



Chair Summary

On 28-30 November, the 7th Annual Freedom Online Conference took place at the German Federal Foreign Office in Berlin, under the theme “Internet Freedom at a Crossroads – Common Paths towards Strengthening Human Rights Online.” The Conference gathered 350 participants from 90 countries and had just under 60 governments in attendance.

CONFERENCE OVERVIEW

The event was opened by Germany’s Minister for Foreign Affairs, Mr. Heiko Maas. In his opening speech, Minister Maas spoke of the incredible opportunities the internet provides, in sharing ideas, connecting people and providing a space for differences. At the same time, he pointed to a number of worrying trends that risk fragmenting and dividing people, cultures and countries, that violate human rights and harm our democracies. These trends pose two essential questions: Will we manage to preserve the internet as a realm of freedom, or will it become an instrument of suppression? And will we be able to steward democracy in the digital age, or will the internet become a threat to our current systems of government? The Foreign Minister further stressed freedom is not to be taken granted, either online or offline, and emphasized the importance of involving all stakeholders in creating the best conditions for protecting human rights online. All actors – governments, private sector, civil society must actively work together to ensure that the internet can remain a space of freedom and democracy.

The Conference addressed these questions through two plenary sessions and 12 parallel workshops, developed jointly by FOC governments and the FOC Advisory Network – a truly multistakeholder endeavor. The Conference program built on FOC priorities identified in the Program of Action for 2018, including state-sponsored restrictions to human rights online, efforts to support civil society voices online and bridge the digital divides, and discussions around promotion and protection of human rights in the context of cybersecurity. It

additionally addressed a number of critical issues, including content regulation in the digital age, the impact of emerging technologies on human rights, fake news and disinformation and their impact on trust and confidence in the Internet. Further, Day 0 participants had a chance to learn about the work of the Digital Defenders Partnership and participate in a capacity building seminar on how civil society stakeholders can get involved in the work of ICANN. A key takeaway from across Conference sessions was the notion that tackling issues relating to freedom online must be done in a way that respects international human rights law, and by advocating for the existing universal human rights framework in global forums. The Conference reaffirmed that multistakeholder engagement must be at the heart of FOC's activities going forward.

Besides facilitating multistakeholder discussions on topics critical for online freedom, the Conference also provided strategic opportunities for FOC Members and Members of the FOC Advisory Network to hold in-person working meetings. These included a Strategy and Coordination Meeting, an in-person meeting of the FOC Advisory Network, an FOC/Advisory Network Roundtable, and –for the first time– a Peer Learning Session for FOC Members. The Peer Learning Session offered an invaluable opportunity for Members to share information about successes and challenges in meeting Member responsibilities under the following three pillars: 1) domestic; 2) international; 3) relating to FOC engagement. The session enabled Members to exchange experiences and learn from one another on areas for improvement and potential methods for ensuring the integration of a human rights lens in domestic policy, international forums and FOC activities at large.

SESSION SUMMARIES

Opening Ceremony and Plenary

The Opening panel set out the crux of the Conference's theme: Internet Freedom at a Crossroads. The panel assessed contemporary challenges and threats to human rights online and the role of governments in promoting and protecting online freedom in cooperation with other stakeholders. Considering Internet freedom in the global South, the panel raised the question of whether freedom online can be interpreted as a universal concept, considering the regional, national and cultural differences when engaging with online spaces. The panel also discussed that resolving challenges posed by the complexity of issues pertaining to human rights in the digital age requires a holistic and multistakeholder approach.

Plenary 1: Tackling Disinformation in the Digital Age

The panel noted that the fight against disinformation must be done in a way that respects international human rights law, and that citizen empowerment is fundamental in tackling this challenge. This may include investing in digital and civic literacy, as well as promoting the role of free and quality journalism. Finally, it was noted that in order for decision-making against disinformation to be effective, stakeholder engagement –especially of vulnerable groups – is crucial.

Parallel Session 1: Defending Civic Spaces in the Digital Age

Representatives from government, the private sector, and civil society discussed their work to defend civic space in the digital age. They emphasized the importance of a multistakeholder approach to advancing human rights online. The panelists also discussed opportunities to make a greater impact, including strengthening FOC diplomatic coordination and investing in capacity building to increase awareness of Internet freedom concerns and establish a wider base of support. During the Q&A, civil society members expressed concern about restricting civic space in Tanzania, opportunities for non-member governments to engage in the FOC, and the need for the FOC to provide a compelling alternative to digital authoritarianism.

Parallel Session 2: Human Rights and 5G

The panel noted that the shift to a 5G environment will be different from prior shifts (e.g., to 3G, 4G) and will create both positive and negative human rights impacts, either by raising new issues that are unique to 5G, or by exacerbating existing issues. For both, international human rights law and the business and human rights framework are essential. Although the 5G reality is still years away, we need to engage now to ensure that: (i) standard setting processes incorporate human rights concerns, (ii) governments understand how they can use their leverage (through security reviews, export controls, spectrum allocation, regulation, etc.) to protect human rights and ensure accountability/availability of remedy; and (iii) businesses are conducting appropriate human rights due diligence. A key part of the task going forward will be to identify and engage with the large number of companies that will play a role in the 5G environment, many of which are not familiar with HRs/BHRs frameworks.

Parallel Session 3: Bridging the Digital Divides

Panelists examined the challenges and overarching institutional obstacles that contribute to the digital divide and discussed initiatives for building capacities for participation of marginalized groups, especially in the global South and amongst women and girls. Panelists emphasized that in addition to digital literacy, it is important to promote digital inclusion by dealing with the broader landscape of deeply entrenched structural inequalities. The panel suggested that all areas of access are improved, including supply and demand, public access and dependency on digital structure. The digital paradox, where greater levels of connectivity are also met with greater levels of inequality, provides a further challenge in overcoming beyond access issues. Panelists additionally supported the growth of community networks and diversification of platforms.

Parallel Session 4: How to Bring a Human Rights Lens to the Governance of Artificial Intelligence

The panel suggested that FOC governments should advocate for existing universal human rights framework in all global fora where governance challenges related to Artificial Intelligence/Machine Learning (AI/ML) based technologies are being addressed. Rather than developing new ethical frameworks, private sector tech companies should employ the existing universal human rights framework & the UN Guiding Principles on Business & Human Rights to ensure that they take responsibility for potential deleterious effects of their products on

society. Discussion of the human rights impact of AI/ML is important, but analysis once impacts are felt is too late. Instead, human-rights by design should be embedded into product and policy development. Participants underscored the need for cross-sector dialogue including technical education for policy makers, human rights education for technologists, and both human rights and AI education for all students.

Parallel Session 5: Measuring the Protection of Human Rights Online

Stakeholders working on internet freedom—including FOC itself and its member states—need to ensure that priorities and programs of action are based on up-to-date facts and objective information on the evolving threats in order to effectively counter them. Projects that can serve that purpose include Freedom House’s “Freedom on the Net” report, Ranking Digital Rights, UNESCO’s Internet Universality Indicators, and company transparency reports. FOC should make sure to consult these and other similar projects as it proceeds with strategic planning and identifying issue topics for its statements. Methodologies offered by some of these projects could also be one way for the Coalition to track whether its members are implementing positive policies and practices.

Parallel Session 6: Enforcement of Laws and Regulations in the Digital Age

The panel started by noting that different stakeholders may have competing interests, goals and priorities which may affect the definition of the problem as well as approaches to addressing it. The discussion then centered on content removal policies and explored the spectrum of options ranging from long judicial processes to purely corporate jurisdiction over such matters. It was noted that while recognizing the time it may take courts to address questions of content removal and limitations on online speech—due process—it is not logical to automatically call for pure, 100% private company-managed processes. It was suggested that a “middle way” should be found, but that at the end of an escalation path, it should always be independent courts to decide about disputes.

Parallel Session 7: Security and Human Rights in the Digital Age

Panelists identified the challenges inherent in detecting and preventing crimes that are committed using digital technology, including the difficulty in responding at the speed at which crimes are committed and accessing the necessary evidence in a timely fashion. Speakers emphasized that any government policies must ensure the protection of human rights and be consistent with the requirements of legality, necessity, and proportionality, emphasizing that security and human rights should be complementary rather than in tension. Panelists discussed concrete proposals such as the recently passed CLOUD Act in the United States and the proposal of the European Commission for an E-Evidence Regulation. Agreements such as these could be constructive solutions, provided they do not place private companies in the role of adjudicators of users’ rights. Panelists concluded that existing procedures, such as European Investigation Orders and Mutual Legal Assistance regimes, could be modernized and made more efficient in tandem with the conclusion of bilateral and multilateral data-sharing agreements.

Parallel Session 8: Levy on Internet Services - a Threat to Human Rights

The emerging trend of levying different forms of taxes on popular internet services (e.g. over the top services, voice over IP, regulatory license fees), which is taking place in many regions and in Africa in particular, raises serious concerns about the affordability of internet access. Civil society in the session voiced concern that such measures interfere with freedom of expression and act as a measure to control their internet use by governments. Government on the other hand noted that the taxation of internet services can be a legitimate source of tax revenue and that foreign companies that are providing services should be taxable in the countries where their services are being used. There was largely agreement that such taxes should not be imposed on people who are struggling to afford internet access and that due consideration is needed regarding their impact on local content. It was suggested that the FOC take this issue forward by addressing it in its statement on digital divides, and for FOC governments to encourage inclusive discussions with stakeholders before putting in place levies on internet services.

Parallel Session 9: Evolution of Global Standards for Privacy and Data Protection

The panel raised concerns about the trend to build privacy laws and data protection frameworks on the back of cybersecurity and anti-terrorism legislation, as this approach often lacks strong institutional oversight and accountability. The panel also noted that in many countries, a gap exists between privacy standards and their implementation. Panelists expressed concern about the current lack of clear and accountable rules around the gathering and retention of biometric data is particularly problematic, especially in the context of authoritarian regimes trying to shape how countries act on data protection.

Parallel Session 10: Internet Freedom as Freedom of Choice

The panel examined the possibility of making choices: political, economic, social and personal, in the context of the digital age. It was discussed how to preserve a human's capacity to 'choose' in the political, regulatory and economic environments created by the rapid technological developments of recent decades and environments set to change further and rapidly through the breakthrough of new technologies such as Artificial Intelligence. By discussing "Freedom of choice" the session linked the work of the Freedom Online Coalition to date with the challenges ahead. Furthermore, the panelists looked at how policy discussions of the UN Secretary General's "High Level Panel on Digital Cooperation" should look at redefining the parameters for freedom of choice and human dignity.

Parallel Session 11: Gaps and Opportunities in Rights-Based Cyber Norms

The panel noted the need for a more inclusive conversation around cyber norms and their adoption. To encourage adoption, panel pointed to the need for greater investment in cyber capacity building, but also other measures, such as imposing consequences on bad actors. It was noted that norms are just one part of a larger stability framework that includes the application of international law and other initiatives. It was highlighted that norms-setting should not walk back on existing commitments and instead focus on finding agreement on how

existing international law, including human rights law, applies in cyberspace. The panel suggested that governments should facilitate the direct inclusion of experts with multiple competencies and stakeholders in delegations and deliberations that lead to norm-setting. Further, it was noted that private sector should work on building trust through transparency of infrastructure, algorithms and software, while civil society—including technical community and academia— should engage consistently and directly in governance structures.

Parallel Session 12: Towards Global Norms and Mechanisms for Good Platform Practice

As platforms become central to daily life, platform accountability challenges have been met by a mélange of governance initiatives and mechanisms to respond to rising platform power. Governments, research communities, civil society and the private sector itself have taken various steps to develop standards, benchmarks and incentives. But how effective are they? The session investigated two practical examples, including the FairWork Foundation and Ranking Digital Rights, as practical ways of addressing gaps in the promotion and protection of human rights in a range of areas, from workers’ freedom of association to Internet users’ freedom of expression and privacy. Panelists reflected on the practical difficulties of improving platform accountability (like jurisdiction) and called for better cooperation to prevent not only the negative side-effects of poorly designed regulation, but also an increasingly fragmented approach to promoting global norms and responsible platform practice.

Plenary 2 - Vision and Future Direction

FOC Members and Advisory Network Members discussed the key ways in which the FOC can promote and protect human rights online in the face of increasing challenges to online freedom. The FOC and the Advisory Network raised two key focuses for the FOC: i) defending the concept of Internet Freedom and promoting human rights in a new era of challenged democracy, and ii) working with middle countries, between the west and China, to formulate a better offer for internet governance than the one proposed by authoritarian regimes. Going forward, alongside engaging on emerging technologies and disinformation, the FOC intends to more comprehensively leverage its existing rich and diverse international networks, and to coordinate and advance multistakeholder engagement across international forums engaging with issues relating to Internet freedom.

Closing Ceremony

At the closing ceremony of the FO Conference, Professor Timothy Garton Ash, Professor of European Studies at Oxford University and Author of “Free Speech: 10 Principles for a Connected World”, provided an address titled “The Battle for Freedom of Speech Online”. In his address, Professor Garton Ash highlighted the threat of illiberal modernity alternatives in democracy and raised the challenge facing democracies of maximizing liberating possibilities of the internet while minimizing its negative impacts. Professor Garton Ash flagged the dangers of monopoly on power, and the importance of competition law in the role of social media platform accountability. In the face of these multiple challenges, Professor Garton Ash called

for greater dedication to building a liberal multistakeholder model to ensure freedom of speech.

Ambassador Thomas Fitschen closed the conference with an executive summary of the key lessons learned from the Conference, and by thanking all those who had participated for their contributions and engagement at the 7th Annual FO Conference.