

Human rights and Internet Governance

African Internet Governance School

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Overview

- Human rights, the Internet and Internet governance
- Some current issues: censorship, filtering, data retention
- Nigerian and South African experiences
- Women's rights and gender perspectives



Key human rights concepts

- Human rights and freedoms are universal, inalienable, interdependent (UDHR, global, regional and national instruments)
- Rights and freedoms are not absolute: reasonable limitations are permitted
- States obligations: respect, protect, promote
- Private sector: respect, protect and remedy



International Bill of Rights

- Universal Declaration of Human Rights
- International Covenant on Civil and Political Rights (ICCPR)
- International Covenant on Economic, Social and Cultural Rights (ICESCR)
- CEDAW, CERD, CAT, CRC, CRPD ++
- Regional and national instruments
- Emerging consensus



Human rights and IG

- Human rights prominent in Tunis Agenda
- Communications rights movement
- Internet Rights Charter(s)
- Focus on ICT4D, access, privacy and freedom of expression
- Women's rights and IG
- Wider HR context



Human rights and IG

- What has IG contributed to:
 - Protecting and promoting human rights?
 - Providing the access to information and knowledge?
 - Getting peoples voices heard by decision shapers/makers?
 - Accountability of private sector and other non-governmental stakeholders?



Progress

- Special Rapporteur on FX 2011, regional SRFX
- Multiple UN HR mechanisms looking at Internet issues
- HRC resolutions on FX and the Internet
- HR advocacy eg in Universal Periodic Review processes, by civil society including African
- IGF related events and discourse.



Context

- Access remains a significant issue
- Threats to freedoms: rise of censorship, filtering, surveillance
- “Arab spring” not followed by “African summer”
- Discordant global north and south NGO discussion

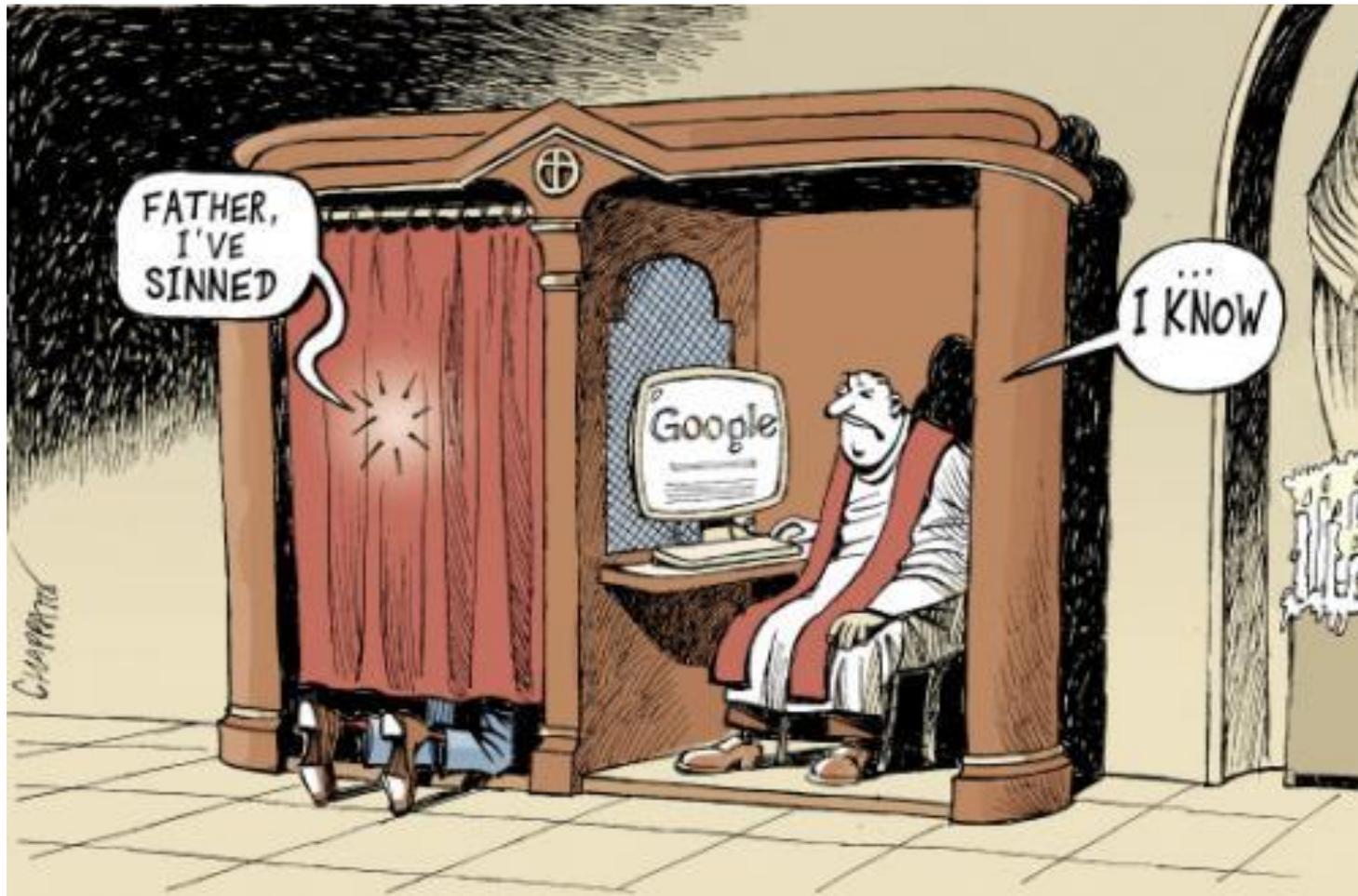


Challenges for all stakeholders

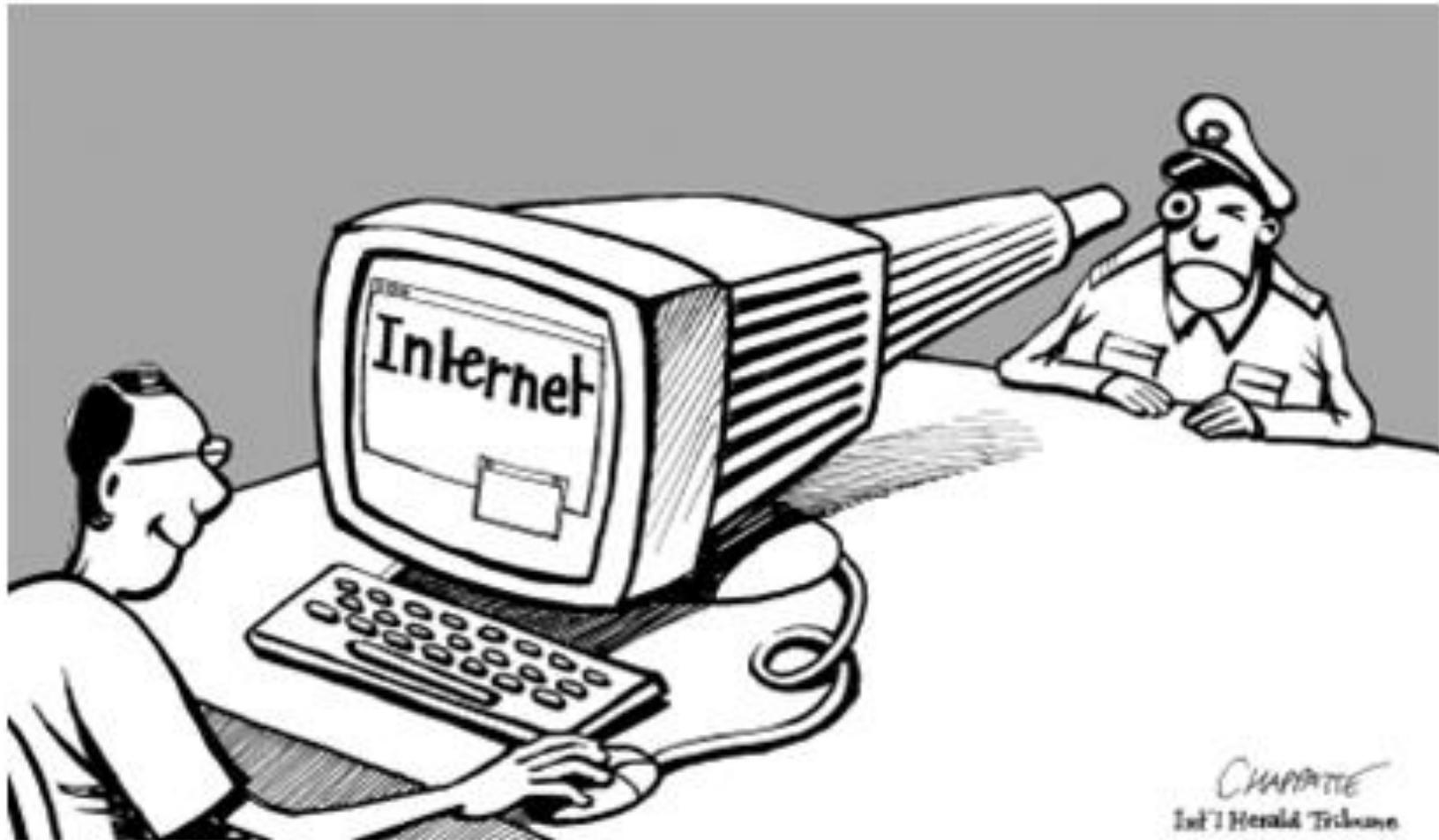
- Governments
- Civil society
- Technical community
- Media
- Private sector
- Academics
- Others?



Role of Internet intermediaries



Privacy



Case studies

- South Africa – internet intermediary liability
- Nigeria - internet intermediary liability
- Data retention
- Content restriction
- Your current issues/questions



Duties and responsibilities

- UDHR Article 29: duties to the community
 - (1) Everyone has duties to the community in which alone the free and full development of his personality is possible. (2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society. (3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations



Duties and responsibilities

ICCPR Article 19:

- 1. Everyone shall have the right to hold opinions without interference.
- 2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either oral, in writing or in print, in the form of art, or through any other media of his choice.
- 3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary; (a) For respect of the rights or reputations of others; (b) For the protection of national security or of public order (ordre public), or of public health or morals



Circumstantial rights application?

- Limitation must have a legitimate aim
- Be construed narrowly and legally clear
- Be proportionate and necessary
- Limitations can be applied for the following reasons, i.a.
 - National security, reputation of others, public order, public health, public morals, to protect children
- Reasons are used legitimately & illegitimately

Prospects and Challenges

- Messy reality of progress
- How to monitor effectively
- Articulating duties of governments & role of other stakeholders eg regulators, ISPs
- All rights, not only civil and political rights
- Engaging governments and mainstream HR organisations

Prospects and Challenges

- Building multi-stakeholder networks and movements
- Human rights V Internet protocols
- Stakeholders' "respective roles"
- Multiple and competing avenues for rights advocacy. Which one? When? Why?
- Sustaining momentum in IG discussions



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