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A Road compared to a Horse
An Examination of Internet Access as a Human Right

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Introduction

The Internet has been a growing resource for nearly three billion people in the world. It has shaped the way we work, find information, and communicate. Sites like Facebook and Google have become cornerstones of this electronic realm, and new sites for specific interests or simple expression are always in development. This 15 year explosion owes itself to Web 2.0 changing how information is presented on the Internet. But is access to the Internet a human right? Vinton G. Cerf, the vice-president of Google and one of the initial developers of the Internet protocols, wrote a 2012 *New York Times* editorial against the idea of the Internet as a human right. He argues it serves more as a tool to facilitate other rights, such as free communication and access to information, but the access to the tool itself is not a right. In 2013 Facebook founder, Mark Zuckerberg, argued connectivity is a right. He announced the need for an initiative to connect the remaining five billion humans who face difficulty in accessing the Internet. It is a challenging task, but one that must be undertaken to ensure the connectivity of humanity. The opportunities the Internet provides makes it more than just a tool. It is an underlying system that serves more as a road for our travels, rather than the horse we ride. To explore this concept in this paper, we shall examine: the definitions of rights, and if it's possible for new rights to emerge; what effect the Internet has on developed and developing nations; what can be done to help ensure the Right to Internet Access.

History, Analysis, and Emergence of Rights

The definitions and categories of rights themselves have not been a static entity in the scope of human history. The early foundation for modern human rights theories lies in the early liberal thoughts of natural rights. Writers and thinkers like Locke and Rousseau held natural rights as a primordial state of man, the bare essence of what is needed for humanity. These writings helped pave the way to modern liberal society of democracy. Further examination of the human condition under the new liberal

societies led to greater understanding of the need to prevent the exploitation or silencing of the rights of other groups. The new standard for rights manifested in the form of the United Nation's *Universal Declaration of Human Rights*. With the articles of the *Declaration* establishing a global expression of rights all human beings are entitled to. But examination of rights is still ongoing, as the world and society continued developing over 65 years.

One definition of human rights comes from political theorist Maurice Cranston. Maurice Cranston writes of the scope of “moral rights”, the category he claims human rights fall into as they apply to people at all times and in all situations. Moral rights range from an individual’s sole claim to the right, the access to the right by anyone in a particular situation, and the rights that are available to all people in all situations. The first two categories are easy to justify based on “reference to the definite station or situation of the claimants”, it is the third we must inspect for the case of ‘universal’ human rights.

In Cranston's test, a human right is available to all people at all times through practicality, genuine universal nature, and paramount importance. In his text “Human Rights, Real and Supposed”, Cranston notes it is impossible for non-industrialized nations to provide the right of “holidays without pay” due to their economic conditions. It is not practical for a developing nation to provide this “right” as they are still developing and cannot provide the resources needed for a basic standard of living, let alone “holidays without pay”. Cranston continues to use this right in his tests, focusing on how it can only be given to those who are part of the “*employé* class”. Benefits to a specific group do not fit the universal nature Cranston believes a human right should have. As for paramount importance, that category is fulfilled if it relieves great distress. People are responsible for their own pleasures, but their necessities of survival and representation are something that should be protected by human rights.

Another concept in Human Rights Theory is that of positive and negative rights. If a person has positive rights it implies that other people have to take certain actions. Negative rights imply that others

have negative duties, as in avoiding certain actions. Philosopher Henry Shue is against this thought; he believes that all rights requires both kinds of duties at once. All rights have a degree of positive and negative quality. In other words, Shue says that honoring a right will require the negative act of avoidance along with the positive act of action. While we focus on the negative aspects of things, such as the opportunity costs for creating and establishing a right, the gains from establishing such freedoms allows society to operate in positive manners.

Shue breaks down rights into three categories: Moral, Subsistence, and Basic. A moral right for Shue “provides (1) the rational basis for a justified demand (2) that the actual enjoyment of a substance be (3) socially guaranteed against standard threats” (Shue 1980, 13). Subsistence rights are “what is needed for a decent chance at a reasonably healthy and active life of more or less normal length, barring tragic interventions” (Shue 23). And finally, basic rights are the rational basis for a justified claim to the enjoyment of some substance that is a necessary constituent for the enjoyment of any other right (Shue 13). As such, a basic right is the core aspect of every other right. Security allows one to not consume their energies toward defense. Minimal subsistence ensures survival to practice rights. Basic rights serve as a sufficient reason to demand the things that any average person would be expected to require in order to enjoy other rights.

These rights can always be understood as confronting standard threats against humanity. Dealing with standard threats requires all kinds of duties from citizens. Sometimes damages cannot be avoided from a threat, so repair must be taken. In order to provide those repairs or protection, energy and manpower is needed. The point is that every right provokes all three types of behavior of avoidance, protection, and repair to some degree. Shue goes further, and maintains that the negative and positive rights distinction can be harmful, because it may result in the neglect of necessary duties.

Human Rights Theorists do not restrict themselves to examining the current climate of their

time. If political thinking shifted from natural rights to human rights, what other rights could emerge from our developing societies? Richard Hiskes discusses the emergence of rights in his book “The Human Right to a Green Future”. While focused on Environmental Rights and efforts to preserve them for future generations, Hiskes notes the discovery of new rights is needed through new technologies and research. New rights stem from the fundamentals defined in the past: freedom and equality. In order to protect these two important facets, society must identify threats to basic human needs. Emergent rights are the appropriate response to emergent threats.

Examining the Internet

The Internet is a means of communication, like television, radio, and print. These communication mediums are tools that enable one of the most fundamental human rights; the freedoms of expression and speech. But is access to these mediums a right in itself? If Internet access was considered a right, more than five billion people are being denied their rights. In most cases this is not on purpose, just the result of the gap between developing areas and modern society. For now, the right to Internet access is something that can only be enjoyed by the nations with the infrastructure. According to Cranston, this favors a specific group of people rather than all of humanity. His test can be fulfilled, however, if the Internet is brought to those lacking. Unfortunately, this is where the issue of practicality comes in. The Internet is expensive to deploy and maintain, and steps will need to be taken to make it affordable or create long term plans for providing coverage.

To Shue the Internet's power as a communication device would mean it enables the rights of free speech and communication. The information contained within the Internet is also important for users to develop new skills, find resources, or employment. As an enabler for these necessary tasks of subsistence in the developed world, access to the Internet functions as a basic human right. Information

is power, and lacking it is a threat to a person's well being. There will certainly be costs for providing the service, even in a public space, but the positive benefits far outweigh the damages from lacking a basic right.

Hiskes would view the growth of the Internet as a staple of developed society as a field for emerging rights. As a new space, the facets of free speech and communication must be addressed for future generations to enjoy. If one were to look at the repressions of speech, or even access to parts of the web occurring in countries like China and Syria, then we could label the citizens of those countries are having their right to Internet access threatened. Now is the time to establish how essential the Internet is.

The UN and WSIS's Views on Internet Access

Rights involving the Internet has been in active debate for more than a decade. In December 2003 the World Summit on the Information Society (WSIS) wrote a Declaration of Principles, outlining how the upcoming “Information Society” would assist with maintaining and strengthening human rights. The WSIS Declaration of Principles establishes the building blocks for the concerns and goals of an Information Society. It was drafted as part of two United Nations-sponsored conferences, the first in 2003 and the second in 2005. The WSIS Declaration of Principles contains the delegates' common vision of the Information Society, the key principles it must fulfill, and the commitments of the delegate nations. The very first article of the WSIS Declaration of Principles states the common desire of the WSIS is the “commitment to build a people-centered, inclusive and development-oriented Information Society” allowing everyone to “create, access, utilize and share information and knowledge”. This Information Society enables both individuals and communities to develop and improve their quality of life “premised on the purposes and principles of the Charter of the United

Nations and respecting fully and upholding the Universal Declaration of Human Rights”. This single article ties the efforts toward Internet access and digital society with contemporary definitions of human rights. The building blocks of this Information Society comes from Information and Communication Technologies (ICT), which have an “immense impact on virtually all aspects of our lives”, presenting new opportunities for all of humanity. These opportunities will need to be available for all peoples in the future, which require the promotion of ICTs as well as an enabling environment for sharing knowledge and communication that respects human rights.

Building upon the WSIS, access to the Internet can be considered a separate human right itself. UN special rapporteur, Frank La Rue, published a report in June 2011 that implied that access to the Internet is a human right. The right to Internet access can meet the necessary conditions to be a human right; as a right is should be universal, everyone should have access not just a few. The Internet is becoming much more than just a tool, it is becoming a fundamental part of society creating a new sphere of interaction that everyone has a right to access. Recognizing a right to Internet access would be addressing a specific contemporary problem as with other human rights that are specific. One case lies in Article 26 of the Universal Declaration of Human Rights: the right to basic schooling. Not having access to the Internet is similar to not having basic schooling; it considerably narrows people’s options and their horizons. Article 19 of the UDHR defines the freedom of expression and speech and freedom of information. This is usually taken to have three parts for governments to uphold: a duty to respect, for the government not to interfere with the freedom to impart information; a duty to protect, preventing interference with lawful communications; and a duty to fulfill, to provide government held information. Access to the Internet falls within this. The duty to respect means that governments cannot block access for people wishing to use the Internet to express themselves. The duty to protect means government should prevent others from interfering with Internet users and the duty to fulfill could

easily be taken just a little bit further to having to provide access to the Internet. Freedom of expression therefore covers a freedom to access the Internet as it already provides for a freedom to access mediums to express ones self.

Independent of any particular technology, is the ability to access the World Wide Web essentially the exercising of a right that already is well acknowledged? Some have suggested that the United Nations Declaration on Human Rights is all we need. We just have to apply the UN Declaration to current technology. Article 19 in particular is often quoted: “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers”. One must admit that this sounds positive, as the UN has endorsed such a statement and many countries have already signed on to it. What more needs to be done? This depends on whether the Internet is merely another way to express oneself and be informed. Do we need to rethink rights for the Internet age?

The Internet is increasingly necessary to allow basic rights to be fulfilled. Water and health are immediately essential to life, and it could be argued that the right to water and health are just categorically different than access to the Internet. Physical resources are used up, needing to replenish through the cycles of life. Information, the main resource the Internet offers, is not a zero-sum game. Once a region has Internet connectivity, and when someone acquires information, that information can be spread almost instantly for the benefit of all. Information is an important resource, helping to save lives by allowing people to organize and successfully implement crucial services ranging from acquiring water to curing disease; not to mention supporting open government, corporate responsibility, and democracy.

Impact of Internet Access on Political Space

In 2011 the Bureau of Democracy, Human Rights, and Labor (DRL) commissioned the RAND National Defense Research Institute to conduct a study to assess the effects of Internet freedoms and the affect on civil society and elected leadership. In another case of good coincidences, 2011 was the start of the famous Arab Spring protests across the Middle East. 2011 also saw a rise in protests over elections and desires for better representation in China and Russia. The RAND study used this opportunity to examine the impact the Internet had on the organizations and activism in these movements.

RAND identified three roles in the political space created by the Internet. First, there are those who gathered their information from more contemporary sources and used the Internet sparingly. Second, “Netizens” are users who spend most of their time and information gathering through the Internet; their conversations help inform the contemporary users and spread information. It is the third group, cyberactivists, who organize and push for taking a movement from the connection of wires into the real world. The interplay between these groups help to undermine the stability of non-democratic regimes by quickly spreading the information they would try to repress. Even in cases where a movement did not spawn from discussions on the Internet, the use of social media and other tools helped to spread information and attract more active users. This mobilization is more likely to be seen in the streets when targeted against specific policies than a whole regime, as a tighter focus gives more drive for reform.

Though the Internet gives its users more political space and tools to organize, only those with easy access to it are receiving the most benefit. This means, for now, the middle class is the one with the largest voice. Their white-collared or academic careers place them closer to cities, affluence, and connections. Poorer and rural communities are still having difficulty having their voices heard, as they have limited access to computers and are typically at the far-reaches of a network or no connections at

all. In order for these groups to be heard as well, they will need more affordable and public access to the Internet.

In addition to being regarded as an important principle and now a human right, Internet freedom has been a central pillar of the USA's 21st Century Statecraft foreign policy doctrine, developed by former US Secretary of State Hillary Clinton. In December 2011, during a speech at The Hague in the Netherlands, Clinton identified the Internet as a new space in which human rights must be protected. She emphasized the urgency of this task, as at the time of her speech (and even now) there are those whose words are censored, even imprisoned, for their speech online. In addition, there are the “great firewalls” put up by repressive governments to restrict the information their citizens can access. The US has taken steps to help provide Internet access to these repressed people, but not every case can be solved. Clinton cites, two bloggers had been imprisoned for their writings. In Syria, Anas Maarawi was simply arrested for his complaints toward President Asad in July 2011. The authorities never charged him with anything, yet he was silenced from speaking out on the Internet. Maarawi was freed after 59 days in prison, but at the time of Clinton's speech, his fate was unknown. Russia gave a lighter sentence to Alexei Navalny: 15 days of jail for taking part in the protests over the Russian elections. Referring to information networks as inexhaustible resource for our planet, Clinton further outlined the ways in which access could make societies stronger, foster a global conversation, and help promote the struggle for freedom and progress. Clinton repeatedly linked the Internet to the Universal Declaration of Human Rights, calling it a “North Star” to set our course toward (Clinton 2011).

Clinton argued that: liberty and security, transparency and confidentiality, freedom of expression and tolerance these all make up the foundation of a free, open, and secure society as well as a free, open, and secure Internet where universal human rights are respected, and provides a space for greater progress and prosperity over the long run. Where companies must step up to ensure security of private information and not bend to the wills of repressive regimes, governments themselves must

avoid clamping down. Control is a very tempting and powerful force. With the information the Internet provides, the governments of the world could abuse it for their own agendas that restrict human rights.

There are more examples of rights violations in 2011. Many people were shocked when Mubarak's Egyptian regime disconnected the country from the rest of the Internet; a literal "off switch" had been installed and impeded the efforts of the protests. Most people didn't realize it was so easy. Soon afterward, just as the net was being hailed as a source of truth, justice and peaceful revolution, the Syrian government is said to have attacked the Internet access of its own citizens. Syria used forged certificates of US websites to identify, prosecute and in some cases even kill citizen-activists who were using the Internet to associate and to exchange the truth about what was happening in their country, just like Anas Maarawi.

In the end, we must have a firm consensus of exactly what rights we hold in the Internet era, for the ordinary citizens and the governments they participate in. If we do start to talk about access to the capabilities of the Internet as enabling new kinds of rights, then we can imagine that various governments will affirm them as rights along with the UN. Once access to the Internet becomes the foundation for a new kind of right, then national governments can hold one another accountable, individuals rights can be affirmed, and we will live in a world in which people can communicate both with whomever they want and whenever they want without fear of being spied on or censored. Then people can innovate freely to create new technologies that have not yet been imagined and participate in this connected world in all the burgeoning technologies we hope will pave the way to a brighter future.

Two Stances on Internet Access

In his white paper “Is Connectivity a Human Right?”, Mark Zuckerberg examines the title question. He writes about the state of the Internet, the obstacles on the path toward global interconnectivity, and possible solutions to conquer these hurdles. In August of 2013, only 2.7 billion people had access to the Internet; a third of the world’s population. Internet adoption, the growth of the number of people using the Internet, is only 9% per year, and is expected to get lower. Zuckerberg states this rate as slow “considering how early we are in [the Internet’s] development” (Zuckerberg 2013). The number of mobile phones is larger, with five billion phones active and one million of those being smartphones. Smartphones have the capability of data access, but most users either cannot afford the plan or are unaware of its function. The money for these data plans “goes directly towards covering the tens of billions of dollars spent each year building the global infrastructure to deliver the Internet” (Zuckerberg 2013). This high cost is not efficient, meaning “the industry cannot sustainably serve everyone.” (Zuckerberg 2013) This issue of creating a sustainable Internet industry makes it so there is “no guarantee” Internet access will be available for everyone; connecting the world is not going to happen by itself. Zuckerberg believes “connectivity is a human right”, as it greatly enriches the ability to communicate and creates a non-zero sum economy of knowledge.

Vinton G. Cerf is against the idea of the Internet as a human right. In his *New York Times* editorial, he argues it serves more as a tool to facilitate other rights. The Internet provides free communication and access to information, but access to the tool itself is not a right. Technology rises into prominence and falls into obsolescence. In an article for *IEEE Internet Computing*, Cerf elaborates on a comparison he made in his *New York Times* editorial. Over the march of time and innovation, “a horse might once have been indispensable for making a living, but it's been replaced with several hundred horses under the hood of my car in the garage that, itself, has replaced the barn.” (Cerf 2012, 87). Though a horse or a car is a means to transverse a road, the infrastructure of the Internet is more

like the road. The network is composed of many different machines, and their connections is what makes a nearly global-spanning web.

The fundamental protocols that run the Internet and Web, ranging from TCP/IP to HTTP, will likely be subject to change. However, Cerf has stated that the services we think of when we discuss the “Internet” – email, the Web, streaming media, even social media and network protocols – will still be “The Internet” to most people. And with the potential for new services and innovations, the Internet will continue to grow in what it provides for people.

Providing Internet Access

The costs for establishing and maintaining an Internet connection could justify the idea that it is still a luxury of the modern world, but the developing nations do not have to throw Internet access to the side just because they cannot reach the level of the more advanced nations. The WSIS calls Information and Communication Technologies “powerful instrument[s]” capable of assisting economies with increased productivity and job creation. The economic growth from these ICTs can offset the costs of establishing it, but a base level of service may still be needed to enable a foundation of growth. Text is a very inexpensive resource in terms of the data it takes up. In Zuckerberg's white paper, he compares the size of his ten-page document to the size of a thirty second video. The paper takes only a tenth of a megabyte (MB), whereas the video can be between 50 to 100 MB. There may not be as rich of content as the modern world, but a simpler Internet service still allows people to communicate and gather information. People in poorer nations could connect to the growing sphere of knowledge and social interaction with that system of content delivery.

But governments should not bankrupt themselves to ensure that everyone has individual connections or high-end wires, protections and principles need to be in place that make it available

wherever possible. This is similar to how we try to make housing and food available to all, but not necessarily mansions and high-end restaurants. The Internet is a fundamental method of communication and connection, and is becoming more fundamental all the time, as we've seen in the Middle East and elsewhere. Seeing it as a right is an important step towards making it available to as many people as possible.

Most importantly, across the globe people need to realize they can contribute to the Internet beyond just reading web-pages. While Cerf points out the special responsibility of engineers in creating technology that preserves rights, the Web needs far more than engineers and computer scientists. Everyone has something to contribute to the Internet as it comes closer and closer to becoming the *summa* (sum) of all human knowledge. By involving more users into the standards-making process, the Internet will naturally mature to match their expectations of their rights. Time and energy spent now will save on headaches in the future due to ungainly protocols or gaps in human rights protections.

In addition, creating public means of Internet access is a feasible option for people in both developing and modern nations. The WSIS states a "rich public domain is an essential element for the growth of the Information Society". Public areas, such as community centers and libraries, can create their own network of computers capable of connecting to the Internet. People could then travel to these public areas to access the Internet for their needs. The logistics of this system would need to be established by the public areas, such as registration and time limits. The public areas would also need funding to create and maintain the network as well as establish a multi-user connection to the Internet. The means of acquiring these funds, taxes or membership fees for example, would likely contribute to the public ownership of the network.

Public computers and shared networks are not only options. Just as there is public television and radio, a public Internet service could be established as well. A person would just have to purchase the needed equipment to view the content; a television for television, a radio for radio, and a computer for

Internet. Wired connections may not be required in the upcoming future thanks to the growth in wireless fields. Towers and satellites are expanding the wireless network, granting coverage like the growth of cellphones over the late 90s and early 2000's; some of these wireless towers may even be old cellphone towers! Google is currently researching and developing high-altitude balloons to drift high in the stratosphere, creating an aerial wireless network covering the gaps in the wireless and wired networks. Project Loon, as it is called, may even provide coverage where the systems closer to the ground fail. The public Internet service will need to be limited to keep the costs and logistics low. As mentioned before, text is an inexpensive source of information and communication, whereas video media will likely be limited. In addition to low cost, the management of the public Internet would need to fulfill the WSIS's desire for "multilateral, transparent and democratic, with the full involvement of governments, the private sector, civil society and international organizations" to ensure proper distribution of resources and access. Even if Internet access is not a right, the tools should be available for those wanting their rights that are technology-independent or able to be expressed through technology.

Conclusion

The use of the Internet has grown over the last 15 years and has become a staple of life much like the radio, telephone, and television before it. Our Human Right to Internet Access cannot be stifled, and as it grows we will be able to express political and social concerns to a wider sphere. We are experiencing a digital millennium, and we must navigate ourselves into a respectable Information Society. We must address the communication and knowledge gap between the developing nations and the modern world, and ensure human rights are not denied. The Internet is a product of our scientific advancements and desires to make the world a better place for its inhabitants. It is a road available for us to take with

nearly any device, be it computer, smart phone, or some new technology in the future. With the ability to connect and share information, the goal of preserving Human Rights becomes an easier practice.

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