the world.”³⁶ Petrashek tracks the history of how such jurisdictional interpretation came about in “The Fourth Amendment and the Brave New World of Online Social Networking,” his article appearing in the 2010 *Marquette Law Review*.

In his “Definition of Sovereignty,” Schmitt entertains a crucial notion: the sovereign is the one “who decides in a situation of conflict what constitutes the public interest or interest of the state, public safety and order, le salut public, and so on.”³⁷ Applying this notion to contemporary times, it is the government, or those who are involved in “the art of governance,” or in the process of “governmentality,” who decides how the laws can be shaped or interpreted in context of what it decides to be a “national security” threat. It is governmental authority that interprets legislation, while at the same time, administering or executing it. More importantly, it is government who legally constitutes an “interested party”³⁸. Combination of such delegations in one political body is contradictory to the idea of democratic governance, constitutionally established on the “balance

of power.” Once again, an exception to constitutional principle is applied in the case of government.

Similarly, Schmitt also argues that “[t]he exception is more interesting than the rule. The rule proves nothing; the exception proves everything.” Relatedly, Protestant theologian and philosopher, Søren Kierkegaard observed: “[t]he exception explains the general and itself. And if one wants to study the general correctly, one only needs to look around for a true exception. It reveals everything more clearly than does the general.”³⁹

Governmental justifications of national security for extending its powers of surveillance, may constitute the initial stages of the formation of a certain “camp,” that may be leading to a point in time and space where the sovereign has absolute power. In *Homo Sacer: Sovereign Power and Bare Life*, Giorgio Agamben writes: “[w]hat is at issue in the sovereign exception is not so much the control or neutralization of an excess as the creation and definition of the very space in which the juridico-political order can have validity.”⁴⁰ Further:

The sovereign decides not the licit and illicit but the originary inclusion of the living in the sphere of law or, in the words of Schmitt, ‘the normal structuring of life relations,’ which the law needs. [. . .]. The law has a regulative character and is a ‘rule’ not because it commands and proscribes, but because it must first of all

create the sphere of its own reference in real life and *make that reference regular*.⁴¹

While using the justification of national security, as well as any other defense for increased control, the government “create[s] the sphere of its own reference [. . .] and *make[s] that reference regular*.”⁴² In deciding that national security is endangered and therefore exercising heightened surveillance, government creates, executes, and reaps the results of its own lawmaking, regulatory processes.

Conclusion

Can Anything Be Done to Improve the Process?:
Increasingly Difficult Decisions Judiciary Has to Face in
Light of Technological Advances

[E]ven if the received opinion be not only true, but the whole truth; unless it is suffered to be, and actually is, vigorously and earnestly contested, it will, by most of those who receive it, be held in the manner of a prejudice, with little comprehension or feeling of its rational grounds.

*John Stuart Mill*⁴³

Since World War II, government, science, and technology have become increasingly interconnected. An example of another relatively new technology that preceded Internet, the nuclear industry, demonstrated that technological progress can solve, as well as cause,

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legal and societal problems. It has also become evident in an American democracy that fundamental democratic principles can be undermined when science and technology venture into unregulated territories.

Judge Bazelon⁴⁴, presiding over the influential *Vermont Yankee* nuclear dispute proceeding, observed that in democratic societies, “elected legislatures traditionally make the hard value choices. [. . .] Increasingly, however, [American] legislatures have delegated these value choices to administrative agencies - institutions that cannot resolve value conflicts through the relatively simple expedient of a show of hands.”⁴⁵ This “show of hands” was clearly absent when the first important decisions were left to scientists and national security political leaders, excluding the public, “the ultimate guinea pig.”⁴⁶

Remaining today is the complex nature of the tripartite interaction between technological innovations, their implementation by the government (whether for militant or peaceful purposes), and the popular perception of both. Achieving appropriate balance in this realm is elusive, and the judiciary branch, increasingly asked “to grapple with scientific and technological issues of great complexity,” ⁴⁷ most directly confronts this challenge.

Bazelon noted in another case, *Ethyl Corp. v. EPA*⁴⁸, that the most efficient way for courts to check unscrupulous or erroneous administrative decisions is

not for the judiciary to evaluate the “technical merits of each decision.” Rather, courts must be in charge of establishing a decision-making process “that assures a reasoned decision that can be held up to the scrutiny of [both] the scientific community and the public.”⁴⁹ He further urged that “even society’s most technical decisions must be ventilated in a public forum with public input and participation.”⁵⁰ The *Vermont Yankee* judge, often perceived as an activist by his contemporaries, was not the sole advocate of open debate in regards to controversial issues of nuclear industry. Indeed, already in the early 1970’s, courts had become more liberal about legal standing to sue, allowing litigation “in the public interest whereas previously personal deprivation had been required.”⁵¹

A crucial issue emerging from the nuclear industry context of the late 1970’s has become “*who* should be making [. . . decisions] about how society can come to terms with science and learn to cope with technological progress,”⁵² emerging from cases such as *Vermont Yankee* the need for a comprehensive national energy policy, one that would chart the course for regulation of technologically innovative industries. Anything less would risk popular distrust of decisionmakers or even endanger social stability. As Bazelon observed, “[t]he pressures to decide in secret, or to cover up the real grounds for decision, may be very great indeed. [. . . But] no matter how wise and judicious the decisions reached may be, they will never be truly accepted by those who will be affected by them.”⁵³

Likewise, it is possible that agencies regulating, or attempting to regulate, the cyber landscape of today's world might learn from the mistakes of the post-WWII Eisenhower era. Again referencing John Stuart Mill, the long-term legal decisions, and especially those involving national security, should take into account informed public's opinion, otherwise, as repeatedly articulated by Foucault, Schmitt and Agamben, governance systems inevitably become self-referential. Or, as Bazelon would have stated, they are not "ventilated in a public forum," and therefore run risk of becoming highly undemocratic and unrestrained.

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4 Snowden incident that happened in June of this year is a good example of how these tensions were brought to light due to public debate brought about by the disclosures of classified information Edward Snowden made via a few European media sources.

5 “Social networking web sites allow users to virtually hang out by encouraging self-disclosure” (Petrashkek 1499). This leads, as will be discussed further, to a behavior in which internet users incriminate their privacy, oftentimes not realizing the gravity of their own actions.

6 Nathan Petrashek, 1505. Users have the option to add hundreds of third-party applications designed for Facebook. *See* Facebook.com, Application Directory, <http://www.facebook.com/apps/directory.php> (last visited May 8, 2010). The use of third-party applications carries additional privacy risks, as their compliance with Facebook’s usage terms is apparently determined entirely by the applications’ developers. *See* Facebook.com, Statement of Rights and Responsibilities § 9, <http://www.facebook.com/terms.php> (last visited May 8, 2010). [Quoted from “The Fourth Amendment and the Brave New World”].

7 Nathan Petrashek quoting Alexei Oreskovic 1496. “Facebook Privacy Revamp Draws Fire,” Reuters (Dec. 10, 2009). <http://www.reuters.com/article/idUSTRE5B82F3200912> 10 (quoting Facebook spokesman Barry Schnitt).

8 Nathan Petrashek, “The Fourth Amendment and the Brave New World,” 1498. Richard M. Guo, Note, Stranger Danger and the Online Social Network, 23 BERKELEY TECH. L.J. 617, 620 (2008); cf. Patricia Sanchez Abril, A (My) Space of One’s Own: On Privacy and Online Social Networks, 6 NW. J. TECH. & INTELL. PROP. 73, 74 (2007) (noting the —self-invention within a perceived community! that online social networking facilitates). (The fact that a user profile is entirely self-generated can lead to significant mischief and presents an interesting conundrum for law enforcement: a person observing the online profile of a user with whom the observer is unacquainted has no idea whether the profile is legitimate. In fact, the user may be entirely fictitious. See *Snyder v. Blue Mountain Sch. Dist.*, No. 3:07cv585, 2008 WL 4279517, at *1 (M.D. Pa. Sept. 11, 2008) (student created false Internet profile purporting to be her school principal); see also Samantha L. Millier, Note, The Facebook Frontier: Responding to the Changing Face of Privacy on the Internet, 97 KY. L.J. 541, 542 (2009) (discussing the case of Freddi Staur, a toy frog with a Facebook account)). [Quoted from Petrashek’s article]

9 Nathan Petrashek 1499. Kermit Pattison, How to Market Your Business with Facebook, N.Y. Times on the Web (Nov. 12, 2009), <http://www.nytimes.com/2009/11/12/business/smallbusiness/12guide.html>. (MySpace’s privacy policy offers a good example: “[B]ased on your music interests we might display an advertisement to make sure you are

advised when your favorite band is coming to town.” MySpace.com, Privacy Policy. <http://www.myspace.com/index.cfm?fuseaction=misc.privacy> (last visited May 8, 2010). [Quoted from “The Fourth Amendment and the Brave New World”].

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11 It is important to note, that if Facebook were a “physical” country, it would be a third largest country in the world, when considering the size of the human population. There follows an inevitable conclusion: these corporate entities have access to the multitude of personal information (inseparable from the notions of privacy) of quite large portion of the world’s population. Also, see: <http://www.omg-facts.com/Animals/If-Facebook-Were-A-Country-It-Would-Be-T/7215>).

12 *Ibid.*

13 “Can You Hear Me Now?: a Panel Discussion on Edward Snowden” at Maurer School of Law, Indiana University, September 6, 2013. Accessed on November 15, 2013 at: <http://www.youtube.com/watch?v=L6KOz8GJFuk>. This panel consisted of five speakers and a moderator: (1) Prof. Nick Cullather, a specialist in the history of intelligence, development and nation-building; (2) Prof.

Fred Cate, a well-regarded expert on US privacy laws and Director of the Center for Applied Cybersecurity Research at Indiana University; (3) Prof. David Fidler, an international lawyer and leading authority on cybersecurity law and policy; (4) William Scheuerman, professor of political science at Indiana University; and (5) Lee Hamilton, Director of the Center on Congress, Professor of Practice in SPEA, and a former congressman.

14 As opposed to pre-modern times (for example, those that were a background for the creation of Machiavelli's "Prince").

15 Michel Foucault, "Governmentality," in *The Foucault Effect: Studies in Governmentality* (with two lectures by and an interview with Michel Foucault), edited by Graham Burchell, Colin Gordon and Peter Miller (Chicago: University of Chicago Press, 1991), 100.

16 Whose number has grown to sixteen, according to the figures provided by Hamilton in his speech on the panel.

17 As opposed to "transparent," which would produce a more informed public debate.

18 Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*. Translated by Daniel Heller-Roazen, (Stanford: Stanford University Press, 1998), 167.

19 *Ibid.* 168, author's italics.

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20 Lee Hamilton commented on secretive nature of this court: “What kind of due process is that when you hear one side of the issue?”

21 Michel Foucault, 95.

22 The use of word “knowledge” is rather curious as will be discussed immediately after these quotes.

23 Michel Foucault, 100 (author’s italics).

24 It is clear from the context of Foucault’s work that tactics are much broader than laws. Thus, they can be more easily manipulated during the process of interpretation.

25 Just to begin the study of his biography: http://en.wikipedia.org/wiki/Michel_Foucault.

26 Thus, his fascination with the Bentham’s idea of *Panopticon* (“the concept of [such architectural] design is to allow a single watchman to observe (-*opticon*) all (*pan-*) inmates of an institution without them being able to tell whether they are being watched or not). Accessed on December 16, 2013 at: <http://en.wikipedia.org/wiki/Panopticon>.

27 Michel Foucault, 103.

28 Michel Foucault, 100.

29 Carl Schmitt, 10-11.

30 Glenn Greenwald and Ewen MacAskill, “Obama Orders US to Draw up Overseas Target List for Cyber-

Attacks,” *The Guardian*, June 7, 2013. Accessed on November 15, 2013 at: <http://www.theguardian.com/world/2013/jun/07/obama-china-targets-cyber-overseas>).

31 See, <http://www2.gwu.edu/~nsarchiv/NSAEBB/NSAEBB436/>. “The Snowden Affair: Web Resource Documents

32 the Latest Firestorm over the National Security Agency.”

33 Also known as a ‘fishing trip.’ Using the courts to find out information beyond the fair scope of the lawsuit. The loose, vague, unfocused questioning of a witness or the overly broad use of the discovery process. Discovery sought on general, loose, and vague allegations, or on suspicion, surmise, or vague guesses. The scope of discovery may be restricted by protective orders as provided for by the Federal Rules of Civil Procedure. Accessed on December 5, 2013 at: <http://legal-dictionary.thefreedictionary.com/fishing+expedition>.

34 My underlining.

35 Heidi Boghosian, “On Spying and Civil Liberties.” Interview with Bill Moyers. November 8, 2013. Accessed on December 1, 2013 at: <http://billmoyers.com/segment/heidi-boghosian-on-spying-on-democracy/>.

36 Nathan Petrashek 1495. See, e.g., *Katz v. United States*, 389 U.S. 347, 351 (1967) (Holding: “what a person knowingly exposes to the public, even in his own

home or office, is not a subject of Fourth Amendment protection,” which means “once spoken” exposed to the public, or in jargon of the internet, “once something is taken photo of,” “once [. . .] written,” or “once [. . .] shared,” it immediately becomes voluntarily revealed personal information, exposed to public view, including that of government and that of private industries utilizing internet.)

37 Carl Schmitt, 6

38 According to Michel Foucault, “in reality one has a triangle, sovereignty-discipline-government, which has as its primary target the population and as its essential mechanism the apparatuses of security,” 102.

39 Carl Schmitt, 15.

40 Giorgio Agamben, 19.

41 Giorgio Agamben, 26 (author’s italics).

42 *Ibid.*

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BIG DATA AND HUMAN RIGHTS: ETHICS, LAW, AND TECHNOLOGIES

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Today the Big Data sciences turn its age out. Some years pass, and there will be no need of data scientists, because all process of the big data collection will be automated. And this makes a big challenge to the scope of issues related to human rights of the subjects of personal data. This is a complex issue related to ethical, legal, and technological problems of human rights in Internet Governance.

Big data, as we now refer to enormous collections of facts, figures and unstructured information like metadata and tweets has helped us better understand crime rates and predict outbreaks of communicable diseases, and it radically improves our online shopping experiences. But imagine the potential benefits when such data science innovations are applied to the world of human rights. Rather than a digital hazard, computer technology that can handle big data can draw from

information about human sentiments and actions to predict potential atrocities reveal patterns of destructive human activities such as trafficking and help weigh prescriptive policies.

Supranational Level

For example, the Amnesty International creates a model of researching Big Data's effect on Human Rights. Rights group Amnesty International USA could soon use data analytics to predict which incidents are likely to escalate into larger human rights violations. If successful, this endeavor may enable those concerned about human rights to more effectively address situations before they reach crisis points.

We know the basic universal instruments related to the personal data are:

1. Universal Declaration of Human Rights, adopted at the third session of the UN General Assembly Resolution 217 A (III) of 10.12.1948 , which states that no one shall be subjected to arbitrary interference with privacy, family, everyone has the right to the protection of the law against such interference or attacks (Article 12);
2. International Covenant on Civil and Political Rights (New York, 19.12.1966);
3. Council of Europe Convention on the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS N 108) (concluded in Strasbourg, January 28, 1981).

The Convention establishes the procedure for the collection and processing of personal data, the principles of storage and access to these data, the methods of physical protection of data. Convention guarantees respect for human rights in the collection and processing of personal data, as well as prohibit the processing of data on race, political opinions, health, and religion without proper legal basis.

One of the most detailed European instruments is Directive 95/46/EC of the European Parliament and of the Council of 24.10.1995 on the protection of individuals with regard to the processing of personal data and the free circulation of such data.

Now we could outline different approaches took into account in studying big data regulation and legislations of different countries.

United States

The growth of smartphones and social media are giving the world instant, first-hand accounts of human suffering and political repression during events like the 2010 Haiti Earthquake, recent elections in Kenya, and the ongoing uprising in Syria.

To investigate how social media and big data analytics are changing human rights fact-finding, and to better understand the ways that these technologies can advance human rights protection in the future, the MacArthur Foundation recently awarded an 18-month,

\$175,000 grant to Carnegie Mellon University's Center for Human Rights Science, directed by Jay D. Aronson.

Human rights organizations, governments and the general public are increasingly turning to this massive accumulation of images, video and text to investigate and understand the human impact of conflicts, disasters and political violence. It remains unclear, however, whether this huge amount of data actually improves the global community's ability to protect and promote the rights of vulnerable individuals around the world - particularly those who still lack reliable and secure access to the Internet or whose rights are violated in private, rather than in public view³.

Technological progress should bring greater safety, economic opportunity, and convenience to everyone. And the collection of new types of data is essential for documenting persistent inequality and discrimination. At the same time, as new technologies allow companies and government to gain greater insight into our lives, it is vitally important that these technologies be designed and used in ways that respect the values of equal opportunity and equal justice. American approach is based on these five points.

1. **Stop High-Tech Profiling.** New surveillance tools and data gathering techniques that can assemble detailed information about any person or group create a heightened risk of profiling and discrimination.

³ Information systems; Carnegie Mellon to study how social media and big data affect protection of human rights. (2013). Information Technology Newsweekly, 576.

Clear limitations and robust audit mechanisms are necessary to make sure that if these tools are used it is in a responsible and equitable way.

2. **Ensure Fairness in Automated Decisions.** Computerized decision-making in areas such as employment, health, education, and lending must be judged by its impact on real people, must operate fairly for all communities, and in particular must protect the interests of those that are disadvantaged or that have historically been the subject of discrimination. Systems that are blind to the preexisting disparities faced by such communities can easily reach decisions that reinforce existing inequities. Independent review and other remedies may be necessary to assure that a system works fairly.

3. **Preserve Constitutional Principles.** Search warrants and other independent oversight of law enforcement are particularly important for communities of color and for religious and ethnic minorities, who often face disproportionate scrutiny. Government databases must not be allowed to undermine core legal protections, including those of privacy and freedom of association.

4. **Enhance Individual Control of Personal Information.** Personal information that is known to a corporation — such as the moment-to-moment record of a person's movements or communications — can easily be used by companies and the government against vulnerable populations,

including women, the formerly incarcerated, immigrants, religious minorities, the LGBT community, and young people. Individuals should have meaningful, flexible control over how a corporation gathers data from them, and how it uses and shares that data. Non-public information should not be disclosed to the government without judicial process.

5. Protect People from Inaccurate Data.

Government and corporate databases must allow everyone — including the urban and rural poor, people with disabilities, seniors, and people who lack access to the Internet — to appropriately ensure the accuracy of personal information that is used to make important decisions about them. This requires disclosure of the underlying data, and the right to correct it when inaccurate⁴.

In Europe, there are strict rules about what companies can and can't do in terms of collecting, using, disclosing and storing personal information, and governments are pushing to make the regulations even stronger. That has prompted renewed debate about whether it is time for the U.S. to toughen its relatively lax privacy regulations.

In one camp are those who believe the U.S. government should refrain from meddling. They say the

⁴ Civil Rights Principles for the Era of Big Data // CivilRights.org, a project of The Leadership Conference on Civil and Human Rights & The Leadership Conference Education Fund. URL: <http://www.civilrights.org/press/2014/civil-rights-principles-big-data.html>

lack of privacy restrictions in the U.S. has encouraged innovation in the online-marketing industry, which is still evolving, and they question whether a Congress that isn't capable of passing a budget can be trusted with crafting complex privacy legislation.

The U.S.'s experiment with self-regulation has been a failure; say those who believe Europe's approach to privacy is superior. By trusting industry to police itself, the U.S. has created a situation where consumers have little control over personal data and few remedies when they find their privacy has been invaded⁵.

European Communities

In an age of “Big Data” (when data relating to our own actions are shared and/or exploited in aggregate form) and the “Internet of Things” (when more and more physical objects – things – are communicating over the Internet), it is becoming increasingly difficult to ensure true anonymisation: the more data there are the easier it becomes to identify a person. Moreover, the “mining” of the Big Data resources, in ever more sophisticated ways, tends to lead to the creation of “profiles”. Although these profiles are being used to spot rare phenomena (e.g., to find a terrorist in a large set of data on thousands of people, such as airlines’ Passenger Name Records), they are unreliable and can unwittingly lead to discrimination on grounds of race, gender, religion or nationality. Yet

⁵ Big data (A special report) - should the U.S. adopt European-style data-privacy protections? (2013, March 11). Wall Street Journal.

these profiles are constituted in such complex ways that the decisions based on them can become effectively unchallengeable: even those implementing these decisions are unable to fully comprehend the underlying reasoning⁶.

The data relating to our own actions and the data generated and reported on by “things”, are also increasingly shared and/or exploited in aggregate form, as so-called Big Data. This can include medical data in supposedly de-identified formats, the number of crimes in a specific area, demographics and school results. Companies and governments are keen to exploit these data resources to the fullest extent.

the analyses and mining of the Big Data resources, in ever more sophisticated ways (to turn Big Data into Smart Data), tend to lead to the creation of “profiles”: algorithms derived from the data that establish statistical correlations between often seemingly unrelated facts. Once created, these profiles are then applied to the real world and to individual people: to identify risk factors so that people susceptible to certain diseases can be called in for preventive checks; or to increase their insurance premiums; or to identify the effects of street design and lighting on crime levels, to improve planning; or to direct police resources; or indeed to identify people who may be wanting to commit

⁶ The rule of law on the Internet and in the wider digital world. Issue Paper published by the Council of Europe, Commissioner for Human Rights. September 2014.

suicide by throwing themselves under a train (as is done in the London Underground) or who may be terrorists.

In this new environment, we – and the “things” around us – all generate extremely detailed personalized or quasi-personalized data trails, even if we are only half-aware of them. These data can be used to map social networks: the spiders’ webs of contacts linked to contacts linked to further contacts. Combined with Big Data and profiles, they can show surprisingly revealing details of every man and woman’s life, beliefs, inclinations, health and activities – at least with a high degree of probability. Just a few “likes” on Facebook suffice to predict religion, race or sexual orientation of the user with high degrees of accuracy; and just a few innocent purchases (e.g., of unscented body oils) have been used to identify women who were likely to be in the second trimester of pregnancy, but who had never revealed this fact.

Japan

Dr. Taro Komukai believes that the Personal Data Protection Law in Japan requires entities only to publicize the purpose of use. It doesn't require that entities get consent of the person like the regulation in EU. And there is no provision on the deceitful action in use of personal data like the regulation in the US. Therefore, even when many people think a particular purpose of use is unacceptable, the use cannot be stopped on the ground that the purpose is not

appropriate. These two points should be discussed for the reform.

Japanese data protection scheme is different from that of EU and U.S. in two points. One is lack of the privacy commissioner or some other type of authority that is responsible for the rule making and enforcement. The other is that there is no provision to ensure the entities make good the appropriate purpose of use.

There are many approaches of self-regulation for data protection in Japan. The Smartphone Privacy Initiative is one of the approaches for the privacy online. The initiative focused on the data protection associated with smart phones and proposed six principles. 1) Ensuring Transparency, 2) Securing the Opportunity of User Participation, 3) Ensuring Data Collection through Proper Means, 4) Ensuring Proper management of User Information, 5) Properly Handling Complaints and Requests for Advice, 6) Privacy by Design⁷.

Russian Federation

Information systems have become an important and essential attribute of all spheres of human activity. Rapid evolution of ICT stimulates demand for new products in almost all directions. The development of this area will be primarily associated with the development of cloud computing, new architectures and principles of computing, problem solving very large

⁷ Kshetri, Nir. The Expert Opinion // *Journal of Global Information Technology Management*; 2013; 16, 4; ABI/INFORM Global, pg. 68.

scale data (Big Data), the development of new analytical tools.

The key scientific and technological trends shaping the face of this priority primarily include:

- development of research in the field of a single management environment and a common information space of the transport infrastructure (environment unified exchange of information between vehicles); the development of this trend will help to cope with the constant increase in the density of traffic flows at complication of the organization by increasing the efficiency of supply chains;

- development of research in the field of new principles of algorithms, creation of computer architectures built on new paradigms, including neurons, biological, optical, quantum, self-locking, recurrence, which will increase the maximum clock frequency of an optical computer to 10^{12} - 10^{14} Hz (for 3 - 5 orders of magnitude higher than existing electronic analogues);

- development of research in the field of machine learning based on new methods and algorithms, the results of which have a very wide range of applications: the intellectualization of decision support, such as geographic information systems and decision-making in medicine, monitoring of financial and stock markets, and others;

- development of research in the field of communication infrastructures with terabyte information rate determines the future of the technological base of

network infrastructures and avoids restrictions on the organization of the main channels of universal broadband access, as well as significantly increase the size of the potential computing clusters;

- development of supercomputing through the development of new algorithms for applications with complex logic calculation process requiring processing of non-numeric data or data with complex representation, development languages and systems of parallel programming for inhomogeneous supercomputer systems (including distributed object-oriented systems) as well as expanding the range of specialized single-chip processors used in high-performance computing complexes with non-uniform architecture;

- development of cloud infrastructures, networks of personal computers and mobile devices will reduce the cost of maintaining the IT infrastructure, as well as lead to the creation of market infrastructure external remote location that has a direct impact on the appearance of the country specialization and global competition in this market;

- development of research into new interfaces (tactile sensors, 3D-printers, including bioprinting, built-in intelligent systems, interfaces "brain - computer" hardware clock monitoring critical physiological parameters) would go to a new level of integration network technology in everyday life and will be important for preventive medicine and healthy lifestyles;

- growth of mobile devices (tablets and smartphones), consisting of interface devices users of

information systems and services will form a new model of information systems and increase the mobility of both individual and corporate users that will lead to the spread of employment schemes remote employees;

- creation of separate hardware information and integrated systems with realigning terminal (sensor and actuators) modules in the design of man-made systems for the nodes of the address control spending their resources, maintaining high efficiency and reduce degradation caused by wear and tear, aging and extreme external factors;

- evolution of the Internet, which implies further development of the concept of distributed networks with independent and adaptive routing nodes between them in terms of working with content (Semantic Web - submission of information on the Internet in a form suitable for machine processing) and the inclusion of new classes of infrastructure objects (Internet of things - various items of information and integrate them into a network of networks).

Further development of the above scientific and technological trends will significantly strengthen the impact of ICT on social processes in society; there will be new forms of socialization and social interaction, change the character and way of employment of employees expected to offset development centers,

competences and production outside of developed countries⁸.

On September 1, 2016 shall come into force the laws, which set a new duty of the operator of personal data relating to the collection of this information, including via the Internet.

So, recording, systematization, accumulation, storage, clarification (update, change), the extraction of personal data of citizens of the Russian Federation shall be carried out with the use of databases residing on the territory of Russia. Exceptions to this rule will make cases where the processing of personal data is required, for example, to reach the envisaged international treaty of the Russian Federation or the law purposes, as well as some of the other (n. 2, 3, 4, 8 h. 1, Art. 6 of the Law on Personal Data). Ensure that on the territory of the Russian Federation databases must be holders of information, information system operators.

Access to information resources on the Internet, including the network address, domain name, index pages, allowing the identification of the information processed with violations of the law, may be limited. This will be possible on the basis of which came into force a judicial act subject to the procedure provided for Art. 15.5 Information Act in the wording of the Act restricting access to a register of rights violators of

⁸ Forecast of the long-term socio-economic development of the Russian Federation for the period up to 2030 (designed by Russian Ministry of Economic Development) // ConsultantPlus Legal Database System.

personal data. After the elimination of violations or the entry into force of the court decision to cancel the previously accepted judicial act domain name, index page or network address removed from the register.

In addition, the current legislation provides for administrative liability for violation of the collection, storage, use or dissemination of information about citizens. Such violation shall entail a warning or a penalty for legal entities from 5000 to 10000 Rubles.

Before the entry into force of the Act must be created the conditions necessary for compliance with the provisions analyzed. It seems that, for example, foreign companies operating with personal data of Russian citizens have to ensure the availability of databases on the territory of the Russian Federation. In addition, it is unclear as in the preparation of personal data over the Internet will be determined by whether a person is a citizen of the Russian Federation⁹.

Dr. Mikhail Komarov states that we should think about “privacy by design” issues and probably special certification for systems dealing with personal data. He also supports initiative of “open interfaces to enable

⁹ ConsultantPlus: Analytical review of the August 5, 2014. Personal data of Russian citizens as a general rule will be processed in Russia (Federal Law of 21.07.2014 N 242-FZ) // ConsultantPlus Legal Database System, 2014.

communications between members and non-members”. There is a good example explaining how it works with terms and conditions and our privacy – a movie “Terms and conditions may apply” by Cullen Hoback.

We should not fear of the Big Data concept development and implementing new technologies in our life however, we should allow individuals being excluded from all the analytical and statistical processes at any time. Due to the fast growth in technologies area and in amount of data and types of data at the Internet there is slow reaction on it from the legal side of our life which leads to the lack in laws and policies protecting our privacy. It is the goal of international community to jointly update current laws regulating data and information dissemination policy (including at the Internet). How long it would take to arrange joint international actions? ¹⁰ We still in need the modern Instruments, which connected to the Internet Governance specificity.

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ONLINE EDUCATIONAL SERVICES FOR EMPOWERMENT DISPLACED PEOPLE

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Abstract. This paper shows importance of the online educational services and life skills training in empowerment displaced people. At the beginning information about current situation with internet services and online educational services is provided. Further there is information about life skills training presented with example of Nokia Life tools. At the conclusions authors presented results of the workshop held on the topic of “Empowerment displaced people through online educational services” which was held during the Internet Governance Forum 2014 which was held in Istanbul, Turkey.

Keywords: Online educational services, Internet Governance, Human Rights, empowerment displaced people, life skills training.

Displaced people

Today internal and international migration is growing. It is connected not only with armed conflicts,

but also with changing economic, demographic, political and social conditions, with technological and environmental disasters. Experts in migration emphasize the increasing complexity and scale of this phenomenon, its increased influence on all aspects of economy and society.

The total number of migrants around the world today has reached 232 million or 3.2% of the population. Between 1990 and 2013, the developing regions witnessed their migrant population under the age of 20 increase by 10% compared to 3% in the developed regions. Currently, the developing regions host 62% of the global migrant stock under age 20. Refugees account for a relatively small proportion of the global migrant stock. In 2013, the total number of refugees in the world was estimated at 15.7 million, representing about 7% of all international migrants. Nearly nine of every ten refugees in the world had found asylum in developing regions.

According to UN report the first place occupied by the United States, on whose territory are 45.8 million migrants. Russia occupies second place with 11,2 million, Germany is on third place with 9.8 million. There are Saudi Arabia (9.1), United Kingdom (7.8), France (7.4), Canada (7.3), Australia (6.5) and Spain (6.5 million). Assessment of Russia Federal Migration

Service approximately 40% of migrants come to Russia not to work. Since 2000, the highest increases in emigration rates have been recorded by European countries. The emigration rates to OECD countries increased significantly for Albania (+9.1 percentage points), Romania (+8.3 percentage points), the Republic of Moldova (+6.3 percentage points), Bulgaria (+4.6 percentage points) and Lithuania (+4.5 percentage points). Ecuador was the non-European country recording the highest increase (+4.5 percentage points between 2000/01 and 2010/11). The number of migrants in the OECD reached 27 million in 2010/11. About 30% of all migrants in the OECD area were highly educated and one-fifth of them were originating from India, China or the Philippines.

Educational services are among the most important for migrants with refugee status. These services are designed to ensure the most rapid adaptation to new conditions in the region. This is especially important for children and young people. Educational programs include topics related to language learning, Fundamentals of business and intercultural communication, legal foundations, professional training. Equally important are the long-term education programmes for refugees and displaced people, since in fact this status may last long period.

In developed countries there has been an increase of tertiary educated immigrants. It seems that the big issue here is the integration of existing educational online-resources, development of personalized consulting services in this area, as well as the availability of services.

Internet services

Due to the increasing usage of internet services today we can see big influence of internet services on the quality of our life. According to the Gartner analysis, year by year Internet will go further and deeper into our life from our laptops and mobile devices to everyday goods and services.

It leads to strong need of educating people. Traditional forms of education today are presented as a mix when lecturers' presentations are connected with additional internet-services for students through learning management space like Drupal, Google Docs, Dropbox etc. Despite additional requirements for the technological support appeared e-learning systems opened new opportunities for all and those system provide interactive educational process as well which also help to schedule the most appropriate time for education. People from small villages got an opportunity

to get knowledge from researchers and professors of leading universities all over the world.

For the last several years many of unique technologies got to the mass market and became a new public service. It is possible to say so about cloud computing which according to the NIST (The National Institute of Standards and Technology) is a model for enabling convenient, on-demand network access to a shared pool of configurable computing resources (e.g., networks, servers, storage, applications, and services) that can be rapidly provisioned and released with minimal management effort or service provider interaction[1]. Cloud computing technology is also popular in educational sphere. For instance, Microsoft Office 365 is available according to the subscription as software plus services. Services like that are necessary for educational institutions and students as they support educational software and learning management space with additional functionality. Cloud computing technologies can be characterized according to the architecture: software as a service, platform as a service and infrastructure as a service. First two architectures are applicable for implementation in education.

Modern education is tending to be personalized and more focused on opening new opportunities for each student. Preparing individual study plans would not

depends on lecturers but on development of internet services which would identify and would adjust study plan according to the intellectual and emotional characteristics of students. There are many examples of adoptable educational services and software available on the market – one of them is a startup Knewton founded in 2008. It allows lecturers create their courses in special Knewton's engine which further would analyze progress of each student and depending on the educational information would adopt study plan and content as well as the way how it should be presented (text, movies, pictures etc.).

Online education

There is further development of e-learning systems which is promising to be open and massive – massive open online courses (MOOCs). They include traditional course content and traditional educational content types like reading, essays and home tasks. And they became massive because they got special open platforms where different lecturers can create their courses. The most popular and known are Coursera, EdX, Udacity, MIT OCW [2].

MIT OpenCourseWare (OCW) is a web-based publication of virtually all MIT course content. OCW is open and available to the world and is a permanent

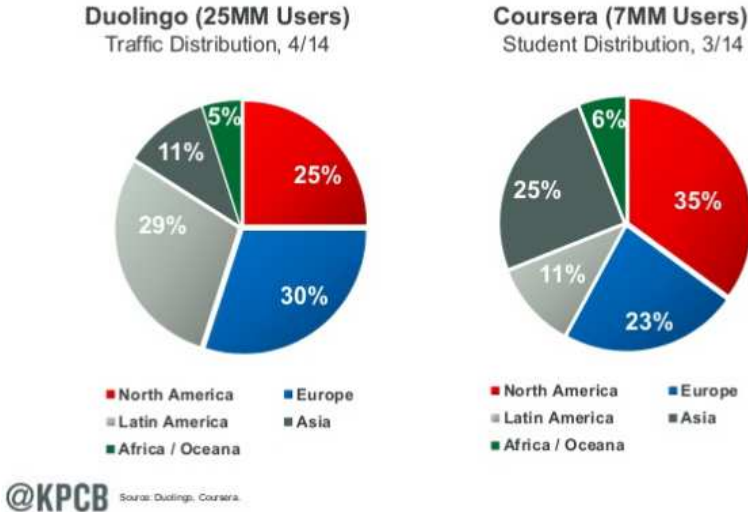
MIT activity. Course content includes syllabi, lectures, home tasks, exam questions. For some courses there is a possibility to include vide-lectures. All the materials are shared according to the Creative Commons Attribution-Non Commercial-Share Alike license.

The most known project among users – Coursera – collaborated with the universities directly, which publish their courses. Students choose courses, exchange information with other students, pass examination tests there and received certificate. There are also available mobile application for the iOS and Android.

Another service the Duoling is the free platform for learning languages, which is based on crowd-sourcing approach. By learning languages and passing control tasks students also help to translate information from the web-sites and some documents for third party companies.

Tendency in using online-services is based on wide spread of mobile devices all over the world. On the Picture 1 you can see distribution of online educational services users all over the world.

Online Education = It's a Global Thing



Picture 1. Distribution of online educational services users all over the world (Source: Duolingo, Coursera).

Due to the fast growth in number of mobile users (25% per year), we can see development of new mobile-based services all over the world. Today, mobile devices are available even on territories where there are not enough schools, books and computers. Now in terms of traffic in Africa, South America and Asia – there is 40% of it goes to mobile users, when over the world according to statistics – there is only 25%.

Life skills training

After the implementation of online educational services there is a tendency in implementation of special online services which would help to develop life skills. There are many examples around the world when citizens leave their home countries because of nature disasters and civil wars and move to another countries becoming refugees without knowledge of the language, laws, regulations and cultural aspects of the hosting country. And for those people it is necessary to educate them and to inform them about hosting country rules and traditions. That is where life skills are required.

The main Internet Governance principles of access to the information, human rights protection quite often are not followed on all 3 levels of Internet Governance: supranational, national and community level, for those who had to move from one country to another saving their lives - refugees. From the Universal declaration of Human Rights:

(a) Freedom of opinion and freedom of expression, including freedom of communication (article 19).

(b) Everyone is entitled to realization of the economic, social and cultural rights indispensable for his dignity and the free development of his personality (article 22).

(c) Right to work with free choice of employment und just and favourable conditions of work (article 23).

(d) Right to education (article 26).

(e) Right to take part in cultural life, and share in scientific advancement and its benefits (article 27(1)).

Even though refugees have their own special status, they are not able to continue using their (b),(c),(d) and (e). One of the examples is that there are many governmental services and international services provided in some countries in their native languages or sometimes in internationally commonly used languages only. The main change introduced into disaster recoveries and refugee camps from what was 20-30 years ago and now - there are new necessities - not only place to live, water, food and medication but also access to the Internet and access to the set of services provided through the Internet for the refugees to help them quickly adapt to the current situation and place where they are at the moment.

There are some examples of the software developed for life skills training like Nokia Life Education and Nokia Life Tools [3]. Nokia Life Education services provide a suite of education and lifelong services for people at every stage of their lives.

You might be a teenager using Nokia Life Education services to swot up on study tips or prepare for an exam—and then share what you’ve learned with your peers or friends. Or you might be a mother helping your children with their homework. If you want to improve your skills later in your life, maybe by preparing for a job interview, improving how you handle your finances, finding out more about current affairs and the world, or learning English you can use Nokia Life Education services to get all the information and advice you need. Nokia Life is today the world’s largest life and livelihood improvement services suite for youth & young adults. Apart from education, Nokia Life offers services in a range of topics in health, agriculture, entertainment & spirituality. Apart from information and knowledge, this subscription based SMS service suite also provides for interactive experiences like share, poll and ask-an-expert. Over 50 million people have experienced and benefitted from Nokia Life services already according to the official information. For instance, in health area there are recommendations for parents how to take care of their kids, and “what to do” or “how to identify” diseases which are typical for particular territories and for particular countries. Educational online services there provide basic knowledge and information about local languages and some historical and geographical

information as well as knowledge about traditions. Successful development of this service became possible because of the partnership with NGOs, local governments and businesses and responses from the users of the service.

Conclusions

It is important to go further with the development of services like Nokia Life which should be focused on particular group of people using it – like refugees and migrants. During the workshop on “Empowerment displaced people through online educational services” which was held during the IGF-2014 in Istanbul, Turkey there were proposed several key questions connected to educational services to speakers and the audience:

- Who should support the development and implementation of educational services (international organizations/ governments/ organization, employing migrants)?
- Who will control the content and quality of educational programs?
- The principles of service integration with the existing educational system
- The availability of educational services

There were made presentations about current situation with refugees, displaced people and migrants, in general terms vulnerable people.

Speakers answered questions and agreed that in terms of financial part there should be multistakeholder approach and actually students (users of those services) should also contribute which mean they would value what they get. For the displaced people case there should be international organization which should finance their educational activities. They emphasized the importance of long-term education programmes for refugees and displaced people, since in fact this status may last long period. In terms of content control and quality measurement it was proposed to continue integration with traditional accreditation system for the content control and quality measurement. The role of private sector, with regard to social responsibility and the right to fare education for migrants and displaced people, as well as vulnerable people was underlined. There is also need of capacity building and educational initiatives in the field of safe and responsible use of the ICTs for migrants and displaced people. Multistakeholder dialogue on the topic of empowerment displaced people through educational services should be continued.

It was also mentioned that in Africa there are places which are not covered with the Internet which means it is impossible to introduce any online services for the displaced people as well as for the citizens. There were also described e-services and new initiative on e-

citizenship (transparent way to offer services for residents and non-residents) on the example of Estonia. There was described an initiative, the European Observatory on vulnerable people in the Information society, which is about to be launched by the Government of Portugal, the civil society organization TaC-Together against Cybercrime International and the City of Strasbourg. The European Observatory on Vulnerable People in the Information Society - will facilitate the integration of the most fragile groups of European citizens into the decision-making processes in the Information Society and policies related to the Internet and ICT's that will stimulate their participation in the sustainable human and economic development of the EU countries. As the conclusions from the workshop it was proposed to collect best practices in the area of education especially for displaced people, refugees and migrants. Participants also agreed that the role of local authority is very important for the implementation of the ICT strategies for the development and implementation of educational tools and online education programs. Educational services and courses are major part of the empowerment displaced people as it helps them to adapt under new conditions and most of the people became displaced because they wanted to protect their children

which means that children got out of schools and universities.

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**THE IMPACT OF IT-COMPANIES IN THE SAME
JURISDICTION OVER THE DECISIONS OF
NATIONAL AUTHORITIES AND
SUPRANATIONAL INSTITUTIONS**

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IT companies have corporate citizenship of the country in which they operate. This means that these IT companies have rights and obligations in the territory on which their attitude is accounting and control activities of the competent authorities. In Russian it companies such as LLC "Mail.ru", LLC "Vkontakte" company "YANDEX", "Rambler Internet holding". Despite the fact that these IT companies registered in Russia, their content is distributed on the entire Internet (and some IT companies may have a branched structure around the world and open in Russia branches, the activity of which in the most part fall under Russian jurisdiction). And, accordingly, depends on the functioning of this Network: the rules that are set for users, owners, holders of contents and other entities.

Rules, on the basis of which operates a Network are the rules of the two levels. First - national level. The rules that are set by the authorities of the state in whose territory IT company. The second level is supranational. Rules at this level are formed supranational institutions: transnational organizations, which are created for

independent control of the Internet, and States that sign the agreement on common rules for the functioning of the Global network. An example of a transnational organization is Corporation for the management of domain names and IP addresses (Internet Corporation for Assigned Names and Numbers), abbreviated ICANN (read ican) is an international non-profit organization established on September 18, 1998, with the participation of the U.S. government to regulate issues related to domain names, IP addresses, and other aspects of the functioning of the Internet.

Transnational organizations, in theory, should provide independent control of the Internet as a resource of global importance and heritage. If IT company or government wants to influence the policy of such organizations, they will make it extremely difficult. First, because the territory of residence of these organizations and their structure is often impossible to calculate. It is, as it were, around the world and consists of persons who directly can position themselves with other IT companies or organizations working in the IT industry. States that want to get some information about the subjects, the Internet activities are spread on the territory of these States often receive waivers from multinational organizations to cooperate, or are not able to find the person to whom they could send the proposal to cooperation. Secondly, (and this follows from the first) on the activities of multinational States in full, in theory, is not under the jurisdiction of a single state. From the

point of view of ensuring the independence of the Network, this can be considered a good factor.

However, to influence the policy of Internet governance transnational organizations, IT companies or the state could through Forum on Internet governance (Internet Governance Forum), which annually extends its mandate¹¹. The influence of the Forum rules control the Internet so much that in September 2014, in Istanbul there were proposals in the plenary sessions of the Forum to develop recommendations following the discussions, which could guide all participants and, accordingly, entities operating in the Network and affecting it. To such parties and entities are referred to multinational corporations, intergovernmental organizations, IT companies and the state. And its influence on the Forum the past could have on the stakeholder groups, who are the main participants of the Forum organizing Committee, participants in the preparatory meetings. Legitimate influence may lie primarily in the preparation of expert positions on organizational and substantive issues that accompany the Forum and comment on it.

An example of an agreement that may be concluded by States is the Anti-Counterfeiting Trade Agreement (ACTA) is an agreement initiated by the United States, the European Union (EU) and Japan, the subject of which include the freedom of the Internet: that

¹¹ Page UN Forum on Internet governance // <http://www.intgovforum.org/cms/>

it can accommodate, and what is not, how to protect intellectual property. In the case of the adoption of this agreement by the European Union, member States will be obliged to tighten the legal regime of trade and use of intellectual products. In the countries-EU members of the General population protests regarding the acceptance and operation of this Treaty. His interests clash with the interests of right holders, service providers and entrepreneurs. People need freedom on the Internet. The copyright holders do not need restrictions and encumbrances. Providers do not want to spend resources on monitoring users. The German Bundestag in may 2012, listened to the experts on this. The European Parliament has asked the European Court of justice in Luxembourg regarding the need to strengthen criminal responsibility for violations in the Internet space member States. Decisions in this area are taken very cautiously and slowly.

In Germany the Party pirates, the basic program slogan which is freedom on the Internet. The German Party of pirates was formed in 2006 In the most recent elections to the legislative assemblies of Berlin and Saarland Party overcame the threshold and fell in these parliaments. This suggests that people argue for maximum freedom on the Internet. And the Party appeared likely to bring its policy into legislation. However, the business community, whose activities are connected with profit in connection with the functioning of the Internet, does not support the initiative of the party

of the pirates. There is social conflict. 20-30 % of disputes in connection with the circulation of information on the Internet related to the protection of personal data. For Germany a new stage in the legal regulation of this sphere will come next year, when come into force the Regulations on the protection of personal data, adopted at EU level and has direct effect in member States¹².

As already noted, the rules of the first level of Network operation are set by the authorities of the state in whose territory IT company. For example, in Russia such regulations include the law on information, copyright, activity control bodies. However, a major role in the development of rules for the governance of the Internet and social networking play the judiciary. In this regard, a good example is Germany. It made quite a lot of court decisions, which in their case character form common approaches to the assessment of the actions of the subjects on the Internet.

One of the most controversial issues of legal regulation of the Internet in Germany is to block users and block access to resources. If there is evidence that the user violates the rules, the idea is that it should be disconnected from the Internet. Of course, it can change your ISP. But this raises an important legal question: is it

¹² Research seminar, faculty of law, National research University - Higher school of Economics: "Internet and the law: the political and economic aspects of interaction" // <http://pravo.hse.ru/legalanalysis/news/51345527.html>

possible in principle to apply for intellectual property protection such a measure as disconnecting from the Internet? Expressed the position that disconnecting from the Internet is equivalent to the restriction of the freedom of the person: if the person has stolen something from the store, he cannot then deny to go to the shops and buy products.

Head of Department of the Ministry of information of Bavaria Andreas Ross notes that in Germany for people who stole something from the store, there are a kind of sanctions: the cashier in the store hangs a photo of the offender and the seller is entitled to refuse the sale of goods. In Germany disconnecting from the Internet as a sanction is not provided. The violator shall reimburse in civil law, the harm to the right holder, but no more. However, in accordance with European law that sanction should be introduced in all member States of the EU. In France and in the UK the sanction already imposed. In France even created a special Agency that monitors violations and organizing disconnecting users: for the period 2012 to about 650 thousand people received an official warning (in violation of the use of movies, programs, music), 44 thousand people were warned repeatedly, 60 people received a third warning and have been off for 1 month. The average amount of the fine amounted to 1.5 thousand euros.

Thus, in Germany as the main measures of the offenders considered prevention. More "hard" regulation of society is a negative. We can predict that the law

establishing such a measure is sure to be appealed to the Federal constitutional Court of Germany, and it is likely that the Court finds it unconstitutional Germany. This sanction as disconnecting from the Internet, in addition, entails the introduction and a whole series of restrictive measures, for example, the presentation of a passport in the Internet cafe. Currently, if the user is not set, then the responsibility for violation are the owners of this café. In Germany and don't think to enter the requirement ID. But regular monitoring of the Internet space for a long time is authorized services. Providers must store the information. It is therefore not difficult to ascertain that from a certain IP address on a certain number were made such action. The offender may be recognized and the one who has created the right conditions for him - the owner of inadequately protected access point to the Internet (even though he himself offenses not committed).

The provider, which manages access is the national authority, the most IT companies. But the hosters as guarantors of law and order in Internet can stay anywhere in the world - those transnational organizations. If the national provider does not block the forbidden resource, it will be blocked by the hosts until the isolation of the country and international conflict. Not so long ago, the EU initiative was the introduction of the duties of service providers for the collection and storage for 6 months information about all the connections. This is done to prevent serious crimes - terrorism, for example. In compliance with the EU in Germany adopted a law. However, the Federal

constitutional Court overturned it. The EU authorities appealed to Germany in the European Court of justice in Luxembourg: in their view, this state is in breach of European directives.

In Germany it is mandatory to lock a specific resource with its identification as child pornography and "sharing". At the level of EU mandatory lock any resource, which is a felony, even in connection with copyright infringement.

As States are included in the mechanism of protection of personal data in social networks, Google, Facebook, Twitter and others? In social networks, of course, impossible to control their destiny. So, Google Analytics generates custom profiles. Some of the information Google collects herself, despite the fact that the legal basis for this is missing. About the same in 2015 plans to do and Facebook. All rights of "third party" in Google to get to the user. Thus, social networks have the rights to use objects created by users. In the United States, in contrast to Germany, in particular, in great detail into account all possible forms of human rights and the delivery mechanism. Thus the question remains open: does Google copyright in the content of forwarded messages in Google mail?¹³

The impact of IT companies at the national level on the rules of Internet governance and communication in the Network, therefore, can be carried out through the

¹³ This is there.

mechanism of lobbying installed in a particular state. Usually these mechanisms include: expert opinion business, participation in the evaluation regulatory impact, meeting entrepreneurs with officials, experts on boards and groups established to prepare draft laws and amendments thereto, the open letter in the press, the ultimate destination of which is the head of state (the relevant area). An example of the latter forms of influence may be the recent appeal of the Russian IT-companies to the President of the Russian Federation (December 2014). Several IT companies have expressed disagreement with the concept of the draft law, developed by the Russian Union of rights holders (RBC). This is the concept of collective management accredited in the Internet (including through the Institute for global license) and the draft Federal law "On amendments to the Civil code of the Russian Federation in improving the circulation of intellectual property rights in information and telecommunication networks".

According to some IT companies, the concept and the draft law violate legal regulations, both national and supranational order, shall bear the economic risks technologically impossible. Attempts to implement the Concept carries hidden risks of leakage of confidential information, including information necessary for carrying out the operational-search activities and measures aimed at ensuring the security of the Russian state; will cause huge economic damage, including the freezing of programs to eliminate the "digital divide"; break international obligations of the Russian

Federation; become an insurmountable obstacle for the further development of the legal market of digital content, and most important: will violate the constitutional rights of Russian citizens primarily on privacy. IT companies supported market regulation digital sphere distribution of content.

It should be noted that IT may have a direct impact on judicial practice through the mechanism of lobbying. In the courts, lobbying is not allowed. The court must act privacy. IT companies supported market regulation digital sphere distribution of content. It should be noted that IT may have a direct impact on judicial practice through the mechanism of lobbying. In the courts, lobbying is not allowed. The court must act independently, impartially and in accordance with the law. Only by implementing the principle of adversarial judicial process, IT companies can defend in court its position, thus affecting the formation of judicial precedents, if any, are recognized by the legal system of the country) about the rules of Internet governance and communication in the Network.

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*Human Rights on the Internet:
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Scientific publication

Human Rights on the Internet
Legal Frames and Technological
Implications
Volume 3

Editors: S. Maltseva, M. Komarov and A. Shcherbovich

Passed for print: 15.12.2014. Format A5

Type Times New Roman

Press sheet 6,6

Pressrun 200 copies

National Research University

Higher School of Economics

101000, Moscow, ul. Myasnitskaya, 20