

**FINAL DRAFT FOR COMMENT**

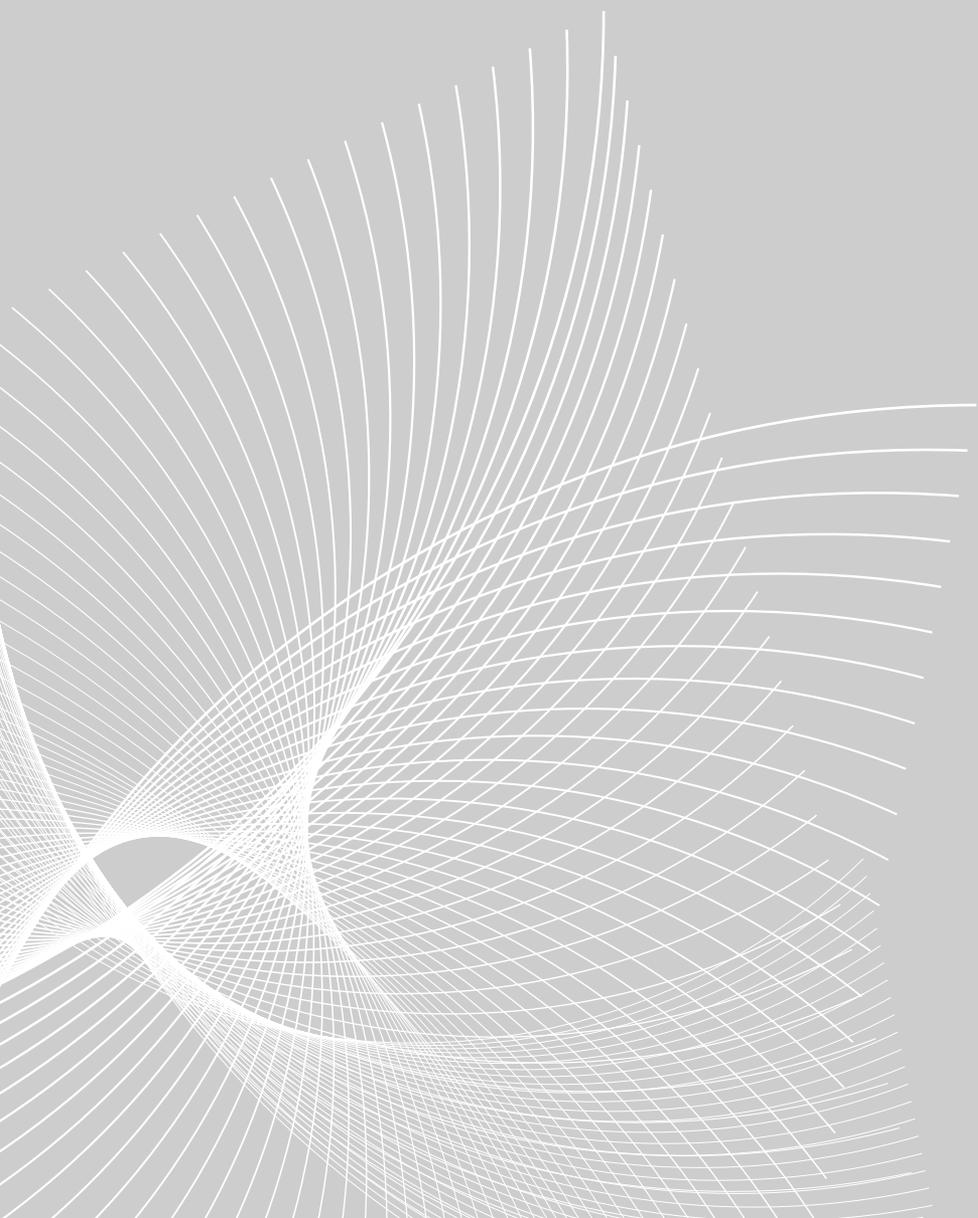
**THE HUMAN RIGHTS**

**PRINCIPLES**

**FOR CONNECTIVITY**

**AND DEVELOPMENT**

**December 2016**



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# I. INTRODUCTION

**Internet connectivity** is essential for economic, social, cultural, political, and civic participation in the digital age. For the benefits of information and communications technologies to spread equitably and freely, connectivity must occur within a human rights framework.

Our goal in developing the Principles is to prevent, mitigate, and remedy human rights harms that arise in development projects to build internet infrastructure, connect the world to the internet, and achieve the Sustainable Development Goals (SDGs)<sup>1</sup> using information and communications technologies (ICTs). Since more than four billion people lack access to the internet, the largest stakeholder group in these efforts remains unconnected, likely marginalized, rarely consulted, and dangerously at risk of being left behind in the digital age. Our process is open to input and innovation to support the broadest possible participation.

The Principles advanced in this draft are grounded in international human rights law and norms; are consistent with the SDGs as well as development best practices; and are designed to help guide initiatives to increase connectivity to the global internet. We use the term “connectivity” here in recognition of the many programs that aim to spur infrastructure investment and bring all people online by 2020, such as the Global Connect Initiative,<sup>2</sup> Connect the World,<sup>3</sup> and Connect 2020.<sup>4</sup> We intend the term to encompass efforts to provide affordable access to infrastructure, including public access points, as well as policy initiatives and capacity-building programs to enable development and the free and safe exercise of human rights online.

These Principles do not aim to supplant, but rather to build on and adapt, such foundational documents as the Internet Rights and Principles Coalition (IRPC) Charter of Human Rights and Principles for the Internet,<sup>5</sup> the Association for Progressive Communications (APC) Internet Rights Charter,<sup>6</sup> the UN Guiding Principles on Business & Human Rights,<sup>7</sup> and the Council of Europe Guide to Human Rights for Internet Users.<sup>8</sup> They are intended to inform financial institution safeguards like the Overseas Private Investment Corporation’s Environmental and Social Policy<sup>9</sup> Statement.

1. <http://www.globalgoals.org/#the-goals>
2. <https://share.america.gov/globalconnect>
3. <http://connecttheworld.one.org>
4. <http://www.itu.int/en/connect2020/Pages/default.aspx>
5. <http://internetrightsandprinciples.org/site>
6. <https://www.apc.org/node/5677#1>

7. <https://business-humanrights.org/en/un-guiding-principles>
8. <https://www.coe.int/en/web/internet-users-rights/guide>
9. [https://www.opic.gov/sites/default/files/consolidated\\_esps.pdf](https://www.opic.gov/sites/default/files/consolidated_esps.pdf)

## II. THE HUMAN RIGHTS PRINCIPLES FOR CONNECTIVITY AND DEVELOPMENT

Below are the **(9) Principles**, followed by an **elaboration** of the practical applications of each principle in the design and roll out of connectivity programs, and a citation of **sources**.

### THE PRINCIPLES

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**1.**

**Assessments of connectivity investments must include an evaluation of the impact on human rights.**

**2.**

**Investment in infrastructure should be deployed hand-in-hand with human rights-based capacity building, public access points, and skills development.**

**3.**

**Investors should support connectivity for development that respects human rights.**

**4.**

**Investors should promote affordable and open access to the whole internet.**

**5.**

**Investors should seek to facilitate freedom of expression through resilient and robust networks that reach marginalized and vulnerable communities.**

**6.**

**Connectivity investments for development must respect privacy, which is essential for the internet economy.**

**7.**

**Projects for connectivity should be undertaken using open, transparent, and inclusive processes.**

**8.**

**Connectivity initiatives should remain open to civil society and community participation throughout the life of the project.**

**9.**

**Connectivity initiatives must meaningfully extend access remedy to through robust and rights-respecting oversight and grievance processes.**

Please note that this document is in **draft** form and requires input from a broad range of stakeholders.

## ELABORATION

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Please find each principle followed by a list of practical implications and sources for the principle.

### PRINCIPLE 1

**Assessments of connectivity investments must include an evaluation of the impact on human rights.** Connectivity, development, and human rights are interdependent, and should not be considered in isolation. Those evaluating connectivity investments for development must consider the impact on political, economic, social, and cultural rights.

#### In practice, this means:

- Projects should deploy social, cultural, and human rights impact assessments for progress checks and ensuring accountability of connectivity processes. Impact assessments should be carried out for all connectivity projects, in close consultation with civil society, affected communities, and human rights experts.
- Connectivity initiatives should promote digital inclusion, with greater focus on rural, native, and poor communities, and proceed with respect for human rights.
- Connectivity indicators should be measured alongside human rights indicators. Connectivity adds significant value when it facilitates human rights.
- Assessors should be sensitive to the challenges of connecting isolated communities to the internet. Training of community leaders and community members will address potential negative impacts.

#### Sources for the principle:

- *WSIS+10 Outcome Document, 2016: "Progress towards the WSIS vision should be considered not only as a function of economic development and the spread of ICTs but also as a function of progress with respect to the realization of human rights and fundamental freedoms" (Preamble, para 14); "We commit to harnessing the potential of ICTs to achieve the 2030 Agenda for Sustainable Development and other internationally agreed development goals, noting that ICTs can accelerate progress across all 17 SDGs" (ICT for Development, para 17).*
- *Human Rights Council, Resolution 26/13, The promotion, protection and enjoyment of human rights on the Internet, 2014: "Noting also the importance of building confidence and trust in the internet, not least with regard to freedom of expression, privacy, and other human rights so that the potential of the internet as, inter alia, an enabler for development and innovation can be realized."*
- *McKinsey & Co., 2011, Internet Matters: "The internet is a critical element of growth...The internet contributed 7 per cent of growth over the past 15 years, and 11 per cent over the last five."*

## PRINCIPLE 2

**Investment in infrastructure should be deployed hand-in-hand with human rights-based capacity building, public access points, and skills development.** To bridge persistent digital divides will require more than simply extending infrastructure; education is vital for unlocking the full benefits of connectivity for a population.

### In practice, this means:

- Identify and promote development models that provide affordable, decentralized, and sustainable access and connectivity.
- Connectivity should be rights-respecting, equitable, inclusive, promote gender equality, and strive to bridge race, class, language, culture, and similar divides. Vulnerable groups should be meaningfully consulted and their human rights robustly protected before and after coming online.
- The value of community anchor institutions such as libraries, universities, and schools as points for public access of the internet should be recognized. As well as helping those who are far from getting access at home, these open and public spaces are also often the place where people first connect, and build the skills and confidence to make the most from the internet. Funding for points of public access should include support for trained staff to provide technical instruction as well as basic digital literacy and hygiene skills.
- Initiatives should incorporate capacity-building on privacy, freedom of expression, and other human rights issues into connectivity projects, and facilitate local content creation, innovation, and control.
- Stakeholders leading connectivity initiatives should partner with local communities to ensure the development of local capacities, and the operation of local services and infrastructure. Create and support long term sustainable, autonomous, and community-developed networks, with attention to innovative technologies and spectrum policies.

### Sources for the principle:

- *WSIS+10 Outcome Document, 2015: "Many forms of digital divides remain, both between and within countries – as well as between women and men... Divides are often closely linked to education levels and existing inequalities, and we recognize that further divides can emerge in the future, slowing sustainable development."*
- *UN General Assembly, Resolution 68/198, Information and communications technologies for development, 2013: "Recognizing that the lack of capacity-building for the productive use of information and communications technologies needs to be addressed in order to overcome the digital divide"; "Recognizing also that the number of internet users is growing and that the digital divide is also changing in character from one based on whether access is available to one based on the quality of access, information, and skills that users can obtain and the value they can derive..."*

- *Global Commission on Internet Governance, One Internet, 2016: “Government should invest in public access points, which can play a significant role by providing individuals with an opportunity to connect to the internet. The installation of public internet access points should be encouraged in schools, libraries, and other social service venues to ensure that individuals are not prevented from having access due to a lack of tools or available resources. In some instances, central, state, and municipal governments may consider investing in the build-out of access networks, again for the most part where private sector investment is insufficient.”*
- *Internet Governance Forum (IGF) Dynamic Coalition on Public Access in Libraries, Principles of Public Access in Libraries, 2015: “Policies and legislation should create an enabling environment for universal access to information by supporting the role of libraries in providing public access to ICTs, internet connectivity, and technology training.”*
- *NETmundial Multistakeholder Statement, 2014: “Access and low barriers: internet governance should promote universal, equal opportunity, affordable, and high quality internet access so it can be an effective tool for enabling human development and social inclusion. There should be no unreasonable or discriminatory barriers to entry for new users. Public access is a powerful tool for providing access to the internet.”*

### PRINCIPLE 3

**Investors should support connectivity for development that respects human rights.** Human rights apply online just as they do offline. Participation in connectivity initiatives should be conditioned on demonstrated respect for human rights, applicable before, during, and after completion of the project. To ensure sustainability of connectivity projects and avoid partial execution of investments, conditions should be reached through cooperative strategies.

#### **In practice, this means:**

- Connectivity initiatives must take into consideration the best practices in relation to human rights impacts. Cooperative strategies involving human rights experts, technologists, local communities, civil society, lawyers, and developers should be prioritized. Developers must respect and abstain from excluding local and autonomous developed networks when deployed.
- Infrastructure developers should consult policy experts in conducting human rights impact assessments, just as policy bodies must reach out to technologists and operations experts in crafting law and regulations.
- Laws need to be consistent in protection of rights online and offline. Disproportionate restrictions that allow for persecution of human rights online and greater penalties for offenses involving ICTs do not comport with international law and norms.
- Convergence between digital and physical worlds requires continued attention to the human rights impacts of connected devices and “things.”

## Sources for the principle:

- *Human Rights Council, Resolution 20/8, The promotion, protection and enjoyment of human rights on the Internet, 2012: Affirms that the same rights that people have offline must also be protected online, in particular freedom of expression...; “Calls upon all states to promote and facilitate access to the internet and international cooperation aimed at the development of media and information and communications facilities in all countries.”*
- *UN General Assembly, Resolution 21/16, The rights to freedom of peaceful assembly and of association, 2012: “Reminds states of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants...”*
- *WSIS+10 Outcome Document, 2015: “We recognize that human rights have been central to the WSIS vision, and that ICTs have shown their potential to strengthen the exercise of human rights, enabling access to information, freedom of expression, and freedom of assembly and association.”*

## PRINCIPLE 4

**Investors should promote affordable and open access to the whole internet.** The internet is a global resource that must remain open and affordable. Affordability should be set based on local needs and realities. Public, aid, and development-targeted funding should not enable private actors to create walled gardens or employ business models that fail to offer users affordable access to the global internet.

### In practice, this means:

- Non-discrimination should be a controlling principle, applying to all layers of the stack, meaning it is the norm for internet access and content regulation as well as infrastructure buildout, and the benchmark to evaluate new business models. Development projects should not discriminate based on a community's political, cultural, ideological, or other affiliations.
- Internet access services should strive to give users open access to the global, end-to-end internet, which is necessary to ensure realization of both rights and development. Providers should not unfairly discriminate, either by giving preference to some users or content over others, or by limiting certain users to a small segment of the internet.
- As the APC Internet Rights Charter declares, “technical standards used on the internet must always be open to allow interoperability and innovation. New technology development must meet the needs of all sections of society, particularly those who face limitations and obstacles when they go online (such as communities who use non-Latin scripts or people with disabilities, older computers or lacking high-speed access).”

- Access to culture and science online brings economic, social, and political benefits, as well as stimulating further creativity and innovation. While ensuring that those who make a living out of their creativity are fairly rewarded, copyright and related rights and tools should not be used to restrict access to information online unduly.

### Sources for the principle:

- *Human Rights Council, Resolution 26/13, The promotion, protection and enjoyment of human rights on the Internet, 2014: "Recognizes the global and open nature of the internet as a driving force in accelerating progress towards development in its various forms."*
- *NETmundial Multistakeholder Statement, 2014: "The ability to innovate and create has been at the heart of the remarkable growth of the internet and it has brought great value to the global society. For the preservation of its dynamism, internet governance must continue to allow permissionless innovation through an enabling internet environment... Enterprise and investment in infrastructure are essential components of an enabling environment"; "The internet should be preserved as a fertile and innovative environment based on an open system architecture, with voluntary collaboration, collective stewardship, and participation, and uphold the end-to-end nature of the open internet..."*
- *WSIS+10 Outcome Document, 2015: "We note the important regulatory and legislative processes in some member states on the open internet in the context of the information society and the underlying drivers for it."*
- *Alliance for Affordable Internet, Mobile Data Services: Exploring User Experiences & Perceived Benefits, 2016: "The vast majority of users (82%) prefer access to the full internet with time or data limitations, if restrictions are imposed. Approximately half (48%) of all users said that the restriction they most preferred was a limitation on time (i.e., the free plan would be only be valid for a short time, with no restriction on the websites/apps that could be accessed) ..."*
- *Global Commission on Internet Governance, One Internet, 2016: "Network Neutrality is the principle that internet traffic should be treated equally and that network operators should be prohibited from prioritizing, throttling, or blocking particular types of traffic that flow across their network. The Commission supports the idea that internet traffic should be treated equally, without discrimination, restriction, or interference, independent of the sender, receiver, type, content, device, service, or application."*
- *Report of the UN Special Rapporteur on Cultural Rights, Farida Shaheed, Copyright policy and the right to science and culture, 2014: "In the view of the Special Rapporteur, [...] measures [website blocking, content filtering, and other limits on access to content subject to copyright, as well as the liability imposed on intermediaries for infringing content disseminated by users] could result in restrictions that are not compatible with the right to freedom of expression and the right to science and culture. Additional concern is expressed over the deployment of aggressive means of combating digital piracy, including denial of internet access, high statutory damages, or fines and criminal sanctions for non-commercial infringement. There are also issues of piracy unrelated to the internet. In the Special Rapporteur's opinion, that important topic requires additional study from a human rights perspective."*

## PRINCIPLE 5

**Investors should seek to facilitate freedom of expression through resilient and robust networks that reach marginalized and vulnerable communities.** The law should promote wide access to content, stable and resilient networks, and sustainable systems.

### In practice, this means:

- Connectivity funds should flow to those governments that meaningfully commit to extending open, resilient, and secure access to the internet. Investors should sharply scrutinize plans to invest in countries that routinely infringe freedom of expression, the enabler of all other human rights.
- The spreading “worst practice” of internet shutdowns — intentional disruptions of communications tools, rendering them inaccessible or effectively unusable, for a specific population or within a location, often to exert control over the flow of information — should be condemned at every opportunity.
- Public institutions should endeavor to provide sustainable, long-term preservation of and access to digital information, to guarantee posterity and archival oversight.

### Sources for the principle:

- *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue 2011: “The right to freedom of opinion and expression is as much a fundamental right on its own accord as it is an ‘enabler’ of other rights, including economic, social, and cultural rights, such as the right to education and the right to take part in cultural life and to enjoy the benefits of scientific progress and its applications, as well as civil and political rights, such as the rights to freedom of association and assembly. Thus, by acting as a catalyst for individuals to exercise their right to freedom of opinion and expression, the internet also facilitates the realization of a range of other human rights.”*
- *Human Rights Committee, General Comment No. 34 (interpreting ICCPR Article 19), 2012: “Any restrictions on the operation of websites, blogs, or any other internet-based, electronic, or other such information dissemination system, including systems to support such communication, such as internet service providers or search engines, are only permissible to the extent that they are compatible with paragraph 3.... generic bans on the operation of certain sites and systems are not compatible with paragraph 3.”*
- *U.S. State Department, Internet Freedom, 2012: “...the internet helps fuel the global economy, increases productivity, and creates jobs built on the unprecedented global reach that the platform provides for our businesses and innovators. Just as importantly...the internet serves as a powerful platform to bring information and resources to people who historically have been isolated, or their human rights repressed, so they, too, have the chance to become active, prosperous, and engaged participants in the world community.”*
- *Human Rights Council, Resolution 32/13, The promotion, protection and enjoyment of human rights on the Internet, 2016: “Also condemns unequivocally*

*measures to intentionally prevent or disrupt access to or dissemination of information online in violation of international human rights law, and calls upon all states to refrain from and cease such measures.”*

## PRINCIPLE 6

**Connectivity investments for development must respect privacy, which is essential for the internet economy.**

### In practice, this means:

- Connectivity projects must not contribute to arbitrary or unlawful surveillance. This means ensuring that necessary laws and protections are in place, working with the private sector to make them aware of their responsibilities, and remaining attentive to stakeholder reports of threats to the right to privacy.
- Tech and policy privacy impact evaluations should be carried out on connectivity initiatives before deployment.
- Controls on the export or import of technologies enabling intrusive surveillance or filtering should be strictly adhered to in development projects.

### Sources for the principle:

- *World Bank, World Development Report: Digital Dividends, 2016: “Protecting personal data online is key for the data-driven economy, since it will increase trust in the internet, and greater trust will foster more use. And privacy is not just a developed-country issue. ... Data flows nowadays are global, and privacy regimes need to be interoperable with one another to really enable the internet to be an engine of innovation and economic growth.”*
- *UN General Assembly, Resolution 69/166, Right to Privacy in the Digital Age, 2014: “Emphasizing that states must respect international human rights obligations regarding the right to privacy...; Noting also that the rapid pace of technological development... enhances the capacity of governments, companies, and individuals to undertake surveillance, interception, and data collection, which may violate or abuse human rights.”*

## PRINCIPLE 7

**Projects for connectivity should be undertaken using open, transparent, and inclusive processes.** This includes solicitation processes and public-private partnerships.

### In practice, this means:

- All forms of connectivity initiatives, including public-private partnerships, should be accountable to local communities and the public in general.
- The value of the multistakeholder approach also applies to connectivity initiatives, at all levels.

- Interoperable technology and systems are key, so participants use well-known and well-regarded open standards rather than proprietary connectivity technologies that are less transparent and require special contracts and closed architecture.
- Maintain open bidding processes, and avoid projects that would create bottleneck, centralized control over infrastructure or services. Often, dominant providers (whether state monopolies or private sector monopolies) seek monopoly control for purposes of extracting monopoly rents or to control information. Projects should affirmatively promote the ability of local communities to create local facilities or networks capable of competing with a dominant incumbent.
- All institutions involved in connectivity investment, whether public or private, need open governance processes and structures in order to enable access to information, build trust with stakeholders, and ensure accountability for funding decisions.
- Corruption should be considered an obstacle to achieving human rights and development.

#### Sources for the principle:

- *Maina Kiai, Report of the Special Rapporteur for on the rights to freedom of peaceful assembly and of association, 2013: "Space at the multilateral level, particularly in the finance-related multilaterals, is often occupied disproportionately by for-profit interests — i.e., large banks and corporations... civil society representatives should be given the same access, input, and power as the private for-profit sector."*
- *World Bank, Governance Brief: Anti-Corruption, 2016: "The World Bank Group considers corruption a major challenge to its institutional goals of ending extreme poverty by 2030 and boosting shared prosperity for the poorest 40 percent in developing countries. In addition, reducing corruption stands at the heart of the recently established Sustainable Development Goals and achieving the ambitious targets set for Financing for Development. It is a priority for the institution and many of its partners."*
- *OHCHR, Human Rights and anti-corruption: "Human rights are indivisible and interdependent, and the consequences of corrupt governance are multiple and touch on all human rights — civil, political, economic, social, and cultural, as well as the right to development."*

## PRINCIPLE 8

### **Connectivity initiatives should remain open to civil society and community participation throughout the life of the project.**

#### In practice, this means:

- Stakeholders investing in connectivity, especially aid agencies, governments, and multilateral development banks, should provide specific funding for assessments to be carried out by independent research experts.
- From planning and assessment to implementation and oversight, stakeholders must be consulted at every point, including those whose rights are directly impacted by the program. Those without resources to fully participate should receive support in the form of capacity-building and financing.

### Sources for the principle:

- *World Bank, World Development Report: Digital Dividends, 2016: “Ensuring safe and secure access will require greater international collaboration based on a multistakeholder model.”*
- *NETmundial Multistakeholder Statement, 2014: “Capacity building and financing are key requirements to ensure that diverse stakeholders have an opportunity for more than nominal participation, but in fact gain the knowhow and the resources for effective participation. Capacity building is important to support the emergence of true multistakeholder communities, especially in those regions where the participation of some stakeholder groups needs to be further strengthened.”*

## PRINCIPLE 9

### **Connectivity initiatives must meaningfully extend access remedy to through robust and rights-respecting oversight and grievance processes.**

#### **In practice, this means:**

- To facilitate access to remedy, and prevent problems before they escalate, project-level grievance mechanisms should be established, in coordination with affected communities and in line with human rights norms.
- Establish and publish points of contact to hear grievances and predictable, transparent procedures to appeal determinations. Participation in a remedial process should never preclude judicial remedy.
- Special care should be taken to facilitate access to remedy for harms that private sector actors cause or contribute to, or that arise from public-private partnerships.
- Regular feedback loops should inform oversight bodies, and proactively seek civil society and community responses.

### Sources for the principle:

- *UN Guiding Principles on Business & Human Rights, 2011: “As part of their duty to protect against business-related human rights abuse, states must take appropriate steps to ensure, through judicial, administrative, legislative, or other appropriate means, that when such abuses occur within their territory and/or jurisdiction those affected have access to effective remedy; states should consider ways to facilitate access to effective non-state based grievance mechanisms dealing with business-related human rights harms.”*
- *APC Internet Rights Charter, 2006: “People need free public access to effective and accountable mechanisms for addressing violations of rights. When human and internet rights are threatened by internet-based content, or by illegitimate surveillance, limitations on freedoms of expressions, and other rights, parties should have access to recourse mechanisms for taking action against such infringements.”*

### III. CONCLUSION

Access Now, Public Knowledge, and the International Federation of Library Associations and Institutions (IFLA) developed this document through consultations throughout 2016. We continue to widen our circles of consultation, as we intend to develop these Principles to a final draft, circulated for endorsement by all stakeholder groups before their launch at the Internet Governance Forum in December 2016. We invite all input, comment, and criticism of the Principles, as well as suggestions for initiating or joining partnerships and work-streams in order to implement them.

Access Now is an international organization that defends and extends the digital rights of users at risk around the world. By combining innovative policy, user engagement, and direct technical support, we fight for open and secure communications for all.

Public Knowledge promotes freedom of expression, an open internet, and access to affordable communications tools and creative works. We work to shape policy on behalf of the public interest.

IFLA is an independent, international, non-governmental, not-for-profit organization. Our aims are to promote high standards of provision and delivery of library and information services, encourage widespread understanding of the value of good library & information services, and represent the interests of our members throughout the world.

For more information, contact:

**Peter Micek**  
Global Policy and Legal Counsel  
Access Now | [accessnow.org](http://accessnow.org)  
[peter@accessnow.org](mailto:peter@accessnow.org)

Thanks to Lim May-Ann, Member of the World Economic Forum Council for the Future of Human Rights, for contributions to this text.

**FINAL DRAFT FOR COMMENT**

**CONTACT**

**Peter Micek**

Global Policy and Legal Counsel  
Access Now | [accessnow.org](http://accessnow.org)  
[peter@accessnow.org](mailto:peter@accessnow.org)

**December 2016**