

Human rights in the balance

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Why am I here?

- I wrote a paper that talked about “tussle” — the contention among actors with differing interests to shape the Internet to their preferences.
 - Tussle in Cyberspace: Defining Tomorrow’s Internet
IEEE/ACM TRANSACTIONS ON NETWORKING, VOL. 13, NO. 3, JUNE 2005

Managing tussle

Architecture and standards can shape tussle but cannot prevent it.

We wrote:

- *Design for tussle — for variation in outcome — so that the outcome can be different in different places, and the tussle takes place within the design, not by distorting or violating it. Do not design so as to dictate the outcome. Rigid designs will be broken; designs that permit variation will flex under pressure and survive*

Informally

- You are designing the playing field, not the outcome of the game.
- You can tilt the playing field.
- Our work is NOT value-neutral.
 - I strongly believe in the viewpoints of the “values in design” movement.

Human rights

Making the problem harder: rights are not absolute.

UDHR Article 29:

- *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.*

Managing tussle

- Where does the process of tussle play out?
 - In the courts and legislature.
 - In the larger social context of the use of technology.
 - By the choices about how capital is deployed.
 - By the use of features of the technology.
- Designers of technology have a choice:
 - To be in the conversation or not.
 - Design the playing field or let the game be played somewhere else.

CALEA

An example from the past...

- IETF was invited to develop standards for lawful intercept, in the context of the U.S. Communications Assistance for Law Enforcement Act.
- The IETF, after deliberation, declined.
 - See RFC 2804, from 2000 (See also RFC 1984)
 - The “RAVEN” process

CALEA 107(a)(2)

A telecommunications carrier shall be found to be in compliance with the assistance capability requirements under section 103, and a manufacturer of telecommunications transmission or switching equipment or a provider of telecommunications support services shall be found to be in compliance with section 106, if the carrier, manufacturer, or support service provider is in compliance with publicly available technical requirements or standards adopted by an industry association or standard-setting organization, or by the Commission under subsection (b), to meet the requirements of section 103.

3GPP (SA 3 WG)

- *[T]he WG will determine the security and privacy requirements for 3GPP systems.... The WG will ensure the availability of any cryptographic algorithms which need to be part of the specifications. The WG will accommodate, as far as is practicable, any regional regulatory variations in security objectives and priorities for 3GPP partners. The WG will further accommodate, as far as is practicable, regional regulatory requirements that are related to the processing of personal data and privacy. The subworking group SA WG3-LI will detail the requirements for lawful interception in 3GPP systems, and produce all specifications needed to meet those requirements.*

Human rights in the balance

I strongly support the use of human rights as a foundational value in considering design implications.

The harder challenge:

- Do we design for a preferred outcome and then let the tussle happen in ways over which we perhaps have little input?
- Do we incorporate into our design a tolerance for a range of outcomes, some of which we (as individuals or collectively) might not prefer.
- Are we clever enough to tilt the playing field?