

# **Comments on the Political Chapeau and the Operational Part Human Rights Caucus Contribution to the Work of the Group of the Friends of the Chair March 4th, 2005**

*[NB. This contribution relates to available versions, as of March 4th, 2005, of the Political Chapeau and the Operational Part, that is, versions respectively dated January 20th, 2005 and February 25th, 2005]*

## ***I. With regards to the Political Chapeau***

The human rights framework is mentioned in the opening paragraph of the Political Chapeau but there is no further reference in the text. **The challenge we are facing in developing the information society is not only to reaffirm existing international human rights treaties, but to use information and communication technology to enhance effective implementation of human rights standards at the national level.** Since the human rights framework is the agreed point of departure for the development of the information society, as affirmed in the WSIS Declaration of Principles, the follow up phase must address the challenge of bringing people and countries closer to the human right standards outlined in the Universal Declaration of Human Rights, encompassing the two international covenants on Civil and Political Rights (CCPR), and Economic, Social and Cultural Rights (CESCR).

**A human rights approach implies that human rights standards such as human and social development, democracy, participation and the rule of law are used as focus points for setting goals and measures for progress.** The de facto status of human rights in a given national context is indicative for the level of development, freedom, democracy and the rule of law. So far the proposed measures for progress have concentrated on infrastructure with less emphasis on, for instance:

- Human development (measures on improved health, education, livelihood, and integrity)
- Social and cultural development (measures on enhanced economic opportunities and employment, and on diversity including cultural and linguistic diversity)
- Democracy (measures on compliance with freedom of expression standards, access to information, privacy protection, media pluralism, transparency, participation in decision making, and local capacity building)

Furthermore, a regulatory environment respectful of human rights needs to be ensured both nationally and internationally for human rights to have practical effect. In other words, **it should be clearly affirmed that national and regional ICT regulation must comply with international human rights standards.**

The protection of some human rights was not adequately reflected during the first phase, as the human rights caucus stressed on several occasions. This is specially the case with regards to the right to privacy, labor rights and the principle of non discrimination.

**The WSIS Declaration of Principles lacks a reference to the fundamental and crosscutting**

**principle of non-discrimination** that should have been mentioned within one of the opening paragraphs, as well as **reference to international labor standards**.

In relation to privacy and security, the Human Rights Caucus is concerned with the lack of focus on privacy protection; the WSIS Declaration of Principles focus almost entirely on national security threats and cybercrime. The discussion around security would be enhanced by a clear understanding that **true security can only be achieved by measures that are fully compatible with international human right standards and particularly the right to privacy**.

Another crucial human rights issue relates to the WSIS Declaration of Principles paragraph on “enabling environment” and the rule of law, in which it is stated that the regulatory framework is expected to reflect national realities. **The Human Rights Caucus remains deeply concerned that the rule of law and the regulatory framework are expected to “reflect national realities” instead of being consistent with the legally binding obligations of States according to the international human rights treaties they have ratified.**□

These deficits should be remedied and the issues included in the appropriate sections of both the political chapeau and the operational part.

We are furthermore concerned with the current formulation of the opening paragraph, which dissociates development from human rights. As affirmed in the Vienna Declaration, human rights are universal, indivisible, interrelated and interdependent, thus no development without democracy, no democracy without development. **The objectives of the Millennium development goals and the realization of human rights are interdependent, and should advance one another.** Human rights are not a sectoral issue, relevant to certain stakeholders only, but are one of the essential purposes of the United Nations, according to its Charter.

In the information society context, the full realization of human rights, such as freedom of expression, access to information and knowledge, etc., is essential to education, citizen empowerment, democratic participation, equal opportunities, cultural and linguistic diversity, economic development and innovation, leading to overall social wealth. **Wherever human rights are violated, it has negative impact on the level of development.**

**Extreme poverty and the massive disparities in access to information and to the means of communication are at the same time a cause and a consequence of the unequal distribution of wealth in the world and within countries.** It severely diminishes the capabilities of people to enjoy their human rights, specially the right to an adequate standard of living, and prevents economic and social development.

**Moreover, even in a developed context, wherever surveillance, monitoring and censorship are exercised, wherever legislation and administrative regulation leads to legal insecurity, and breaches of the rule of law, it results in strong negative impact on Internet development and user confidence, as well as on the economy of information society services.** In addition, working conditions and regulation that comply with human rights standards, not least the right to privacy at work, is essential to create a sustainable information society economy at both micro and macro level.

We are also deeply concerned that the political chapeau only has a brief reference in the fourth paragraph to financial mechanisms and Internet governance, while these are central issues of this second phase.

**Financial resources control power and thereby affect human rights realization. Human rights can be effectively strangled by lack of funding.** The way in which financial mechanisms are set up, controlled and prioritized must comply with the objectives of participation of citizens and local communities to public affairs and fair distribution of resources, in order to enable and empower individuals and groups, particularly those who are exposed, marginalized and vulnerable.

**Internet governance has important impact on human rights and democracy.** Whether defined broadly or narrowly, at least human right issues like privacy, freedom of expression, access to information, the public domain of knowledge, etc. are at stake. Any decision resulting from WSIS on Internet governance bodies and mechanisms must ensure that they comply with human rights both through their composition and governing structures and through the regular assessment of the substance of their decisions. **Internet governance must not result in a lawless zone escaping international human rights protection.**

Moreover, the current Internet topography, in terms of international communication routes and of international traffic rate agreements, is leading to unfair distribution of resources and massive inequalities with respect to costs. **The need for fair renegotiation of bilateral and multilateral agreements should therefore be stressed as a mean to promote the UN Millennium goals and to realize the commitments made in the WSIS Declaration of Principles.**

## *II. With regards to the Operational Part*

While this second phase is aiming at making WSIS a Summit of sustainable solutions, we regret that the operational part lacks concrete targets, goals and indicators to measure implementation at national and international levels.

After the Geneva Summit, the Human Rights Caucus stressed that beyond principles, there is the question of enforcement: without effective implementation, the principles would indeed stay without substance. The Geneva Plan of Action was already devoid of any mechanism to advance the human rights agenda, and we are very concerned that the operational part of this second phase fails to show any tangible progress in this respect.

Human rights are standards for measuring economic and social progress and for holding governments accountable. They should be used as benchmarks to follow national implementation of the political goals of the WSIS Declaration of Principles.

**The human rights caucus has the following proposals, to be included in dedicated paragraphs of the Operational Part:**

*(Chapter One, Paragraph 7)*

**Precise indicators** should be defined, in order to evaluate the realization of an information society protecting and promoting human rights. These should be the **benchmarks by which we measure progress and by which we review state legislation and policies**. As we stated in our comments with regards to the Political Chapeau, the objectives of the Millennium development goals and the realization of human rights are interdependent, and should advance one another. These indicators on human rights realization are thus a required part of overall indicators in order to measure ICT for development.

*(Chapter One, Paragraph 10)*

**An Independent Commission on the Information Society and Human Rights**, composed of highly qualified experts with a broad geographical representation, should be established to monitor and assess practices and policies on human rights and the information society. This is particularly urgent, given the tendency in many countries -Both North and South- to sacrifice human rights in the name of “security”.

The proposal could be integrated into **paragraph 10 of the Operational Part**, in which it is stated that “a team of stakeholder” on different action lines would be useful to promote follow-up and implementation of the WSIS Declaration of Principles.□

A Commission working on monitoring and promoting human rights standards in the Information Society could be a very useful mechanism to serve this end on a **specific action line dedicated to human rights** (see below our proposal regarding Action lines). We recommend that the **Office of the High Commissioner for Human Rights** serve as the **coordinating body** of the work of such a team, and that its findings and recommendations be included in the annual report of this UN body.

*(Chapter One, Paragraph 11)*

Among the proposed options for a defined global coordination body, **the Human Rights Caucus favors the proposal of a newly-created UN interagency task force**. None of the existing UN division or agency has, alone, a broad enough focus to deal with the transverse character of topics related to the WSIS Declaration of Principles. Moreover, the diversity of civil society organizations participating in the WSIS process, as well as the number and variety of intergovernmental organizations taking part in this process, make it obvious that a new and transverse (both in thematic and regional terms) body should be created, **so that inclusiveness becomes a reality**. Furthermore, a UN interagency Task force should be preferred over simply a UN ICT-Task force type forum, in that the former **would lead to true commitments, better follow-up on decision implementation, while showing more transparency and accountability**.

*(Chapter Two, Paragraph 20)*

**Human rights learning** should be included explicitly in the operational part. Human Rights learning is crucial for people to actually understand and claim their rights, and **any capacity building program must include a human rights learning component in order to be complete and to lead to effective outcome**. In line with the UN decade on human rights education and linking it to WSIS, human rights learning **should be promoted as an integrated part of education curricula, with special emphasis on human rights challenges in the information society**.

*(Chapter Two, Paragraph 37)*

An **initiative for human rights impact assessment for international investment** should be started. A human rights impact assessment provides essential analytical background for any major investment. It can help policy makers ensure that investments strengthen rather than weaken human rights; it can help business people make better long-term decisions; it can help civil society groups obtain redress for peoples whose rights have been violated. **Just as any major business proposal must undergo an environmental impact assessment, it is our belief that the impact of such projects on human rights should also be assessed in a comprehensive way.**

*(Annex: Action lines, C10)*

We request to **replace current C10 action line (“Ethical dimensions of the Information Society”)** by a **specific action line dedicated to human rights in the information society.**

First of all, while human rights are indeed a transverse issue, which should be the fundamental basis to any development and assessment under all the defined action lines, **we consider that the full realization of human rights in the information society context needs specific initiatives to be undertaken**, such as those proposed by the Human Rights Caucus in this contribution.

Moreover, the lack of any action line dedicated to human rights in current version of the operational part annex is a grave and unacceptable deficit. If not remedied, **such a failure would mean that WSIS second phase is already breaching the commitment made in WSIS first phase**, that is, to build an information society based on human rights.

Finally, as already stated by the Human Rights Caucus, in a joint statement with the Privacy and Security Working Group (“Comments on the Non-Paper produced by WSIS process President after PrepCom3”, October 28, 2003), **the concept of “ethical principles” or “ethical dimensions” is too broad and vague**, and opens for possible misuse, for instance in terms of censorship and violations of fundamental rights like the right to freedom of expression and the right to privacy.

In line with our proposal regarding chapter one, paragraph 10, **the coordination of this action line dedicated to human rights in the information society should be ensured by the Office of the High Commissioner for Human Rights.**