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Public hearing on "International digital policy" on Wednesday, 18 October 2023, 14:30 – 16:30 hrs.

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Introduction

I thank the Digital Committee of the German Parliament for the invitation to engage on the issue of the development of a digital international policy. In the section that follows, I provide answers to selected questions that are related to my research and expertise in the technology and social justice sector.

Response to Selected List of Questions:

1. What should a German strategy for international digital policy focus on, and how could Germany and Europe be better positioned in this context?

   Germany's strategy for international digital policy should be **holistic and collaborative.** As Germany embarks on developing an international digital policy, this policy should **aspire to build a just and equitable digital ecosystem that strives to contribute towards a regenerative and circular economy.** In the digital age, where our lives are interconnected, the issues addressed by Germany's digital policy should be holistic. Germany's attempt to develop a digital policy should consider the impact of the digital ecosystem on socioeconomic rights in addition to civil and political rights. The digital age has created millions of jobs worldwide but has eroded labor rights won through the blood and sweat of workers worldwide, often through decades of struggle for fair compensation and wages, fair working conditions, and other related issues. In the name of the gig economy, tech companies continue to exploit the masses as they amass wealth and fame.

Gig workers such as Bolt or Uber drivers, or young people in Kenya who label harmful content on ChatGPT work more than 12 hours.[1] They cannot speak, unionize, or bargain without consequences because the tech companies in San Francisco or European capitals do not believe in labor rights.[2] This needs to change, and Germany's digital policy has the opportunity to influence the lives of millions of gig workers worldwide. Germany's digital policy cannot tell half the story of the digital ecosystem and must incorporate socioeconomic rights. This approach and focus, in addition to being unique, also has the potential to affect millions of online workers around the world.

Through the spirit of collaboration, Germany's new digital policy should aim to share its exemplary experiences of regulating big tech with other countries who are yet to strengthen regulatory bodies or frameworks. Tech regulation in Germany is light years ahead compared to many countries within the Global Majority (i.e., Global South). Many countries could benefit from Germany's practical experience regulating taxi-hailing apps like Uber and content moderation laws like NETZDG law. For instance, through its digital policy, Germany can collaborate with transport labor unions and relevant state agencies to share expertise in regulating ride-hailing apps. Through the same policy, Germany could enable countries like Myanmar, India, Ethiopia,[3] and many places where communities are in turmoil[4] because of hate speech online to find the right balance between regulating hate speech and protecting freedom of expression. This practical expertise addresses a common interest and fosters collaboration across issues and states. Germany, at the same time, could adapt and learn from the experiences of other nations.

Germany's digital policy should aspire to build a just and equitable digital ecosystem that contributes to a regenerative and circular economy. Germany's digital policy should critically examine the current state of the digital ecosystem. The current reality is that big tech companies and their predatory business models have hijacked the digital ecosystem. Their world views attempt to rewrite constitutions and redefine

[1] *Maina, J., A preacher who moonlights as a cab driver is suing Uber and Bolt in Kenya. (2023, September 11). Rest of World. https://restofworld.org/2023/kenya-cab-driver-suing-uber-bolt/*

[2] Perrigo, B., Meta Accused Of Human Trafficking and Union-Busting in Kenya. (May 11, 2022). Time. https://time.com/6175026/facebook-sama-kenya-lawsuit/

[3] Mackintosh, E., (2021, October 25). *Facebook knew it was being used to incite violence in Ethiopia. It did little to stop the spread, documents show*. CNN. https://edition.cnn.com/2021/10/25/business/ethiopia-violence-facebook-papers-cmd-intl/index.html

[4] Lima, C. (2021, October 25). A Whistleblower's power: Key Takeaways from the Facebook Papers. Washington Post. https://www.washingtonpost.com/technology/2021/10/25/what-are-the-facebook-papers/

fundamental rights such as privacy without any democratic mandate. Equally important, these tech companies have defined the digital economy, and their predatory business model will continue exploiting human and natural resources. Therefore, with its digital policy, Germany should contemplate how states could take this power back from big tech and redefine the course of the digital economy towards a just, equitable, and regenerative economy.

2. To what extent is an increasingly multipolar world order influencing the work of the institutions traditionally responsible for internet governance, and what implications does this have for the open, free internet and access to it, or for the protection of human rights and communication freedoms? To what extent are underhand methods also being used in an attempt to undermine the international standardization bodies in geopolitical terms, for example to impose certain values by technical means or to close markets to competition? What consequences should this have for the German and European strategy on international digital policy?

Competing state interests play out at internet governance and standard-setting bodies. In recent years, institutions like the International Telecommunication Union have become battlegrounds for ideologies of individual states or the interest of private tech companies. Notably, the Technical Standardization Sector (ITU-T) of the International Telecommunication Union (ITU), whose work enables telecommunication and ICT infrastructures to connect across borders, amongst other issues, exhibits these characteristics. Unlike other Standard Developing Organizations (SDO), the ITU-T, in particular, is a state-led process and, unfortunately, drives the state's agenda. The lack of consensus-driven, participatory, and multi-stakeholder engagements, unlike other SDOs, makes the ITU an avenue where human rights are considered when it only benefits the interest of certain states. For instance, previously, the ITU had endorsed standards allowing deep packet inspection tools (DPI) to be installed, ultimately undermining the privacy of telecommunication users worldwide.[5] More recently, a few companies, such as Huawei and others, suggested restructuring the internet through the ITU-T to allow for a top-down control of the global internet infrastructure.[6] This initiative, commonly referred to as the "New IP"

[5] Llanso, E. & Cooper, A., Adoption of Traffic Sniffing Standard Fans WCIT Flames. (2012, November 28). Center for Democracy and Technology. https://cdt.org/insights/adoption-of-traffic-sniffing-standard-fans-wcit-flames/

[6] Gross, A., & Murgia, M. (2020, March 27). *China and Huawei propose reinvention of the internet*. Www.ft.com. https://www.ft.com/content/c78be2cf-a1a1-40b1-8ab7-904d7095e0f2

initiative,[7] would undermine the current decentralized structure and allow for a centrally controlled and top-down approach that would be easy to control and switch off when needed.

Therefore, Germany's and the EU's digital policy should invest in the appropriate expertise via its representations at the ITU and other venues so that protocols, standards, and policies are adequately discussed. Moreover, digital policies from Germany and the EU should fight to invite more civil society participants and representations in these spaces.

3. Could and should digital-policy considerations be taken into account more in the trade-policy decisions and initiatives of the Federal Government and the European Union, for example when drafting trade agreements – and if so, in what ways?

Depending on the context and the nature of trade agreements, digital policy considerations should be put in place. These considerations, where they affect the digital lives of citizens, businesses, or ecosystems, should consider such measures such as data protection and the safeguarding of data transfers between the trading parties and, where applicable, should include opportunities for the trading parties to develop digital policies and considerations that help safeguard rights affected by digital technologies.

4. In the past, there have been repeated calls for the EU to pursue a "third way" with regard to the regulation of its digital ecosystem – distinct from China's techno-authoritarianism and the US digital economy. Do you regard this approach as outdated, in view of the shift in German foreign and security policy (Zeitenwende) and the resulting need for greater digital-policy cooperation and integration with the United States and other liberal and democratic partners?

The EU's approach to regulation of the digital ecosystem is still relevant and should be strengthened and encouraged. The China Vs. U.S. narrative towards the digital economy has been detrimental to the digital ecosystem's development. This is notable in the telecommunications sector.[8] The EU is the only entity that adequately

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[7] "New IP" Proposal Frequently Asked Questions. (2022).
https://www.internetsociety.org/wp-content/uploads/2022/02/Huawei-New-IP-Proposal-FAQ-1.pdf

[8] Bartz, D., & Alper, A. (2022, November 26). *U.S. bans Huawei, ZTE equipment sales, citing national security risk. Reuters.*
https://www.reuters.com/business/media-telecom/us-fcc-bans-equipment-sales-imports-zte-huawei-over-national-security-risk-2022-11-25/

regulates tech corporations and has remarkably impacted the protection of fundamental rights such as privacy and freedom of expression. For instance, the GDPR and other similar EU regulations are the emblem of privacy regulation and have set important precedents globally.

While cooperation and integration with the U.S. might be critical for the EU's geopolitical realities, this should not sidetrack the work the EU has been doing in regulating the digital ecosystem, particularly tech companies. Geopolitics and interests will shift, and current foes might become future friends. However, what does not change is the increasing need to regulate the digital ecosystem from tech moguls and tyrants that, within one or two clicks in San Francisco, attempt to change the realities of millions of lives. The EU is currently the only regional block willing and able to tame the unfair and undemocratic powers wielded by tech corporations. This "third way" is the only way toward a just, fair digital ecosystem.

5. How can democratic internet governance be ensured over the long term? In this context, what role is played by existing formats such as the IGF, the planned Global Digital Compact, and transnational organizations such as ICANN (particularly with regard to the multistakeholder model and civil society involvement)?

Two practical things can ensure democratic and participatory governance of Internet governance:
- Multilateral bodies such as the multilateral institutions should refrain from creating similar entities that compete to address the same issues and scatter funding and attention towards critical digital rights and policy issues, making it expensive for states and civil society organizations to follow all digital policy issues in all the venues that discuss the issue.[9]
- States should encourage and invest in diverse civil society participation within the IGF and other entities to ensure democratic and participatory internet governance across the different venues that discuss digital policy. CSOs fight for the integrity, participatory, and democratic nature of the digital ecosystem; therefore, their meaningful participation is critical.

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[9] IT for Change, *Pragmatic Deal or Tragic Compromise? Reflections on the UN SG's Policy Brief on the Global Digital Compact*. (June 6, 2023). Bot Populi.
https://botpopuli.net/pragmatic-deal-or-tragic-compromise-reflections-on-the-un-sgs-policy-brief-on-the-global-digital-compact/

6. What should Germany critically examine when developing its international digital policy, with regard to the international impact of national laws on power relations, new dependencies, global justice and Germany's colonial heritage?

    Germany's international digital policy should not be agnostic to past harms caused by racist and sexist science and technology.[10] While understanding this history is critical, examining how these historical injustices manifest today through different forms of neo-colonization or other modern-day oppressions is equally essential. For instance, large language models that often disregard the global majority of languages perpetuate extreme discrimination against the most vulnerable.[11] Through its history, Germany understands the impact the otherization of communities and the disregard for other people's identity and culture has on humanity. Therefore, Germany, through the spirit of fraternity and collaboration, should advocate for standards around emerging technologies so that tech companies do not obliterate cultures and communities.

    Moreover, neo-colonization through gig work, where tech companies extract revenue without adequate compensation or suitable work conditions for workers, is rampant in many countries. This is considered modern-day slavery, where online workers in many parts of Africa and Asia work hours without making enough to take home to their families.[12] At the same time, tech companies grow through the fruits of their labor. If regulating these tech companies is outside of the reach of Germany, Germany should aspire to support countries regulating these issues.

7. How are digital-policy instruments currently abused by states as a tool of oppression (e.g. internet shutdowns), what developments are we witnessing in this context, and how can and should the EU and Germany take effective action to stop this?

    Countries worldwide use laws and policies to censor, throttle and shut down the Internet. Undemocratic countries have been using internet shutdowns to quell protests, steal elections, and hide significant political movements within countries.[13] These are alarming trends. On the other hand, we have seen seemingly democratic

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[10] Benjamin, R. (2019). Race After Technology. polity.

[11] Taye, B. (2022, June 13). Until the Machine Learns Your Language, You Stay Put [Review of Until the Machine Learns Your Language, You Stay Put]. Centre for International Governance (CIGI Online). https://www.cigionline.org/articles/until-the-machine-learns-your-language-you-stay-put/

[12] Chandran, R., (October 1, 2021). Asia's gig workers strive to match global gains on labour rights. Thomson Reuters Foundation News.trust.org. https://news.trust.org/item/20211001122523-2yb0e

[13] KeepItOn: Fighting internet shutdowns around the world. Access Now. https://www.accessnow.org/campaign/keepiton/

governments such as Senegal,[14] the United States, and others attempt to shut down the internet or block apps.[15] For instance, Senegal has shut down the Internet and has proved that democratic governments can also shut down the Internet when it serves them.[16] In the U.S., the attempt by the former regime to block TikTok using dubious claims of national security has also shown that internet shutdowns or bad digital policies are not just instruments of undemocratic states but all governments who act in bad faith. We have also seen social media companies such as Facebook lobbying the U.S. government to ban TikTok in the U.S.[17]

Therefore, Germany and the EU should continue to fight for the decentralization of the Internet so that one government or company does not have the power to switch it off or lobby for apps to be blocked because of market competition. Supporting and diversifying sources of internet connections and upholding participatory democratic principles when developing digital policy instruments will be critical and practical actions toward change.

8. What cross-cutting policy fields should be taken into consideration by the Federal Government when developing a strategy for international digital policy?

International digital policy often only focuses on human rights. However, we have witnessed in recent years that the gig economy and digital economy significantly affect socioeconomic rights in many countries. Therefore, the Federal Government is encouraged to consider cross-cutting socioeconomic issues relevant to the digital economy. In particular, when considering AI policies, the Federal Government should consider the supply chain of this technology, including the dubious conditions of workers who train, label, and augment the data to make it ready for use. When considering specific hardware, the Federal Government should consider how the raw materials were extracted and whether the lives of the people that lived next to these raw materials have changed or stayed the same. Equally, the same considerations should be made for the environment.

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[14] Stop the internet shutdowns: Senegal authorities must end censorship. (August 3, 2023). Access Now. https://www.accessnow.org/press-release/internet-shutdowns-senegal/

[15] Fung, C. T. (2023, March 18). The US government is once again threatening to ban TikTok. What you should know | CNN Business. CNN. https://edition.cnn.com/2023/03/18/tech/tiktok-ban-explainer/index.html

[16] Stop the internet shutdowns: Senegal authorities must end censorship. (August 3, 2023). Access Now. https://www.accessnow.org/press-release/internet-shutdowns-senegal/

[17] Fung, C. T. (2023, March 18). The US government is once again threatening to ban TikTok. What you should know | CNN Business. CNN. https://edition.cnn.com/2023/03/18/tech/tiktok-ban-explainer/index.html

9. What is the experts' view of African countries' technological expertise in the digital sphere, e.g. on issues such as IT security or AI applications, and would greater exchange on these issues not amount to a one-sided outflow of technology from Germany, in most cases?

    Historically,[18] and in some contexts presently, Europe was developed through forced labor and raw materials from Africa and other places. This one-sided and extractive relationship should continue to change. If situated within a holistic and collaborative framing, the current exchange with Africa would not result in a one-sided outflow of raw materials needed for technology.

    African governments and private sectors are growing their digital footprint, Germany should continue to support these endeavors. Africa's technological expertise in IT security and AI applications is rapidly developing. For example, governments in Kenya, Ghana, South Africa, Ethiopia, Rwanda, Egypt, Mauritius, and Nigeria prioritize tech innovation.[19] They are taking steps to boost innovation, improve data security, and invest in research and development. These efforts are yielding early AI adoption successes and attracting global corporate investment. Furthermore, Africa's young population and its government aspirations have the potential to establish Africa as a global technological hub, with AI and other emerging technologies playing critical roles in transforming economies and fostering growth and structural change.

    Germany should encourage collaboration, knowledge sharing, and mutually beneficial partnerships, allowing both parties to benefit from each other's expertise and resources for technological advancements.

10. How could an international digital policy pursued by Germany contribute to moving closer to the goal of a fair and inclusive global digital transformation, and, to this end, help to strengthen global partnerships based on equality and openness (e.g. digital commons) and to achieve greater diversity in innovation processes and technology production; in particular, what role could support for open and sustainable technological solutions play in this context, including those produced by grassroots innovators in the Global South?

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[18] Minerals in your mobile phone. (June 4, 2015). The East African.
https://www.theeastafrican.co.ke/tea/business/minerals-in-your-mobile-phone--1336664
[19] Centre for Intellectual Property and Information Technology Law (CIPIT), The State of AI in Africa Report 2023,
https://cipit.strathmore.edu/wp-content/uploads/2023/05/The-State-of-AI-in-Africa-Report-2023-min.pdf

Germany's international digital policy could significantly contribute to a fair and inclusive global digital transformation. For instance:

- Germany can encourage more grassroots and community-led initiatives that build and deploy technology by supporting digital common initiatives such as FeminsitAI, indigenous AI and other similar initiatives.
- Germany can contribute towards an inclusive digital ecosystem by supporting free and open-source communities to participate in developing emerging technologies such as AI and others.
- Germany can promote sustainability and ethics in technology by supporting initiatives and groups that build technology that serves the regenerative and circular economy.

11. What topics should an international digital policy cover in order to address the most important issues in the relationship between the Global North and the Global South, with a view to achieving a fair and inclusive global digital transformation? Please state (briefly) why in each case. (For example: raw material extraction and its consequences, market concentration, representation in data and content, norms/standards/governance, digital commons, platform work, participation and access to education / innovation processes / connectivity, etc.)

An international digital policy should cover socio-economic and political rights issues, particularly in global north and south conversations.

- Market concentration - promoting competition and preventing monopolistic practices is essential for fostering a diverse and accessible digital ecosystem. Most tech companies are concentrated in North America and Europe and often disregard the needs of the global majority. This has devastating consequences, as seen with Facebook's practices in Myanmar,[20] Uber and Blot dodgy labor practices in Kenya, Nigeria, and South Africa,[21] and ChatGPT's exploitation of young online workers in the Global Majority.[22]

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[20] Algorithm of harm: Facebook amplified Myanmar military propaganda following coup. (2021, June 23). Global Witness. https://www.globalwitness.org/en/campaigns/digital-threats/algorithm-harm-facebook-amplified-myanmar-military-propaganda-following-coup/

[21] *Maina, J., A preacher who moonlights as a cab driver is suing Uber and Bolt in Kenya. (2023, September 11). Rest of World. https://restofworld.org/2023/kenya-cab-driver-suing-uber-bolt/*

[22] Perrigo, B. (2023, January 18). Exclusive: The $2 Per Hour Workers Who Made ChatGPT Safer. Time. https://time.com/6247678/openai-chatgpt-kenya-workers/

- Representation in data and content - Ensuring diverse cultural and linguistic representation in digital content and data is essential to empower marginalized communities.
- Norms/standards/governance - Establishing international norms and standards for digital governance must ensure fair rules that balance the interests of the Global North and Global Majority countries.
- Platform work - To avoid exploitation and promote economic inclusivity, especially in Global Majority counties, ensuring fair labor practices and workers' rights in the digital gig economy is important.
- Participation and access to education/innovation processes/connectivity - Expanding the reach of digital education, innovation, and connectivity is important to empowering the Global Majority to participate in the digital economy.
- Development of digital infrastructure - Investing in open and freely accessible digital infrastructures, including those necessary for deploying AI models and other basic infrastructures such as connectivity, is critical to bridging the technology and digital divide.

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