

Magna Charta for the Web

Draft for a constitution of the Internet

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This document is a draft started in 2015 through series of contributions from [Ars Industrialis](#). We welcome your comments and suggestions on terms, rights, and drafting format. You are encouraged to introduce new rights or suggest the removal of rights listed on the draft. We also welcome your suggestions for a title for this initiative; Internet Magna Carta, Great Charter of Internet Rights, and Internet Constitution are among the suggestions through our [hypothes.is annotation instance](#).

Foreword by Bernard Stiegler:

The opening of the World Wide Web in 1993, with its architecture of hyperlinks based upon HTML, has made the Internet the infrastructure through which all aspects of our everyday lives are reorganized.

As stated by Laurence Lessig in the early 2000s, “code is law”: digital encoding and algorithms now determine legal rights. As pointed out by many analysts, since 1993 the Web and more generally the Internet – today accessible by a wide variety of platforms – has profoundly changed our nature. Initially designed to reconstruct the vast variety of peer-to-peer symbolic exchanges that the pre-Internet mass media had tended to eliminate, the internet and the web have once more become before anything else primarily methods of controlling both audiences and behaviors through the technologies of the “data economy” and surveillance by intelligence services.

If indeed code determines legal rights, it must be given to individuals and groups the right to change the existing architecture of the Web, and to encourage civil society to exercise political and economic power over this architecture.

Indeed, the recent evolution of the web and the internet has reconstituted the main features of the mass media, homogenizing viewpoints and forms of life, and so accelerating in a catastrophic manner the entropic trends that dominate the Anthropocene.

Faced with the challenges posed by this new era where the main challenge is to reintroduce order, changing the architecture of digital networks has become a right and a duty that everyone should contribute in order to increase our capacities against the current dangerous trends in the network. This in turn implies an upheaval in the relationship between law and technology, as well as a new responsibility in terms of public and private funding of research to tackle this challenge.

The primary issue facing the challenge of creating a new constitution of the Internet is how to enforce it. There is, after all, no Internet police. So many empty words spilt in declarations over human rights and the Internet that the entire concept of “rights” risks becoming simply “hot air” that becomes complicit in the power of domination and surveillance by their lack of any ability be enforced. Yet even today, the “real” constitution of the Internet is not just yet more written principles – the constitution of the Internet is given in running code of the protocols themselves. Snowden himself provided the crucial insight in how to transform a “formal” constitution of mere words into a “material constitution that can form the Internet itself: “These rights must be inscribed in the protocols of the Internet itself. “

It is imperative then to build these principles into the protocols of the Internet via standards bodies such as the IETF and W3C. This could be done by establishing an 'ethics' review for protocols, to make sure these rights and protocols are not only discussed in governmental bodies, but also amongst civil society, enterprises, and hackers. These are not just human rights, but 'Net' rights of an extended human-technological system, as put by Andy Clark. The task should be to create not only the Web We Want but the World We Want through the creation of rights that are inscribed in the protocols. This may be our last best chance in a world where, due to mass surveillance and the increased power of code, our Enlightenment-era rights that were first given form in the Magna Carta are today in danger of being lost.

The Great Charter of Internet Rights or: The Internet Constitution?

Believing that

The Internet is a commonly owned resource, built by all of us, and belonging to none of us. It enables universal access to knowledge, development and culture, which is the shared birth right of all humankind.

The dignity and worth of the human person, the equal rights of men and women, and the fundamental human rights of all must be upheld in the digital era, and to ensure this, new human rights guarantees need to be established for the future;

Anyone, anywhere should be able to create, express, disseminate and receive ideas and information without fear of being coerced into silence or conformity;

Freedom of information and the free flow of information and ideas are essential to enable all people to fully and freely participate in decisions affecting them and in the cultural and scientific life of the community;

Attempts to constrain or control information and communication on the Internet and through digital technologies for political, commercial, security or other reasons are contrary to human rights and democratic principles:

Now, therefore, we proclaim THIS GREAT CHARTER OF INTERNET RIGHTS as a common standard of digital freedoms for all, to the end that every individual and every institution of society, keeping this Charter constantly in mind, shall strive to promote respect for these rights and by progressive national and international measures, to secure their universal and effective recognition and observance everywhere humans inhabit.*

The internet as a public good

Article 1: Right to Access

Everyone has the right to participate in the information society and has the right to access, regardless of their geographical location, universally available Internet services and digital technology at an affordable price.

Article 2: Right to Net Neutrality

Everyone has the right to receive an unimpeded flow of transboundary Internet traffic. Hence, there should be no discrimination in the treatment of Internet data and traffic based on the device, content, author, origin and/or destination of the content, service or application.

Article 3: Right to Cross Boundaries

Everyone has the right to benefit from a global, interoperable Internet based on end-to-end principles. This right includes freedom from unreasonable barriers to entry and unnecessary burdens which could affect the potential for innovation in respect of technologies and services.

Article 4: Right to Participate

Everyone has the right to make informed decisions and participate in Internet governance, in particular in governance mechanisms and in the development of Internet-related public policies, in full confidence and freedom.

Privacy and rights over data

Article 5: Right to Anonymity

Everyone has the right not to be identified and not to disclose [AJ2] their identity when using the Internet and digital technologies. This right includes the right to anonymous speech, to read anonymously, to browse online anonymously and to use secure communication tools, in particular hardware and software encryption tools.

Everyone accused, denigrated, or insulted has the right to face their accuser, and to know the identity of their accuser. Those that bully, harass others unreasonably lose their right to anonymity.

Article 6: Right to Be Free from Surveillance

Everyone has the right to be free from mass surveillance and unwarranted interception measures by States, commercial and other entities. This includes the right of everyone to

comprehensible, clear and precise information about all relevant and applicable laws, policies and other measures influencing this right; and the right to be notified about any decision authorizing targeted surveillance.[AJ3]

Article 7: Right to Data

Everyone has the right to own and exercise full control over their personal data. Personal data should be processed and/or re-used only with full and informed consent of the individual concerned. The right to own personal data also includes the right to export, import, transfer, synchronise and process personal data.

Everyone has the right to freely access, use and re-use non-personal [OR: “public interest”] data collected by governments or funded in whole or part by public monies. This includes the right to download and process such data in open formats.

Speech

Article 8: Right to Blog

Everyone has the right to disseminate information and ideas to the public through the Internet and digital technologies without permission. Nobody should be required to obtain a licence or to register with the government or any other body in order to disseminate information online.

Article 9: Right to Dissent

Everyone has the right to express, disseminate and receive oppositional or dissenting views, values or interests through the use of digital technology, and the right to use digital tools to engage in individual or collective protest actions. This right includes the usage of the Internet and digital tools as both a medium and a venue of protests, and the right to express, impart and receive information and ideas that might offend, shock or disturb the State, individuals or any sector of the population.

Article 10: Right to Be Free from Liability

Everyone (ISP?) has the right to be free from liability for content of others online. This right includes immunity from liability for

- a. the content of third parties where he/she has not been involved in modifying that content;
- b. the failure to restrict lawful content;
- c. hosting unlawful third-party content; or
- d. the failure to proactively monitor content of others.

(Tolerance and Respect. Borrow language from Universal Declaration of Human Rights to the effect that: “Everyone has duties to the community in which alone the free and full development of his personality is possible. ... All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.”)

Permissionless Innovation

Article 11: Right to Hack

Everyone has the right to break and explore digital codes in public interest and for non-commercial purposes; in particular to surmount technological barriers to information that implement and enforce restrictions on content that should be readily available and accessible.

Article 12: Right to Know-How

Everyone has the right to free digital education and knowledge to exercise their rights in the digital environment. This right includes access to opportunities to develop technical skills to understand, use, and work with a broad range of digital tools, and to critically analyse the accuracy and trustworthiness of available content, applications and services.

Article 13: Right to Independence

Everyone has the right to run their own communication systems and independent mechanisms to communicate and host data. Everyone has the right to use digital tools, for non-commercial purposes, to evaluate, audit, or discover services or servers on network and to find insecurities on them.

Article 14: Right to Collaborate

Everyone has the right to access and use free/libre and open source software (FLOSS) which includes

- a. the freedom to run the software, for any purpose;
- b. the freedom to study, change and improve the software;
- c. the freedom to redistribute copies to help others; and
- d. the freedom to distribute copies of modified versions others.

Creativity

Article 15: Right to Create

Everyone has the right to create content online, including through transformative use of original works subject to copyright and to benefit from broad protection under the fair dealing exceptions.

Article 16: Right to Share

Everyone has the right to receive, impart and personally enjoy cultural goods online. This includes the right to read, listen to, view and browse those cultural goods without copyright restrictions online and to freely access substantially publicly-funded work. The sharing of cultural goods online should not be subject of undue copyright restrictions or enforcement; while those goods that fall into the public domain must remain in the public domain indefinitely.

Limitations

Article 17: Permissible limitations

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. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations. Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

Possible New Articles?

Discussing the inclusion of:

Right to Truth?

Is there a right like the UN right to truth, to scientific truth? Maybe point to UN wording but be very careful about providing a path for governments to reinvent what “truth” is.

Right to Annotate

Regardless of the annotation system is used, this recommendation includes the right to republish web resources with annotations created by end-users.

Right to understand data sources and algorithms

An appropriate explanation of methods used to produce data published on the web as well as algorithms determining that data to be displayed should be included with the data itself.

Right to comment

This is the right to comment on any published data. Beyond comments and annotations, this right would imply in the future new methods of interpreting HTML beyond simple comments and dedicated formats for interpretation. This could lead to categorization and qualification tools going beyond manual and automatic indexing.

Right to use Encryption

Also called a 'right to whisper,' there should be there in order to the right to use encryption, which is currently confused with rights over free software. For example “All users have the right to use encryption to guarantee the confidentiality and integrity of their data and prevent third-parties from capturing their communications.”