

# **Ambassador Donahoe: Speech on Internet Freedom at the Center for Democracy and Technology**

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What a thrill to be here.

Let me start by saying thank you to Leslie Harris and the Center for Democracy and Technology for including me tonight. Leslie and her team were instrumental in helping us with a significant project last year, to lay down a marker on Internet Freedom at the Human Rights Council.

Mitchell Baker was also a key player in this effort. So I feel like I am here tonight with my gal pals – and I am honored to stand here with Leslie and Mitchell before this vibrant CDT community.

Before delving into the overlapping priorities at CDT and the Human Rights Council, I would like to set the stage by touching on a few very simple yet profound and interrelated ideas.

Let me start with a simple assertion: information, freedom and power are intricately linked – and this link has significant bearing on the protection of human rights.

Access to information is essential to freedom, and arguably makes freedom meaningful and possible. The exercise of human rights simply is not possible without access to information. Freedom of expression – that most basic human right – necessarily entails the right to seek and receive information, as well as the right to communicate about it. The freedom to assemble or associate rests on a presumed ability to share and discuss information.

Furthermore, widespread access to information is essential to the functioning of democracies – where the will of “the people” – ideally a well-informed public, is the source of government legitimacy. Greater and greater access to information also turns out to be very threatening to governments that do not derive their power from the will of their people.

These are not new ideas, but their relevance to the battle for human rights today has moved front and center – in part because of technological innovation and development.

Technological change, especially with respect to the way people access information, especially via the Internet, has created dramatic new opportunities for information sharing and community building. It has also shifted some important power dynamics.

Technology has altered the mode, scope and scale of information accessibility for the public to such an extent that it has changed people's expectations about their own freedom and ability to access information quickly and globally. The enhanced ability to access information has heightened people's expectations with respect to government transparency and openness.

This change in people's expectations and behavior has put more power in the hands of citizens and placed enormous pressure on governments, especially those that do not see the benefit of, or derive their power from, an informed and empowered public.

This leads to our work at the Human Rights Council, the lead UN body for the promotion and protection of human rights.

Just a few years ago the Council was viewed as the poster child for UN dysfunction. Its flaws were serious and multiple, including consistent failure to speak out and act on chronic and urgent human rights crises, membership that included states with poor human rights records, a structural and persistent anti-Israel bias, and political-regional block dynamics that obstructed action.

Despite these problems and amidst considerable skepticism, in 2009 President Obama changed course from the prior administration's policy ---which essentially was to boycott the Council – and made the decision to invest U.S. diplomatic energy to try to reform the body from within.

Fast-forward three years. While serious flaws remain, the Council's agenda now addresses many of the world's most egregious and chronic human rights violators; we have turned global attention to civil and political rights such as freedom of expression, freedom of peaceful assembly and association, freedom of religion and belief, and Internet Freedom; and the Council has found a new ability to address crisis situations as they emerge in real time. Bottom line: the Council's performance and effectiveness have improved dramatically.

How did this turn-around happen? There are of course many factors. But, one factor stands out.

I believe changes in people's expectations and aspirations, particularly in the Middle East and North Africa during the Arab awakening, played an enormous role in triggering a corresponding awakening at the Human Rights Council, and in setting us on a new trajectory.

Two specific cases are illustrative of this turn around.

The first was the Council's response to the revolution in Libya. As Qaddafi proclaimed his intention to crush the will of the Libyan people and hunt down critics of the regime "like rats," the global community watched and shared in a genuine sense of horror, as violence played out across our screens and twitter feeds, and was documented in YouTube videos. Human rights defenders descended on Geneva and demanded that the international community not just watch, but provide a unified international response.

This set in motion an urgent session at the HRC – something that previously would have been politically impossible, especially since Libya was a sitting member of the Council.

In one of the most dramatic moments ever witnessed at the Council, the Libyan representative announced in the Council chamber that he was no longer speaking on behalf of the Qaddafi regime, but instead was speaking on behalf of the Libyan people.

Council members responded by dispatching a Commission of Inquiry to investigate gross and systematic human rights violations, and called on the UN General Assembly to suspend Libya's membership rights in the Council. This unprecedented and unified response to a crisis in real time was inspired and fueled by the democratic aspirations and expectations of the Libyan people – - communicated to the global community via the Internet and other information communication technology.

The second illustrative case is the Council's handling of the crisis in Syria. After initial reports that Assad's forces unleashed heavy weapons against unarmed peaceful protestors, the Council dispatched a fact-finding mission to gather evidence of indiscriminate attacks against civilians.

As information and images of the catastrophic humanitarian situation flowed out of Syria, the Council raised pressure on the Assad regime by creating a Commission of Inquiry to document

the widespread and systematic human rights violations. This Commission has already assembled a substantial body of evidence of the regime's atrocities and alleged crimes against humanity that will be used to ensure future accountability.

These responses by the HRC would have been unimaginable just a few years earlier. Yet, the wave of popular demands that arose during the Arab awakening, and that spread and were amplified via the Internet, brought the issues of freedom of expression, freedom of peaceful assembly and association, and the demand for democratic governance squarely before the Council. This became the impetus for positive change of the Council itself.

Let me turn directly to the issue of Internet freedom at the Council.

We believe the Internet has become "the" landscape for human rights promotion and protection in the 21<sup>st</sup> century. Citizens around the world rely on the functionality and interoperability of the Internet for the free flow of information essential to exercising their human rights.

Yet, some governments have not yet fully internalized the basic premise that human rights must be protected online to the same extent as they are in the physical world. What we observe is a fairly strenuous effort by many governments in their own domestic spheres, as well as in international fora, to establish de facto a new, weaker standard for the protection of human rights online. Many governments seem to operate according to the incorrect supposition that the free flow of information can rightfully be curtailed and restricted when the Internet or other new information communication technologies are used as the medium of transmission.

In fact, parallel to the growing expectations on the part of citizens to access information and connect globally, we see a corresponding change in government use of technology to restrict access to information and limit citizens' abilities to connect with the global community, particularly by those governments that do not derive authority or power from a well-informed and connected public. Accordingly, such governments increasingly employ technology as a tool to censor content and to restrict global connections in new and more sophisticated ways, with devastating consequences for human rights.

To begin to address these issues at the HRC, in early 2012 a core group of countries banded together to lay down a foundation for the protection of human rights online. Our goal was to

inculcate respect for the obligation to protect human rights in the digital realm. As part of this effort, we brought a group of Geneva based Ambassadors from around the world to Silicon Valley, for an off-site retreat at Stanford and presented a program with innovative and foundational Internet thinkers, including Vint Cerf, Mark Andreessen, Mitchell Baker, and John Perry Barlow. We brought civil society actors such as Access, Internews and CDT, and private sector leaders such as Google, Facebook, Twitter and Ustream.

Article 19 of the Universal Declaration of Human Rights became our touchstone for the retreat: “Everyone has the right . . . to seek, receive, and impart information and ideas through any media and regardless of frontiers.” We turned continually to our refrain –“Through any media; Regardless of frontiers” — and came to believe the drafters of the Universal Declaration must have been either omniscient, or at least humble enough to know that technological change would transform the way freedom of expression would be manifest in future generations.

In this diplomatic retreat, we role-modeled the open, permission-less, innovative environment that fostered the creation and evolution of the Internet and won over many converts to the vision of an open, free, interoperable Internet future.

When we returned to Geneva, we took a formal step to solidify and shore up this international obligation to protect human rights in the digital realm. Under the leadership of Sweden, and with a cross regional core group of partners that included Tunisia, Brazil, Nigeria, and Turkey, we passed a landmark resolution laying down the foundational international principle of global Internet freedom, — that human rights cannot be compromised simply because they are being exercised in the digital realm. Astoundingly, this resolution passed by consensus. Achieving this consensus outcome was probably the moment of deepest meaning and satisfaction I have had at the Council.

In closing, I want to send out a few flares, and ring a few alarm bells in this community of people who act as advocates for freedom and who recognize the connection between freedom and technology.

From where I sit as a diplomat in a multilateral international setting, it is apparent that the lines between Internet freedom, Internet governance and cyber security have blurred. Whereas we used to be able to discuss the human rights dimensions of Internet freedom fairly cleanly as a

distinct topic at the HRC, now conversations taking place in other international fora about Internet governance and cyber security are bleeding over into the human rights conversation, and the threat to human rights, and in particular freedom of expression, has increased substantially.

We are at a very worrying crossroad. The international community is faced with competing and incongruous visions of the role that information and communication technology should play in the global society.

One vision embraces innovation, openness, and distributed multi-stakeholder authority and decision-making. The other puts priority on security and sovereignty, and envisions authority in the hands of states. The former model is consistent with democratic liberal values, whereas the later vision reinforces authoritarian tendencies.

In effect, we are in the midst of a battle over which narrative will dominate the international understanding of Internet freedom, and the implications of this battle are rising to epic proportions. For those on the liberal democratic side, I fear we are behind the curve in controlling the dominant global frame and terms for understanding Internet freedom. The consequences of losing control of the narrative would be devastating for freedom and human rights.

If our vision of an open, interoperable, multi-stakeholder Internet is to prevail, and if we are to live up to our responsibilities as stewards of human rights, we must not only be vigilant and proactive in all multilateral settings, but we must also find more compelling arguments than we have to date.

Many governments are confused about how to chart a course on Internet freedom that protects and advances their interests. On the one hand, governments want the economic upside that the Internet can bring to their economies and people. No one wants to be left out of the potential economic gains, and many governments hope and believe that by embracing new technology and prioritizing ICT and mobile infrastructure, they can actually leap frog beyond the steps that were necessary to economic development in the past. This is good.

On the other hand, misleading arguments framed around issues of “fairness” and “democracy” have come into play, and are leading many governments down the wrong track. Specifically,

there is a growing meme that “Internet governance” needs to be more “democratic.” Unfortunately, in this context “democratic” is code for moving away from the current decentralized multi-stakeholder model, which is perceived as being controlled by the U.S. or the “West,” to a system that would place a greater degree of control over the Internet in the hands of governments and intergovernmental organizations.

This argument may be superficially compelling with its appeal to “democracy,” but it is extremely insidious and dangerous in numerous ways. First, it misuses the term “democratic” in an almost Orwellian fashion. Greater “democracy” in this argument in fact means greater centralized control in the hands of governments and intergovernmental organizations, as opposed to control shared by a range of stakeholders in civil society, governments and the private sector. This would be antithetical to the decentralized networked nature of the Internet. Further and ironically, the desired change would in fact give greater control over the Internet to some governments that do not embrace respect for freedom of expression and that lack recognized democratic practices at home vis-a-vis their own populations.

This confused or faux argument imports the mistaken assumption that governments are and should be the central players in the future of the Internet. While many governments pay lip-service to the importance of the multi-stakeholder model, they nevertheless often assume that governments should be dominant and that civil society and the private sector should be secondary players. This understanding inverts the actuality of how the Internet has evolved and functions.

There are many problems that flow from this inversion, but perhaps most problematic is the very real threat to the functionality of the Internet itself. Putting aside concern about nefarious efforts to restrict freedom, does anyone think that giving governments greater control over Internet operations will lead to increased Internet functionality or performance?

Equally fundamental, by inverting the current understanding of a multi-stakeholder model such that governments are given preeminence, we will almost certainly sacrifice the priority of place currently given to openness and interoperability on the Internet. Instead, under a rubric that envisions “Internet sovereignty” we could devolve toward a balkanized, fragmented Internet that is subdivided into separate firewalled enclaves. This vision of the Internet is ultimately a vision of the Internet’s destruction.

To close, I'd like to come back around to the simple yet profound idea that information and freedom are linked. We know it is our job to protect the ability of citizens and activists to access information so that they can do their work. But we also have an affirmative responsibility to speak up ourselves, so that human rights defenders who live and work in oppressive systems closed off from the global community get the message that we know and care about them, that people are fighting for their rights and they are not alone.

Sometimes this can be done without technology. There are many poignant stories of prisoners who were kept alive by the sense of connection that came from a message scribbled on a prison wall, or a clandestine note passed hand-to-hand. I was recently reminded of a contrary story through a poignant quote from a prisoner held in Auschwitz during World War II who did not get this message, and who instead voiced the most horrific, existential fear when he said: "god forgot us and the people of the war forgot us." This stark expression serves as a reminder and constant motivation. At base, whether using new technology or our own voices, human rights work is about connection and a shared responsibility to prevent this experience of abandonment and isolation. Our hope is that you all put the tools of technology to work for this purpose.