

IRP Coaliton Meeting Report: IGF 2014 Istanbul

[The IRPC Charter of Human Rights & Principles for the Internet: Five Years On](#)

Chairs: Marianne Franklin & Robert Bodle

Roundtable Participants: Robert Bodle, Dixie Hawtin (Global Partners), Meryem Marzouki (Sorbonne), Rikke Jorgensen (Danish Institute for Human Rights), Sebatian Schweda: (Amnesty International, Germany); Gabrielle Guillemin: (Article 19, UK)
Present: 65

Meeting Part One: After introduction from MF Chair, RT Participants provided input into a Review of the Charter.

Introduction: IRPC Charter process began formally in 2009 and version today, v1.1, launched in 2011. The IRPC Charter encapsulates the connection between HR law and norms, soft and hard. Since 2013 human rights for the online environment have come of age hence a review of the IRPC Charter is a timely one. The panel includes 3 members of the expert drafting group (DH, RJ, MM) who finalised the current IRPC Charter version and two legal experts from Amnesty and Article 19 (SS, GG). A full introduction of the Charter's aims and objectives is in the [IRPC Charter booklet](#) available at <http://internetrightsandprinciples.org/site/>

Roundtable IRPC Charter Review: Main Points

Dixie Hawtin: Noted that 5 years of the IRPC Charter is an amazing achievement e.g. many initiatives have been directly attributable to the Charter including a Bill of Rights in NZ and work at the Council of Europe. There is now a launch of an African Declaration of Internet Rights. There is a need to translate these initiatives into legal standardst, which raises two important issues 1) the need for outreach and campaigning around the Charter 2) the need for implementation to take the charter beyond aspiration and make sure that it translates into tangible standards. To this end there could be a second section of the charter that goes through the different stakeholders and examines their rights and responsibilities. Let's give people in public and private spheres ideas about how they could push this agenda. The charter is so useful for that because it is so broad, it includes socio-economic right and a focus on governance.

Meryem Marzouki: Focus for here is the charter as a whole: 1) It is technologically neutral and can be applied across platforms; 2) It represents a holistic vision of human rights that include first, second and third generation rights with, for example, a right to development. Of course it is not perfect as there is still a long way to go to improve it e.g. a) one weakness is that most of the provisions state a given right and then explain how it translates to the Internet. This follows the declarative nature of the Universal Declaration of Human Rights (UDHR). Although implementation is at an early stage, the Charter and subsequent projects are the first institutionalisation of work done by a Dynamic Coalition here at the IGF: b) The charter could be improved in relation to the right to remedies. Since the Internet is to a great extent a privately ordered space the charter does not adequately target HRs in relation to private companies; c) Finally, the next version should adequately address the issue of the conflicts of jurisdiction, this has

been an issue for many years. There are conflicts of jurisdiction in many areas of internet governance and this is a key issue to address.

Rikke Joergensen (RJ). The 3rd member of the drafting group to speak notes that when this work was initiated 5 years ago the issue was translating existing rights to an online context. Since then a lot has happened e.g. several resolutions of the UN General Assembly and a report on the UN High Commission on HRs on Privacy and Surveillance in the Digital Age. Reflecting on [WS 83](#), she notes that emerging implementation of the Charter has inspired her to think that the way to move forward is the translation of these standards at the national level because people are struggling with how to use the guide in a national context so outcomes from WS83 need to be made more visible and accessible i.e. make these struggles at national level more prominent.

Another important point is access to an effective remedy. One of the things discussed in the Council of Europe work on the Guide was this issue, and so far this has not figured very prominently in the IRPC Charter work. It is to her mind the most important thing to take forward i.e. it is so difficult to enforce your rights in relation to the State and, in turn, the private sphere. Third, to this is the role of business in the private sphere. We need to examine how far we can take the State's responsibility to protect human rights into the sphere of private companies. Final point: surveillance is a key issue in this area (MF noted that the charter does address this, however cursorily).

Sebastian Schweda, Amnesty International: Focus (1) is on IRPC Charter Art 21(b): limitations on rights in the Charter, as it concerns all rights in the IPRC Charter. Focus (2) on Articles 8 and 9 i.e. privacy and data protection. When it comes to Article 8 there is a specific clause when it comes to surveillance clause (f): the right to be free from arbitrary surveillance. There is also a right to protection of personal data in Article 9 and the need for informed consent under subsection (b). Clause (c) relates to data processors and the storage of data. We in this way have a set of rights which are similar to that of Article 8 of the ECHR.

Article 3 is a right of its own, the right to security. This is where conflicts could arise. There is a need to balance privacy and the right to security and there are some refinements that could be made to the charter. We could look at the international principles and the application of human rights to communication surveillance to determine particular safeguards and principles, e.g. in terms of a right to data protection. There is probably a need to more clearly define the exceptions and what could be a legitimate aim in this regard. Conditions such as necessity and proportionality need to be clarified with further definitions of these terms along with terms such as national security. This should be recognised as a sensitive issue. Last point: he recommends moves to make the IRPC Charter binding so that stakeholders should not have leeway to decide how far their rights and duties go.

Gabrielle Guillemin, Article 19: She underscored the views expressed by previous commentators, in particular, in relation to the Charter's role as soft law and the need for implementation as the Charter is a great endeavour. She agrees with the need to clarify key terms as SS stated and where she includes the need to address intermediary

liabilities. These can be drawn into the forthcoming initiatives on its practical implementation.

Another point for critique is that the charter language should reflect that of international legal documents and there should be more internal clarity. For example, looking at section 5 (freedom of expression) we need to note that the term is actually contested and there is no international consensus particularly with respect to the subsection on censorship i.e. freedom of expression is not an absolute right and can be limited. But in this section we see language that is not entirely clear eg the reference to measures that are designed to intimidate Internet users, e.g. cyber bullying which is a practice that in many countries is not a tangible offense. Another example is the reference to blocking and filtering. Here GG takes exception to how blocking is articulated here e.g. instruments such as the declaration of suppression of the Internet by special mandate does not mean that filtering should not be permissible. It could be perhaps used if a court orders it in relation to, for example, child pornography.

A third point is the section on freedom of assembly online; what happens here if a group in question is a terrorist or criminal groups, how do we find a balance in other words? In short, the term provided by law is needed to clarify the sections relating to the need for the pursuit of a proportionate aim.

Robert Bodle (RB) speaking as current co-Chair: Expressed his gratitude for the contributions made. His main interest is Art 8 clause (e) – anonymity and the use of encryption and points about the Charter being technologically neutral i.e. reasons for being careful on naming particular technologies that can become obsolete e.g. mention of tools like digital signatures, usernames, pin and Tan codes. Should we keep that or look to reform: MF notes this issues of how to encapsulate technological developments without them becoming technologically obsolete e.g. Casper Bowden has commented on the status of the Charter’s technological neutrality.

Comment from the floor: Ronnie Coven, acting director of the World Press Freedom Committee; notes that the Charter has the virtue of existing as a text (as opposed to Magna Carta). Some issues 1) freedom from hate speech – this is culturally and legally relative, the US would take a different approach to some EU countries. 2) Privacy: is it or should it be a right? If it is a right it is a perverse one, it has been used to stifle journalistic, legitimate news reporting. The right to privacy is not historical or traditionally, it was invented by a US legal philosopher. I also agree with some of the earlier commentators.

Comment from the floor: David Hughes Recording Industry: We have had this challenge in so many drafting sessions of the past couple of decades. The challenge is to avoid reference to any specific technology. Draft very carefully, every time we reference any specific technology we regret it.

Charles Neville: Seconds exactly what David states. Every time you put in an example people take this as an exhaustive list. In relation to remedies, there is a need to understand exactly what type of remedies relate to you. There is an idea in my head that there is a need to know exactly how these laws are applicable to me.

Summing up the RT, MF thanked all of the panellists and moved into the IRPC Meeting. A full report of the year's activities and output will be available online separately; an oral overview included noting that over the last 5 years;

- the IRPC's main output has been the Charter and since 2013, the IRPC Charter Booklet which has been translated and distributed in 5 other languages with more underway. The Charter Booklet as a compact resource and access to the full Charter in printed form has been an enormously helpful output as many people want something to hold on to. Digital is good but printed is also good, indeed indispensable in many situations at the national and local levels. .
- The IRP coalition has been working with other coalitions and organizations to bring the Charter to new audiences e.g. it has entered the political process in New Zealand, been formative in Marco Civil process and legislation passed in Brazil (as noted in [WS83](#)). The HIVOS IGMENA project has built on the main Charter material and translated it into graphic designs for Arabic speakers. The IRPC has also been acknowledged for the Charter's contribution to the NetMundial outcomes (e.g. Helga Mieling, Carlos Affonso in [WS83](#)). We have almost reached 1000 Twitter followers and have excellent, productive tweets and conversations online.

Meeting Part 2: IRPC AGM

Business: Election of new officers: MF reminds meeting that there is a rolling co-chairship of a staggered two-year tenure; MF's two years are up. RB tenure is until 2015 so position for incoming co-Chair (2014-2016) open for nominations. One candidate currently. MF & RB with Steering Committee are organizing transition process for 1) co-Chair and 2) a steering committee member to replace Dixie Hawtin who is standing down. More information available for IRPC Mailing list members in the near future.

RB (co-Chair) sums up by thanking all steering committee members and underscoring that there is still a lot of work to do. It is an exciting time to join the Coalition and move things forward. He also extended thanks to Pirate Party Movement of Turkey and key individuals who are holding an important workshop for Turkish delegates tomorrow, [WS225, at 9am on online freedoms](#).

Looking forward, implementation is crucial alongside building resources such as an index of supporting material for activists, this will be multimedia. We will also start to monitor the impact of the Charter.

Any Other Business:

1) MF: there is a letter circulated by Best Bits on the position of the Dynamic Coalition. MF would like to take comments on whether there should be a move to support and renew the IGF as a space for multiple stakeholders to come together: Pranesh Prakash (CIS, India) from the floor: what does renewal actually mean. Is this a question in relation to the timeframe? Would definitely support strengthening.

2) Comment from audience: would like to clarify how to join the coalition. MF: Email: info@irpcharter.org and join the listserv.

3) Query from the audience: What countries/organisations have signed up to the IRPC Charter? MF noting the number of endorsements of the Charter itself. We would like to see more so if you have suggestions please let us know. Also noted with gratitude that funding for the translation of the booklet into Turkish, Arabic and Spanish charter has been provided by Hivos and the Web We Want Initiative. Great thanks for their structural funds and support.

RB: No further matters. Urges people to participate on Facebook, Twitter, [listserv](#).

MF: Support Turkish activists at 9am tomorrow [WS225](#)

More details on these proceedings are available via

- The IRPC Live Blog at <http://internetrightsandprinciples.org/site/irpc-live-blog/>
- The IGF Live Transcript and video links at <http://www.intgovforum.org/cms/147-igf-2014/1868-igf-2014-dynamic-coalition-on-the-Internet-rights-and-principles>