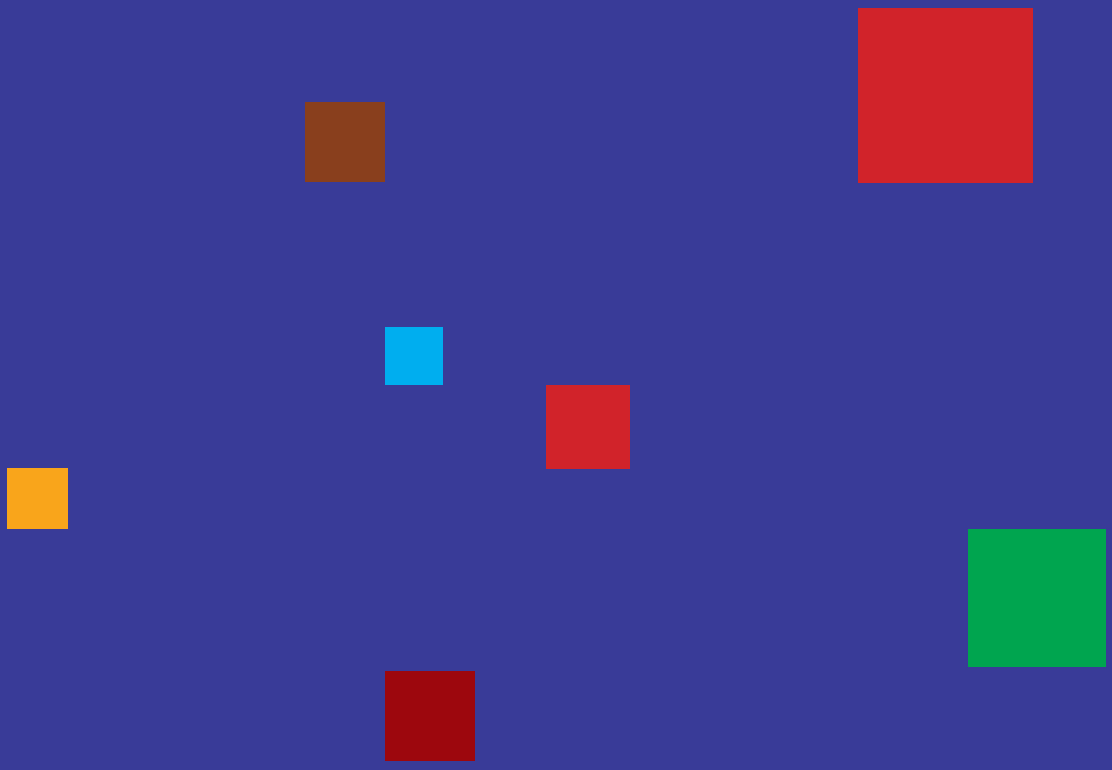
The working group on Internet governance

10th Anniversary Reflections

Edited by William J. Drake



APNIC APC cgi.br ICANN Internet Society

The working group on Internet governance

10th Anniversary Reflections

Edited by William J. Drake

The Working Group on Internet Governance

10th anniversary reflections

Editor
William J. Drake

Publication production
Roxana Bassi (APC)

Editorial support
Lori Nordstrom (APC)

Proofreading
Valerie Dee

Graphic design
Monocromo
info@monocromo.com.uy
Phone: +598 2400 1685

Financial support provided by
The Asia-Pacific Network Information Centre (APNIC)
The Association for Progressive Communications (APC)
The Brazilian Internet Steering Committee (CGI.br)
The Internet Corporation for Assigned Names and Numbers (ICANN)
The Internet Society (ISOC)

Published by APC
2015

The Working Group on Internet Governance: 10th anniversary reflections

ISBN 978-92-95102-44-6
APC-201510-CIPP-R-EN-DIGITAL-235

Acknowledgements

For their financial support of this project, I would like to thank the the Asia-Pacific Network Information Centre (APNIC), the Association for Progressive Communications (APC), the Brazilian Internet Steering Committee (CGI.br), the Internet Corporation for Assigned Names and Numbers (ICANN), and the Internet Society (ISOC).

At APC, Roxana Bassi managed the production process and Lori Nordstrom managed the copy editing. Many thanks to them both for their hard work and patience.

William J. Drake

Contents

FROM OVERSIGHT TO STEWARDSHIP

INTERNET GOVERNANCE FOR DEVELOPMENT

CLOSING REFLECTIONS

Preface

Nitin Desai

I am delighted that the diverse group that came together more than a decade ago to work out a way of managing the most important technological, economic, social and political innovation of our time has decided to look back and put down what they have learnt from that experience. Let me therefore contribute to this learning by focusing on what I learnt from my experience as the chair of the Working Group on Internet Governance (WGIG) and later the Multistakeholder Advisory Group (MAG) that helped to organize the Internet Governance Forum (IGF).

I came to the task after spending over a decade managing the issue-based summits organized by the UN between 1992 and 2002. These summits came at a time when globalization was connecting national economies through production value chains, national cultures through the spread of global communications, tourism and migration and ecosystems through a vastly increased global flow of materials and energy. They required governments to look beyond their national interest to the broader interest of the human species. To a certain extent this was already happening in the global networks of non-governmental organizations for the promotion of human rights, women's rights, environmental protection, development assistance, humanitarian relief, etc. These global communities of concern focused their analysis, actions and advocacy on their global interest. Their growing engagement in the great global summits altered the dynamics of the multilateral negotiating process by superposing issue-based advocacy on the usual interplay of national interest. But in the final analysis the governments remained in control and the non-governmental participants remained vocal, and sometimes strident, advocates rather than becoming consensus seekers.

The Internet governance dialogue that I came to in the World Summit on the Information Society was very different. This was a case where the Internet technical community negotiated the needed protocols and a set of private bodies managed the operations of the net. Governments (other than one) were left outside and were looking for a way of acquiring control or at least significant influence on public policy concerns. Whereas in the global summits that I had managed in the UN the political challenge was to persuade governments to give non-government organizations space in the process, in the Internet governance process it was the other way around. The private non-governmental network of technologists had to be reassured that engagement with governments and other stakeholders was necessary and useful.

The WGIG started with a degree of distrust and apprehension on the part of all stakeholders. One reason for this was the very different etiquette of interaction in the different stakeholder communities. The technocrats who negotiated Internet protocols and managed the Internet were used to a pragmatic mode of conversation that focused on finding a rough consensus that ignored extreme views. I started calling it an "everybody but the nut cases" consensus and was quite envious that we did not have that at our disposal in the UN! The governments on the other hand had a rather strict definition of consensus that allowed a single dissenter to hold up agreement. Their etiquette of interaction was diplomatic and they would preface any disagreement or critical remark at least with "far be it for me to say..." and then deliver their lethal blow. The community of non-governmental internet activists, on the other hand, had a tendency to exaggerate their dissent in order to make sure they would be heard and not be mistaken for collaborators! The representatives of corporations were used to the protocols of lobbying and asserted what they saw as the long-term interest of the for-profit players in the Internet space.

But this changed as we went along. Gradually the participants discovered that there was merit in points of view other than their own. They realized that the individuals who represented the interests they had always fought against did not have horns on their head. One reason for this is that we instituted an etiquette of politeness that prohibited any form of ad hominem argument ("He would say this because he is a part of the Internet Mafia/he represents a dictatorship/he is a professional agitator/he cares only for profit"). More than that, an unchanging group of participants thrown together in an intimate dialogue had to respect the bona fides of all participants. But what brought all of them together was the complete equality in the modalities of participation in the process. We did not have one set of participants who had to negotiate and forge a compromise and another set who were outside the negotiating process and whose only role was to assert their point as loudly and as often as possible. Everyone was involved in finding solutions to resolve differences, in drafting consensus texts and in persuading others to accept them. The basic lesson is make everyone part of the search for solutions instead of relying on the formal leadership of the process to draft a consensus.

There was another lesson that I learnt. The Internet is inherently democratic in its design. Anyone who logs in is as privileged as anyone else in accessing its vast resources. More than that, a deeply rooted libertarian, almost anarchic, attitude guided the pioneers who designed a system immune to any form of centralized control. We had to recognize this through a process of consultation open to anyone who felt that he or she had something to contribute or to learn or to monitor. The learning was that a small group negotiating process must always be embedded in an open-ended process of consultation and total transparency in the evolution of the consensus.

As I look back at my experience of the WGIG and MAG what strikes me is how pleasant it was, how happy I would be if I had to do it all over again! The design of the process is one reason for this. But the commitment, the courtesy and the friendliness that the individuals who participated in the process brought to the process was as important. That a decade later they have come together to produce this volume is a reflection of the bonds that were forged then. So let me end by thanking them for what they did then and what they are doing now to forge a new way of managing an increasingly interconnected world.

Introduction

WHY THE WGIG STILL MATTERS

William J. Drake

On 15-16 December 2015, the United Nations (UN) General Assembly will mark the 10th anniversary of the conclusion of the World Summit on the Information Society (WSIS) with a high-level intergovernmental meeting that was preceded by an intergovernmental preparatory process. Topics that could be debated in this context include, *inter alia*, financing programmes concerning information and communications technologies for development; the purported need for new UN-based cyber security arrangements; the perceived strengths and weaknesses of existing multistakeholder and multilateral mechanisms concerning Internet governance, and possible "improvements" thereto; and whether and for how long to renew the mandate of the Internet Governance Forum (IGF), which celebrates its 10th anniversary this year as well.

2015 is also the 10th anniversary of a multistakeholder experiment that helped bring the WSIS negotiations to a successful conclusion – the Working Group on Internet Governance (WGIG). The WSIS Declaration of Principles and the WSIS Plan of Action agreed at the Geneva Summit in December 2013 set the WGIG's terms of reference and work programme. The relevant provision of the former read: "We ask the Secretary-General of the United Nations to set up a working group on Internet governance, in an open and inclusive process that ensures a mechanism for the full and active participation of governments, the private sector and civil society from both developing and developed countries, involving relevant intergovernmental and international organizations and forums, to investigate and make proposals for action, as appropriate, on the governance of Internet by 2005."[1]

1. World Summit on the Information Society. (2003). Declaration of Principles – Building the Information Society: A Global Challenge in the New Millennium. WSIS-03/GENEVA/DOC/4-E. December 12, p. 7. www.itu.int/wsis/docs/geneva/official/dop.html.

Convened by the UN Secretary-General in 2004, the WGIG assembled 20 representatives of governments and 20 representatives of non-governmental stakeholders who engaged in months of intensive peer-level dialogue and collective analysis. The WGIG held four meetings in Geneva: 23-25 November 2004, 14-18 February 2005, 18-20 April 2005, and 14-17 June 2005, after which its final Report was released. The conduct of the WGIG process proved to be an important turning point and catalyst in the intergovernmental recognition of multistakeholder processes for Internet governance. In addition, the WGIG Report help to drive forward the substantive discussions of WSIS by advancing a "broad definition" of Internet governance, holistically addressing a range of policy issues, offering four competing models for the "oversight" of critical Internet resources, and proposing the establishment of the IGF.[2]

The WGIG also generated an informal Background Paper, which explored the issues under its purview in much more detail than the official report. The WGIG members did not formally agree to the Background Paper, but it nevertheless contains a much fuller reflection of the group's work and thinking.[3] Going further, in the summer of 2005, a group of WGIG members decided to produce a multi-authored book that I edited, called *Reforming Internet Governance: Perspectives from the UN Working Group on Internet Governance*.[4] The book was published by the UN Information and Communication Technologies Task Force and launched at a side event held during the November 2005 Tunis Summit.

Given the significance and potential risks of the WSIS+10 Review process, it seemed useful and timely to try to foster some parallel discussions and reflections on the WGIG+10 experience. Accordingly, Markus Kummer (ICANN Board of Directors member and former executive coordinator of both the WGIG Secretariat and the IGF Secretariat) and I discussed the matter and agreed to pursue a two-stage approach. First, I organized a roundtable workshop at the 10th IGF meeting held in João Pessoa, Brazil in November 2015 that reassembled over a dozen former WGIG members who remain active in Internet governance, in order to take stock of the WGIG's continuing significance and to look forward.[5]

Second, we decided to organize the publication of this WGIG+10 e-book in time for the UN General Assembly's WSIS+10 Review. The project brings together contributions from the WGIG's leadership and some of

---

2. Working Group on Internet Governance. (2005a). Report of the Working Group on Internet Governance. www.wgig.org/docs/WGIGREPORT.pdf

3. Working Group on Internet Governance (2005b). Background Report of the Working Group on Internet Governance. www.wgig.org/docs/BackgroundReport.pdf

4. Drake, W. J. (Ed.). (2005). *Reforming Internet Governance: Perspectives from the UN Working Group on Internet Governance*. New York: United Nations Information and Communications Technology Task Force. tinyurl.com/wjdrake-wgigbook-2005

5. www.intgovforum.org/cms/workshops/list-of-published-workshop-proposals

its members, as well as from some other key participants in the Internet governance community who were particularly involved in WSIS-based efforts that wrapped around, contextualized and helped drive the WGIG process. The hope is that the circulation and discussion of this volume at a time when significant issues are in play could help to draw attention to the benefits of multistakeholder collaboration, and could serve as a helpful resource for both veteran and newer participants in Internet governance activities, including in the IGF and the Internet Corporation for Assigned Names and Numbers (ICANN). In addition, it is hoped that this volume could be useful to the various capacity development programs that have been established within or spun off of these multistakeholder spaces, and to scholars and students wishing to "get up to speed" on how some of the fundamental debates and arrangements in this field have been constructed.

Producing a follow-up to a book published 10 years earlier offers some interesting opportunities. For the prior volume, I wrote a concluding chapter entitled "Why the WGIG process mattered."[6] In it, I advanced seven summary propositions about the importance of the WGIG, both procedurally and substantively. In this Introduction, I would like to pick up where I left off, and consider the same questions with the benefit of 10 years of hindsight. In general, I believe the seven propositions have held up pretty well over time. So this is the focus of the next two sections of this chapter. The final section will provide the traditional editor's overview of the rest of the book.

Procedural contributions

The WGIG process demonstrated the benefits of multistakeholder collaboration

Before the WGIG, the notion of multistakeholder participation was fairly alien to most governments and even many stakeholders. Several authors in this project recall in their chapters that non-governmental actors, including the president of ICANN, were sometimes barred from entering or even ejected from meeting rooms during the first phase of the WSIS process. Many people evinced a limited familiarity with how the indigenous Internet institutions actually worked, and how formally "equal footing" multistakeholder cooperation was producing international policies in areas like Internet names and numbers. The texts agreed by governments at the December 2003 WSIS summit in Geneva bore rather faint imprints of non-governmental influence, and civil society decided to issue its own rather different summit declaration. As we looked forward to WSIS Phase II and the prospects of negotiations that could result in texts with more focus on Internet governance, it was extremely unclear that there would be meaningful non-governmental participation in the process or buy-in to the outcomes.

6. Drake, W. J. (2005). Why the WGIG process mattered. In W. J. Drake (Ed.), op. cit., pp. 249-265.

The WGIG presented a very different model of interaction to the world, and at the right time. As I noted in the 2005 book, despite the sometimes sharply different styles, priorities and preferences of the participants, "The open, intensive, and peer-level nature of the dialogue meant that WGIG's members could not simply make statements and then sit back and take it for granted that the rationales for their positions were clear and unassailable… they were obliged to explain the logic behind their views, and to listen and respond to the concerns of colleagues who might have different and even orthogonal perspectives. They had to persuade, and when that effort failed, accept that nonconsensual points would not be included."[7]

In principle, such dynamics of course can characterize purely intergovernmental processes as well. But in practice, it is more likely that the polarization that had taken hold in the wider WSIS discussions would have been imported into a purely intergovernmental WGIG, with government representatives digging in on their pre-existing positions and mandates from capitals and thus deadlocking when speed was of the essence. Moreover, the search for solutions would have been constrained by the absence of orthogonal ideas and expertise from stakeholder representatives. That probably would have mattered, given that the WGIG's actual experience was that the private sector, civil society, technical community and academic participants contributed heavily to the WGIG's discussions and writings.

The conduct and success of the WGIG process had a demonstration effect on the subsequently resumed WSIS preparatory process. In its aftermath, nobody publicly disputed whether equal-footing multistakeholder cooperation had been the right model for the WGIG to follow. Moreover, the WSIS Phase II negotiations were marked by greater openness to non-governmental participation in plenary and breakout discussions, and ideas and concerns put on the table by stakeholders received more serious consideration than was the case in Phase I. Indeed, some government representatives at times were mildly apologetic when their counterparts insisted on sticking with government-only discussions, and they consulted more extensively with non-governmental stakeholders about their interventions. And while the WSIS rules of the engagement did limit how far the accommodation could go, it also seemed clear that future deliberations would have to be more procedurally open. The subsequently convened IGF, Internet-related Commission on Science and Technology for Development (CSTD) sessions, the Working Group on Improvements to the IGF (WGIGF), the Working Group on Enhanced Cooperation (WGEC), the NETmundial meeting, and even to some extent the 2015 WSIS+10 Review have all demonstrated the shift in baseline expectations.

While the WGIG demonstrated the benefits of multistakeholder collaboration through practice, it did not do this through analysis. That is, the WGIG had no mandate to evaluate or suggest models for the conduct of

7. Ibid., p. 250.

multistakeholder collaboration. Given the scope of its responsibilities and the time available to discharge them, it would not have been feasible to take on this task as well. Insofar as Internet governance mavens have spent the decade since debating the nature and dynamics of multistakeholder models without reaching global consensus, it is probably a good thing that the WGIG did not have to venture into this terrain.

There is however one element in this nexus of issues that was within the mandate and on which one may regret that further progress could not be made. The WGIG was asked to "Develop a common understanding of the respective roles and responsibilities of Governments, existing international organizations and other forums, as well as the private sector and civil society in both developing and developed countries."[8] One could argue that we did not add much clarity and specificity on this score, especially with respect to processes involving multistakeholder decision making as opposed to multistakeholder input into intergovernmental decision making.

When the WGIG took up this item, members listed examples of roles and responsibilities, and these were clustered under the rubrics of the official UN categories of government, private sector and civil society. This arguably was not one of the most probing conversations to be held, and the resulting list in the WGIG Report is more differentiated but not a really substantial advance on the list that WSIS had included in the 2003 Declaration of Principles. Governments alone were said to be responsible for "Public policymaking and coordination and implementation, as appropriate, at the national level, and policy development and coordination at the regional and international levels;" the private sector was said to be responsible for the "Development of policy proposals, guidelines and tools for policymakers and other stakeholders," and for contributions to "the drafting of national law and participation in national and international policy development;" and civil society was limited to "engaging in" and "contributing to" policy processes, providing expertise, raising awareness, and so on. Furthermore, while the WGIG Report recognized that "the technical community and its organizations are deeply involved in Internet operation, Internet standard-setting and Internet services development," and that it and the academic community "interact extensively with and within all stakeholder groups," this and the prior descriptions do not capture what happens in fully multistakeholder settings like ICANN, unless one holds to a limited conception of what constitutes "public policy."[9]

Global Internet governance discussions have been bedevilled ever since WSIS by the restrictive construction of this phrase. Many governments insist that it be included in every UN-negotiated text in order to reassert their policy primacy; only the 2014 NETmundial Multistakeholder Statement could offer the modification, "The respective roles and responsibilities of

8. Working Group on Internet Governance. (2005a). Op. cit., pp. 6-7.

9. Ibid., pp. 8-9.

stakeholders should be interpreted in a flexible manner with reference to the issue under discussion."[10]

But whatever regrets one may have about this matter, there really was no choice. As with the four models of oversight for critical Internet resources discussed below, the WGIG could not have reached consensus on a single formulation that moved the needle away from governments as the sole makers of public policy. In addition, it is entirely possible that, when the WSIS Preparatory Committee reconvened, many governments would have objected that the WGIG had inappropriately substituted its judgment for those of governments on a sensitive political matter. The Report could have come under fire and even been rejected, rather than embraced as it was. In retrospect, views may vary as to whether this would have been a risk worth taking, but at the time it did not seem to be.

The WGIG process facilitated the WSIS negotiations

As a number of the chapters in this volume recall, the WSIS Phase I debates on Internet governance had been exploratory, unstructured, and ultimately rather unproductive. As I noted in the 2005 book, "participants interjected whatever individual issues they thought important to mention at the moment, or made interventions comprising briefer observations or position statements on a range of diverse issues. Often these interventions did not build on the ones made previously, or referred back to something that had been said by speakers who took the floor much earlier. In the aggregate, this process resulted in deliberations that bounced back and forth between topics without focusing and cumulating in a manner that would facilitate progress toward the resolution of any given item. One consequence was frustration in some quarters that the conversation was 'all over the place' and 'going nowhere.'"[11]

Here we might consider some counterfactual questions. What if the WGIG had not been convened? Or if it had not reached agreement on a "broad" working definition, offered a taxonomic mapping of the issues, clarified what some governments had in mind with respect to oversight, or suggested the creation of the IGF? How might the reconvened Preparatory Committee have progressed on the issues in Phase II? It is difficult to imagine how the process would have moved forward in a new and more systematic manner that was qualitatively different from where it left off at the end of the Geneva Summit. That the WGIG was underway and due to suggest a framework allowed participants to bracket the issues somewhat and focus on other matters until the Report was ready, and once it was in hand the subsequent Preparatory Committee meetings had new focal points around which to organize their thinking and debate on key points. Arriving at such focal points in plenary sessions or even breakout groups convened under

10. NETmundial Multistakeholder Statement, 24 April 2014, São Paulo, Brazil, p. 6. www.netmundial.br/netmundial-multistakeholder-statement.

11. Drake, W. J. (2005). Op. cit., p. 251.

the WSIS rules of procedure probably would have been a very difficult and politicized endeavour.

The WGIG process promoted public engagement in the Internet governance debate

Prior to the WGIG, public awareness of and engagement in the WSIS process and Internet governance discussions more generally were fairly limited. The WSIS meetings were very hard to follow and make sense of from the outside (not to mention the inside), as the proceedings were procedurally laden and the issues were new and largely outside the scope of extant public policy discourse. Adding to the difficulty, what mass media coverage there was often demonstrated a good deal of confusion or was configured by strong *a priori* assumptions. Most prominent in this regard were frequently repeated interpretations that the United Nations was attempting to "take over" the Internet, or that Internet governance was largely if not entirely about the roles of ICANN and the US government and whether these should not somehow be transferred to the International Telecommunication Union (ITU).

The WGIG process made Internet governance more readily accessible to the public by giving some structure to the issues and WSIS discussions. In addition, the Secretariat provided live and archived webcasts as well as real-time text transcriptions of the Open Consultations. The WGIG website also made available a great many documents on the subject, including government and formal stakeholder statements and the issue papers drafted by members as informal inputs. The public could submit comments for posting to the website and participate in online chats. A questionnaire was distributed to WGIG members and the wider world to solicit structured replies on specific issues. The group's leadership travelled widely to explain the process and later the Report. All this made it much easier to follow the debate, offer inputs, engage in dialogue, and otherwise mobilize energies around the WSIS process and the issues under consideration. Engaged stakeholders responded by creating vibrant public email lists and holding meetings to debate the issues; academic research, networks and events sprouted up; and some of the journalistic coverage actually improved. Of course, this is not to say that there was now truly widespread global public understanding and engagement, but for those who were motivated and able to follow what was happening there were now many more opportunities for engagement.

In the decade since, the WGIG process and Report have continued to resonate in the global public sphere. One need only consult a web search engine to see that a good deal of material has been generated referencing these sources, or to note the frequency with which the working definition and other elements have been cited in international meetings, scholarly literature, university courses, specialized media coverage, and so on. The WGIG is now a facilitative part of the international community's collective memory of the Internet governance arena, as fragmentary as that may be.

Substantive contributions

The WGIG demystified the nature and scope of Internet governance

It is perhaps a bit difficult today to remember just how muddled the discussion was during WSIS Phase I. There was no agreement among participants about the meaning of the core term, "governance", much less about the meaning of Internet governance. Some technical community people and techno-libertarians engaged in what I called "Internet governance denial" by insisting the term was intrinsically inapplicable to the Internet space, where only coolly apolitical "management", "coordination" or "administration" was said to occur.[12] Conversely, many representatives of the G-77 and China, as well as proponents of a leading role for the ITU, insisted that governance was not only applicable but was needed and could only be provided by intergovernmental authority. Participants who agreed with neither of these polar positions and argued for a third way were often regarded warily. WSIS and contemporaneous Internet governance discussions elsewhere felt a bit like a religious war that had no place for non-believers. In consequence, there was much unnecessary mutual misunderstanding in the air, for example, between many technical community and civil society participants in WSIS.

The WGIG dove into this morass by systematically considering the various formulations that had been offered in the course of meetings convened in early 2004 by the ITU and the UN Information and Communication Technology Task Force (UNICTTF), as well as in a widely noted multi-author edited volume that resulted from the UNICTTF meeting.[13] As is documented in the WGIG Background Report, the group agreed that a suitable "working" definition had to be adequate, generalizable, descriptive, concise, and process-oriented.[14] To meet these criteria, it decided to adopt key elements from the definition of an international regime that is standard in the academic discipline of international relations and has been invoked in many global discussions, which is "sets of implicit or explicit principles, norms, rules, and decision-making procedures around which actors' expectations converge in a given area of international relations."[15] Ultimately the WGIG agreed on the formulation, "Internet governance is the development and application by Governments, the private sector and civil society, in their respective roles, of shared principles, norms, rules, decision-making procedures, and programmes that shape the evolution and use of the Internet."[16]

---

12. Drake, W. J. (2004). Reframing Internet governance discourse: Fifteen baseline propositions. In D. MacLean (Ed.), *Internet Governance: A Grand Collaboration,* pp. 122-161. New York: United Nations Information and Communication Technology Taskforce.

13. MacLean, D. (Ed.), ibid.

14. Working Group on Internet Governance. (2005b). Op. cit., pp. 7-8.

15. Krasner, S. D. (1983). Structural Causes and Regime Consequences: Regimes as Intervening Variables. In S. D. Krasner (Ed.), *International Regimes,* p. 1. Ithaca: Cornell University Press.

16. Working Group on Internet Governance. (2005a). Op. cit., p. 4.

This formulation is not without blemishes. To reach agreement, the WGIG had to include the "respective roles" clause, which is logically extraneous but luckily paired with the "shared" clause. Even so, the working definition did usefully indicate that Internet governance is a process of steering via collectively recognized prescriptions and procedures, rather than an authority relationship; and that its scope extends beyond "critical Internet resources" like the root server system, names and numbers to encompass the range of shared mechanisms that shape both the Internet's physical and logical infrastructures and their use to convey transactions and content. This broad and holistic approach framed the terrain in a manner that helped to unclench the definitional dispute. Undoubtedly, probably not everyone thought the working definition was crystal clear or exactly what they would have done, but it was good enough to work with.

The WGIG began the holistic assessment of "horizontal issues", including development, and made some broad but useful recommendations on key "vertical issues"

The WGIG was mandated to not only develop a working definition of Internet governance, but also to identify the public policy issues it entails. This was important because the precise meaning of "shared principles, norms, rules, decision-making procedures, and programmes" would not be intuitively obvious to all, and because people in any event needed concrete illustrations of the topics to which these apply.[17] The WGIG came at this challenge from two angles. First, it discussed horizontal or cross-cutting issues that should be normative goals and evaluative criteria for the conduct of Internet governance across the range of relevant institutions and processes. In particular, this included the procedural component of the "WSIS Principles" that had been included in the 2003 Geneva Declaration, i.e. "The international management of the Internet should be multilateral, transparent and democratic, with the full involvement of governments, the private sector, civil society and international organizations."[18] Members generally discussed the promotion of development as such a horizontally applicable principle and gave particular but not exclusive attention in this regard to the promotion of effective participation in governance processes and capacity building. And second, it also considered a series of "vertical" or functionally segmented issues.

All the topics were then grouped into four categories: 1) issues related to infrastructure and the management of critical Internet resources (e.g. the root zone file and root server system, domain names, IP addresses, technical standards, peering and interconnection, telecommunications and convergence, and multilingual domain names); 2) issues related to the

17. In order to lighten the main Report, the explanation of each term in the definition was relegated to the Background Report. In retrospect, it would have been better to include them in an appendix to the former, since the latter was neither formally agreed nor widely read.

18. World Summit on the Information Society. (2003). Op. cit., p. 6. The significance of the WSIS Principles is discussed in more detail in the Background Report.

use of the Internet (e.g. spam, e-commerce, network security, and cyber crime); 3) relevant issues with an impact much wider than the Internet (e.g. intellectual property and international trade); and 4) issues related to development. From these clusters, the group selected 13 issues meriting special attention in the WSIS context: administration of the root zone files and system; allocation of domain names; IP addressing; multilingualism; interconnection costs; Internet stability, security and cyber crime; spam; meaningful participation by all stakeholders in global policy development; capacity building; intellectual property; freedom of expression; data protection and privacy rights; and consumer rights. On each of them it offered some rather broadly framed recommendations that could be readily agreed in a multistakeholder setting.

To be sure, the treatment of some issues was a bit thin or open to debate, and many others that fall within the scope of Internet governance simply were not addressed. But nobody would pretend that the Report was a systematic and comprehensive "deep dive" investigation of all the issues at stake; it was a 24-page paper intended to serve as a top-level mapping of the terrain. Viewed in this light, it did provide a sufficient foundation for further discussions and investigations.

Arguably unfortunate, though, were the constraints imposed by the WGIG's mandate to identify "issues". Detailing the actual institutions that devise and embody shared principles, norms, rules, decision-making procedures and programmes applicable to these issues generally was relegated to the Background Report. Including such a discussion in the main Report might have been too politically sensitive and could have resulted in a notably longer and denser document, but the light treatment did leave the discussion somewhat institutionally ungrounded.

The WGIG offered four models for the oversight of core resources that helped to focus the global debate on the governance of the Internet's core resources

The WGIG was not specifically mandated to step into the very delicate debate over the "oversight" of critical Internet resources. Nevertheless, it was invited to make proposals for action "as appropriate," and this was the main "elephant in the room" geopolitical issue that was heavily colouring and indeed driving the WSIS debate. As such, members felt it would be useful to help focus the conversation by laying out some possible baseline approaches. The group did not attempt to agree on a single one, as this would have been impossible to achieve. Instead, it simply included in the Report, without much comment, four alternative models that were proposed by different clusters of members.

Model 1 proposed a Global Internet Council that would be anchored in the United Nations system; take over the functions of the US Department of Commerce with respect to its contractual relations with ICANN, VeriSign, and the performance of the Internet Assigned Numbers Authority (IANA) functions; replace ICANN's Governmental Advisory Committee

(GAC); have broad global public policy decision-making authority; and be advised by non-governmental stakeholders. Similarly, Model 3 proposed an International Internet Council, apparently a multistakeholder entity in which governments would play a "leading role" on critical resources and policy matters after taking into account other stakeholders' advice. This Council also would take over the US government's stewardship roles, potentially make ICANN's GAC redundant, and have broad global public policy decision-making authority. Model 4 proposed a government-led Global Internet Policy Council, with other stakeholders serving in an observer capacity, which again would replace the US government's roles and have broad authority over global public policy matters. In addition, the model called for the creation of a World Internet Corporation for Assigned Names and Numbers, a private sector-led body comprising a reformed and internationalized ICANN linked to the United Nations; it also called for the creation of an IGF. Finally, Model 2, which was proposed by civil society participants, indicated that there is no need for an oversight organization, although it may be necessary to enhance the role of the GAC. Model 2 also suggested the creation of an IGF. In short, this was a useful exercise that helped to crystallize and make public the end state preferences of many WSIS participants.

In the end, no new oversight mechanism was agreed to in the WSIS Preparatory Committee, and the trajectory we have followed since is largely consistent with Model 2. This was the preferred outcome for those of us who believe that critical Internet resources should be governed in a fully multistakeholder manner, and that an intergovernmental replacement for the US government's roles would have been ill advised. But it also left proponents of an intergovernmental approach, such as many members of the G-77 and China, unhappy that they were without what they considered to be a suitable "policy space" in which to debate and make decisions on the full range of global public policy issues. Hence for the past decade a debate has percolated at varying levels of intensity as to whether the provisions in the November 2005 Summit's Tunis Agenda for the Information Society calling for "enhanced cooperation" mandates the creation of a new intergovernmental decision-making body in order to "enable governments, on an equal footing, to carry out their roles and responsibilities, in international public policy issues pertaining to the Internet, but not in the day-to-day technical and operational matters, that do not impact on international public policy issues."[19] Other parties to the debate maintain that what is called for is the enhancement of existing processes, including via cooperation in the IGF.

The enhanced cooperation debate has given rise to frustrations on all sides. Years of UN progress reviews, open consultations, CSTD discussions, and four meetings in 2013-2014 of the WGEC ultimately led to a deadlock

19. World Summit on the Information Society. (2005). *Tunis agenda for the Information Society.* WSIS-05/TUNIS/DOC/6(Rev.1)-E, November 15, p. 10. www.itu.int/wsis/docs2/tunis/off/6rev1.doc

and the suspension of the WGEC's work pending the 2015 WSIS+10 Review. This difficult journey has been analyzed elsewhere and need not be recapitulated here.[20] But two points are relevant to note. First, there is a clear line connecting the visions first laid out in some of the WGIG's models and the ensuing enhanced cooperation debate. Second, despite all the changes in the Internet environment over the past decade, the concerns that some governments articulated in 2005 remain with us today. Whether one thinks these are entirely justified or not, their discontents and the resulting difficult negotiations continue to complicate efforts to address matters of common concern to the international community.

The creation of a centralized intergovernmental body with decision-making powers over the broad scope of Internet governance would be politically and operationally undesirable and infeasible. Nevertheless, there could be a case for a "policy space" in which governments could engage in the sort of intensive dialogue and analysis with each other that many say they sorely lack. The ITU has created a Council Working Group on International Internet-related Public Policy Issues, but the substantive orientation, composition, and closed nature of this intergovernmental body makes it unlikely to effectively serve the desired purpose. The G-77 and China floated a paper for the WSIS+10 Review in the summer of 2015 that called for the UN General Assembly to "consider establishing an intergovernmental forum on enhanced cooperation and its modalities," presumably in New York, but this idea happily was later taken off the table.[21]

From a multistakeholder standpoint, the most desirable approach would be to create an intergovernmental working group under the umbrella of the IGF. After all, governments already routinely meet for high-level events alongside IGF meetings, and they could similarly add a day to each of the IGF's Open Consultations to engage in dialogue on a work programme, preferably subject to rules of procedure that allow non-governmental participants to observe and weigh in at designated times, etc. But as such a proposal seems unlikely to garner support from the governments in question, perhaps an ongoing working group under the aegis of the CSTD could be an alternative. Either way, it is hoped that the WSIS+10 Review will agree to reboot the WGEC and provide a fresh opportunity for the parties to think anew about options that would complement and interwork effectively with the existing institutional ecosystem.

---

20. The WGEC's materials are at unctad.org/en/Pages/CSTD/WGEC.aspx. For assessments of the process and of the larger concerns of developing countries, respectively, see, Dickinson, S. (2014). A journey can be more important than the destination: Reflecting on the CSTD Working Group on Enhanced Cooperation; and Maciel, M. (2014). Creating a global Internet public policy space: Is there a way forward? In W. J. Drake (Ed.), *Internet Governance: The NETmundial Roadmap*. Los Angeles: USC Annenberg Press. amzn.to/1NA5b5d

21. Member States of the Group of 77 and China. (2015). Untitled and undated submission to the General Assembly's overall review of the implementation of WSIS outcomes, p. 10. New York: UN General Assembly. workspace.unpan.org/sites/Internet/Documents/UNPAN95036.pdf

The WGIG proposed the establishment of an Internet governance Forum

Finally, and perhaps most importantly, the WGIG proposed the creation of the IGF. The Forum was envisioned as filling a vacuum in the current governance architecture, as there is no global multistakeholder setting in which Internet-related public policy issues can be addressed by the international community as a whole. It was by any measure a revolutionary construct, unlike anything else in the UN. A non-decision-making process, eschewing the divisive negotiation dynamics of WSIS; open, transparent, inclusive, peer-based multistakeholder dialogue on an equal footing; no fixed membership, with anyone able to attend either live or via remote participation; fairly light and bottom-up agenda setting and management structures; multiple Open Consultations; a Multistakeholder Advisory Group to plan the annual meetings via consensus; an explicitly holistic mandate that includes addressing topics that may be on the turfs of other international organizations or processes – this is all quite remarkable. But when civil society participants first began to visualize and lobby for something like this they found little enthusiasm anywhere – not among governments, the private sector, or the technical community.

There are those who argue that given this constellation of forces, the creation of the IGF could very well have not been approved by the Tunis Summit. Perhaps, but it is difficult to imagine how the meeting would have concluded otherwise. With the United States and its governmental and non-governmental allies opposing any sort of new intergovernmental mechanism for oversight or public policy and many in the G-77 and China dug in on precisely such a demand, would the enhanced cooperation language alone have been sufficient for everyone to declare victory and tell the world that the UN had pulled off a successful event? Arguably, launching the IGF and agreeing to keep talking to each other was the only logical road out of Tunis.

But as this is a volume looking back at the WGIG and its legacy, it is perhaps worth concluding this section by recalling the mandate that members envisioned for the IGF. The Forum's possible functions were specified as follows:

- Interface with intergovernmental bodies and other institutions on matters under their purview which are relevant to Internet governance, such as IPR, e-commerce, trade in services and Internet/telecommunications convergence.
- Identify emerging issues and bring them to the attention of the appropriate bodies and make recommendations.
- Address issues that are not being dealt with elsewhere and make proposals for action, as appropriate.
- Connect different bodies involved in Internet management where necessary.

- Contribute to capacity-building for Internet governance for developing countries, drawing fully on local sources of knowledge and expertise.
- Promote and assess on an ongoing basis the embodiment of WSIS principles in Internet governance processes.[22]

These schematic ideas were elaborated on in the Tunis Agenda, and the rest is history. It is worth noting, though, that at least the civil society contingent involved did not imagine that the forum function could be fully exercised simply by holding an annual meeting. There were repeated efforts during and after the WGIG period to garner interest for something a bit more substantial, with ongoing working groups or other mechanisms that could help to meet the declared needs of developing country governments and non-commercial stakeholders. Alas, this vision found no takers, and for some time many people began to deride the resulting events as "mere talk shops" that do not help solve problems.

Today, there is happily a renewal of energies and interest around the IGF. Intersessional work has been launched, with multiple Dynamic Coalitions meeting to advance shared views on a variety of issues. The range and diversity of "outputs" has increased, even if agreeing the "recommendations" the Tunis Agenda provided for has never been attempted. The WGIGF put forward some useful recommendations for strengthening the IGF, the NETmundial meeting added its own, and stakeholders have weighed in with more substantive proposals for increasing the IGF's capacity and utility.[23] One hopes that the WGIG+10 Review will indeed renew the IGF's mandate for another 10 years, and that more purposeful dialogue about strengthening the process can be seriously pursued.

Overview of the book

Historical overview

Markus Kummer's chapter, "A watershed moment in multilateral diplomacy: Adapting governance models to the 21st century", reconstructs the organizational processes and political dynamics involved in launching and conducting the WGIG process. Kummer provides a lively first-person account based on his experience as WGIG's executive coordinator that highlights the challenges confronted in undertaking the UN's first experience with addressing Internet governance issues on the basis of "equal footing" or peer-to-peer multistakeholder cooperation. The author guides the reader through the entire trajectory of the process, from the WSIS' establishment of the mandate, the convening of the group, the construction of the

22. Working Group on Internet Governance. (2005a). Op. cit., pp. 11-12.

23. See, for example, these 2014 discussions about strengthening the IGF: Kummer, M. (2014). A perspective from the technical community; Cerf, V, Ryan, P., Senges, M., & Whitt, R. (2014). A perspective from the private sector: Ensuring that forum follows function; and Malcolm, J. (2014). A perspective from civil society. In W. J. Drake (Ed.), op. cit.

secretariat and the conduct of the meetings and open consultations to the substantive choices that shaped the WGIG Report.

Along the way, Kummer peppers the narrative with insights into the factors that contributed to the WGIG's success and significance. For example, calls by some countries for an open-ended and more intergovernmental process controlled by the WSIS Preparatory Committee had to be overcome in order to pursue a stand-alone working group. Budgetary constraints precluded recruiting staff with research capacities, so the process relied on the WGIG members to do the analytical work. The common UN modality of assembling "eminent persons" was eschewed in favour of recruiting people with working-level expertise. The sessions conducted under the Chatham House Rule allowed governmental and non-governmental participants to speak openly, reconsider positions, and engage in problem solving on an equal footing, so listening and persuasion could become the coins of the realm. Kummer concludes that the WGIG influenced WSIS Phase II in that, "In terms of procedure, gone were the negotiations behind closed doors… In terms of substance, the WGIG had transformed the debate. It evolved from the exchange of slogans into a substantive issue-oriented discussion." More generally, the WGIG "laid the foundation of the Internet governance debate for many years to come and it prepared the general acceptance of the multistakeholder model."

Understanding Internet governance

Wolfgang Kleinwächter's chapter, "Sharing decision making in Internet governance: The impact of the WGIG definition", undertakes a deep reading of the working definition and then teases out some of its implications for the conduct of multistakeholder cooperation in the years to follow. Kleinwächter notes that the text draws on the definition of an international regime that is widely accepted in international relations scholarship but adds other elements to capture the who, what and how of Internet governance. By citing the involvement of governments, the private sector and civil society, the definition provides a foundation for multistakeholder cooperation. Moreover, the controversial "'respective roles' part of the definition cannot be isolated from the 'shared decision-making procedures' part." Thus it is not a justification for the unlimited invocation of sovereign rights, but rather an invitation to engage in "collaborative sovereignty". Just as importantly, the phrase "the evolution and use of the Internet" underscores that Internet governance entails both the infrastructure and its usage for information, communication and commerce. Kleinwächter recalls that "governments agreed to accept this definition as it was proposed by the WGIG. This is an astonishing fact… The WGIG definition – word for word – made its way directly into Paragraph 34 of the Tunis Agenda." Going further, he concludes, "UN bodies as well as other governmental or non-governmental institutions took their orientation for the composition of Internet governance bodies from the WGIG definition."

Jovan Kurbalija's chapter, "The WGIG and the taxonomy of Internet governance", considers how the WGIG categorized public policy issues in Internet governance and compares this with the approach used by the Diplo Foundation. The WGIG's four categories of issues each have counterparts in Diplo's classification scheme, but Diplo goes further in differentiating between seven "baskets" of issues. Employing the latter scheme, he reports on the incidence of these issues in the WGIG Report in comparison to the transcripts of the IGF and other international meetings as well as other relevant sources. Kurbalija finds, *inter alia*, that the WGIG made more frequent mention of infrastructure and standardization issues and less mention of security, human rights and economic issues than have more recent international texts. In sum, "The classification in the WGIG Report has withstood the test of time… By contributing to the initial mapping of Internet governance, the WGIG Report fostered more informed discussion at the WSIS meeting in Tunis, subsequent IGF meetings, and other Internet governance events."

Paul Wilson's and Pablo Hinojosa's chapter, "A critical look at critical Internet resources, since the WGIG", considers a key discursive framing that attracted intense political interest throughout WSIS and into the first five-year mandate of the IGF. The authors note that the WGIG Report did not attempt to define critical Internet resources, but rather used the term in the broad yet implicitly focused manner of the time to refer to infrastructure-related issues in general but root server and IANA-related issues in particular. In fact, while some discussions of the era yielded a wide range of answers to the question of which resources were critical, the authors suggest that a particularly common view was that the term was merely "a convenient label for the IANA functions, nothing more and nothing less." That these were actually diverse in their technical, managerial and community features did not matter, because the term was really just a proxy for the US government's unilateral oversight or stewardship (depending on one's perspective) of ICANN and its performance of the IANA functions. No demonstrable problem with the latter was identified, but the former was a political lightening rod. However, they conclude that "as the CIR debate evolved, its ideological intensity progressively dissipated and decayed. The focus of the discussions became less about principles and more about practical matters, including technical, operational and business issues. While this period did feature the venting of many frustrations (both genuine and perceived), it also increased mutual understandings among most if not all stakeholders involved."

Michael Yakushev's chapter, "Internet governance in Russia: A brief history of the term and the process", traces the interplay between Internet governance at the national level and developments at the global level like the WGIG. The former has evolved in three stages over the past two decades: a "prehistoric" period; a "romantic" period shaped by mutual consent and the equal participation of all stakeholders; and now a "medieval" period marked by governmental regulation and fragmentation. As this evolution

has unfolded, Russian-language terminology repeatedly has had to be invented and adapted to facilitate engagement with global actors, issues and institutions. For example, the author notes that Internet governance was and remains referred to as the "management of Internet usage" in the Russian versions of official UN documents, while multistakeholderism was translated as, for example, "participation by interested parties," "collective management" or the locally meaningless "multisteykholderizm". In this context, Yakushev concludes that the WGIG had at least two distinctive impacts in Russia. First, the combination of words "Internet governance" finally appeared in official documents and put the issues on the agenda. And second, after studying the results of the WGIG, the federal government decided "to 'recognize' itself as one of the 'interested parties' and appoint its representative to the Board of the .RU Country-Code Top-Level Domain Coordination Centre."

Institutionalizing multistakeholder cooperation

Peng Hwa Ang's and Sherly Haristya's chapter, "Multistakeholderism and the democratic deficit", explores a relationship that has been much debated by scholars and civil society activists. The authors note that the term, multistakeholder, was "bandied around and understood loosely" as inclusiveness during WSIS Phase I, and was only mentioned once in the Geneva Plan of Action. It was not until the WGIG Report that the "multi-stakeholder" construct was consolidated and elaborated in relation to the conduct of Internet governance. The authors then take up the term's relationship to democracy, noting that its analysis should take into account "the four classic types of nation-state democracy: namely classical, republicanism, liberal and direct democracy." At the same time, because the international system is anarchic in that it lacks a central source of authority above the nation-state, democracy in Internet governance needs to be conceptualized differently. Hence, after considering the options, they posit that "the deliberative democracy model appears to be best suited to global Internet governance. The model is open-ended in the sense of accepting participants. But here, questions of accountability of the stakeholder group, inclusiveness, and decisiveness arise and answers to them are unclear at best. Much theoretical and perhaps some empirical work may be necessary." Given these and other limitations, they conclude that while "democratic deficit is a bug, it is also a feature in global Internet governance."

Avri Doria's chapter, "The WGIG and the technical community", offers a first-person reflection on the WGIG's role in advancing recognition within the UN system of this transnational grouping's existence and distinctive roles. Doria recalls, "It was not until the WGIG that the technical community was recognized as meriting mention for its contributions to the Internet… The WGIG spent a fair amount of its time trying to map the international policy concerns to the realities of the Internet architecture and to the activities of groups like the IETF and ICANN. Those discussions removed cobwebs from the vision of many of the policy makers in the

group. It showed the organizations to be open to all and multistakeholder in their processes." Accordingly, the WGIG Report took note of the technical community's organizations and their deep involvement in Internet operations, standard setting and services development. The author adds that the report also "gave the technical community implicit recognition as a stakeholder group in their own right" by acknowledging that it interacts extensively with as well as within all stakeholder groups. Building on this, in the Tunis Agenda of November 2005, "the technical community, as well as academics, gained acceptance as a cross-community group made up of members of the three primary stakeholder groups, governments, private sector and civil society." Doria goes on to conclude, "The Internet governance environment is very different now from what it was 10 years ago… the conceptual foundation provided by the WGIG is responsible for initiating this change."

Hartmut R. Glaser's and Diego R. Canabarro's chapter, "Before and after the WGIG: Twenty years of multistakeholder Internet governance in Brazil", presents a nuanced assessment of the interplay between Internet governance at the national level and developments at the global level like the WGIG. But in contrast to the Russian story related by Michael Yakushev, in this case the national development of a multistakeholder process antedated the global debate – the Brazilian Internet Steering Committee (CGI.br) was established in 1995. Nevertheless, the WGIG process and report were procedurally important in helping to clarify for Brazil "the complexity of balancing the rights, duties and expectations of governments, the private sector and civil society from different parts of the world." In parallel, the WGIG's substantive analysis was useful in visualizing the policy terrain, and supported the evolution already underway in national policies and institutions. Indeed, the authors demonstrate that the WGIG's working definition of Internet governance – especially its invocation of principles, norms and programmes – provides a useful framework for assessing not only CGI.br's operations, but also the NETmundial meeting held and the "Marco Civil" law passed in 2014. After detailing these developments, Glaser and Canabarro opine that "the full scope of the WGIG's definition of Internet governance has been covered by the institutionalization of Internet governance in Brazil."

Anriette Esterhuysen's and Karen Banks' chapter, "The Internet Governance Forum: Lasting legacy of the WGIG", argues that the IGF is one of the WGIG's most significant and enduring outcomes. They explore the evolution of the IGF over the past decade and argue that the trust and insight that developed among WGIG members and the ongoing involvement of many of them in the IGF have contributed to the success of the forum. The authors suggest that this continuity might also have encouraged a risk-averse approach to building the IGF's programme, with the result that important and controversial topics were not addressed in a timely manner, most notably in the IGF's early years. Esterhuysen and Banks conclude that it was in response to external forces that the IGF came into its own as a space

for open and vigorous dialogue and debate; that the IGF has continued to mature, in spite of constraints; and that it remains as relevant today as it was when the WGIG first identified the need for such a global forum in mid-2005.

From oversight to stewardship

Juan Fernández González's chapter, "How the WGIG considered the politicization of Internet governance", carefully reconstructs the origins and evolution of geopolitical contention in Internet governance in order to contextualize the WGIG's contributions to its resolution. The author walks us through the debates begun in the 1990s on global electronic commerce, the global digital divide, Internet interconnection charging and more, in order to demonstrate that the questions of power and control were of interest well before the WSIS process commenced. Indeed, the term "Internet governance" was introduced in three official documents in a July 2000 United Nations Economic and Social Council high-level session, the results of which were reported to the UN General Assembly. Early in the preparatory phase of WSIS Phase I, the January 2003 Bávaro Declaration signalled that "Internet governance was part of the WSIS agenda. Consequently it was a matter of (very little) time before it became politicized." The decision to convene the WGIG represented "the start of an international dialogue involving all stakeholders about something that some delegations had for a very long time declared as a topic not up for discussion at all." Fernández González recounts in first-person fashion the WGIG's nuanced handling of the sensitive question of "oversight" and the reasons for listing four models favoured by different groups of participants. He concludes, "Had we presented just a single option, then all those outside who disagreed with that option might have rejected the rest of the report."

David Hendon's chapter, "From oversight to enhanced cooperation", presents a first-person recollection of the decisions and dynamics that resulted in the Tunis Agenda language on enhanced cooperation. Faced with the emerging deadlock during the last-ditch preparatory committee negotiations in Tunis prior to the summit, it occurred to the author (who was representing the United Kingdom, which held the Presidency of the European Union) "that the only chance to get agreement was to use language that no country currently owned and that was capable of being interpreted flexibly by different people. And perhaps if the Summit were to signal a real start to a process of change which addressed the central issue of how all governments could influence the way that the DNS was run, the desire for formal oversight could be set aside for the time being." The "enhanced cooperation" formulation that was finally agreed certainly could be so interpreted, and it was crucial in clearing the way for an agreement in Tunis. In this context, Hendon points out that "the WGIG exerted huge influence, because the debate which led to the WGIG report and discussion in capitals before, during and after the WGIG's work all laid the foundations for the WSIS PrepCom to come to a final agreement, just in time. The elements

of legitimate government interests in Internet policy, enhanced cooperation (by whatever name) and the IGF all had their roots in the WGIG and without the WGIG, it is hard to imagine that the Summit would have been judged a success."

Alejandro Pisanty's chapter, "The vexing problems of oversight and stewardship in Internet governance", shifts gears from personal reflections to a conceptual exploration of two key terms favoured during WSIS and today, respectively. Oversight, he suggests, refers to supervision exercised "from the top" or outside of an organization or process. The vexing problem is that "a multistakeholder mechanism is either self-contained and thus includes its own oversight, or has external oversight and that can only be done through an imbalance among stakeholders." In contrast, stewardship is "a function and duty of care for a resource, exerted by a community or an accepted proxy which may be an individual or an organization… based on a shared view of a common good and the community's broader and long-term interest." Pisanty notes that the competing models advanced by WGIG members ranged from one that envisioned a mild evolution of the multistakeholder system already employed by ICANN to three that embodied varying degrees of oversight by intergovernmental authority. These latter would have upset the balance between stakeholders and shifted power away from the Internet community. The author finds that "only in the model that emerged from WSIS do the true multistakeholder structure and decision making continue," and "the process of attaining autonomy for the IANA function is a fulfillment of the WSIS and WGIG programme of a decade ago."

Internet governance for development

Baher Esmat's chapter, "Internet governance for development: From digital divide to digital economy", explores development as a thematic focus since WSIS Phase I. The author argues that a development agenda was central to WSIS from the outset. In this context, the WGIG became one of the earliest multistakeholder collaborations to allow participants from both developed and developing countries to engage in an open and intensive debate on Internet governance. Many participants from developing countries had not experienced this at the national level, where Internet policy making was less open to non-governmental stakeholders. By extension, Esmat argues that the IGF also has embraced a development agenda from its outset and has striven to support speakers and other participants from developing countries. Against this backdrop, the author goes on to explore a number of contemporary challenges and opportunities for developing countries with respect to such key issues as electronic commerce, infrastructure and access, digital services and capacity development.

Olivier Nana Nzépa's chapter, "The WGIG legacy and the reengineering of decision-making processes in Africa", documents the spread of multistakeholder dialogue and cooperation on the continent over the past decade. The author argues that the WGIG process "has impregnated the very fabric of most of the dealings related to Internet issues in Africa." The work-

ing definition's invocations of "respective roles" and "shared principles" helped to enhance governments' comfort levels with the development of institutions and processes that included non-governmental participation. With new ideas and interest configurations taking hold, "Dozens of organizations have emerged in less than 15 years, making one of the most lively Internet ecosystems," and these organizations "all share the principle of multistakeholder cooperation as advocated by the WGIG." Nzépa provides an overview of this ecosystem and highlights a range of current issues in Africa's Internet development.

Concluding reflections

Jānis Kārkliņš' chapter, "The WGIG in retrospect", offers some reflections from the head of the Preparatory Committee for WSIS Phase II. The author recalls, "The WSIS negotiations were lengthy and politicized, based on inaccurate premises." As the process unfolded, it became clear to all that there was inadequate expertise in the negotiating rooms to make meaningful decisions. Hence, "The decision to create the WGIG was one of the most important in the preparations for the Tunis Summit, as it created the preconditions for a potentially well-informed decision-making process." While the models of oversight variously advanced by WGIG members were not adopted, "the importance of the proposals should not be underestimated. They contributed to the overall evolution of Internet governance and highlighted a few fundamental principles," such as that control of Internet governance should not be monopolized by any actor; multistakeholder collaboration is imperative; and particular attention should be given to the participation of the stakeholders from developing countries.

Fiona Alexander's chapter, "The impact of the WGIG: Reflections after 10 years", presents the-first person recollections of a key US representative throughout the WSIS process. The author recalls that as Phase I moved into its late stages, the discussions of Internet governance "had made little to no progress. There was no shared understanding of terms, concepts or how the Internet actually worked… And given that the actual true experts were not even allowed in the room, there was little reason for optimism. Whispers began that the summit would fail." Hence, the author and colleagues believed it was important to take advantage of the two-phase format and convene a WGIG to clarify the issues and facilitate the conclusion of the process. Alexander concludes by anticipating that the December 2015 WSIS+10 review in the UN General Assembly could reinforce two of the WGIG's key contributions, namely the working definition of Internet governance and the IGF.

Finally, Raúl Echeberría's chapter, "The consequences of the WGIG as viewed 10 years after its final report", reflects on WSIS and the WGIG based on his experience at the time as the CEO of the regional registry for Latin America and the Caribbean. The author recalls that many in the technical community had misgivings about the WSIS Internet governance debates and by extension the convening of the WGIG. However, they later

saw that the process was constructive and contributed to a much more well-informed WSIS Phase II. Looking forward, Echeberría speculates, "The definition of the different roles and responsibilities of different stakeholders in different Internet governance mechanisms is something that will take a long time to be solved." Nevertheless, he concludes that it is important to recognize the significant improvement in the relationships among stakeholders over the past decade, an achievement that is fundamental to multistakeholder enhanced cooperation going forward.

HISTORICAL OVERVIEW

A WATERSHED MOMENT IN MULTILATERAL DIPLOMACY: ADAPTING GOVERNANCE MODELS TO THE 21ST CENTURY

Markus Kummer

This chapter is written as an account of a personal experience, from the perspective of someone who was intimately involved in the process – first representing the Government of Switzerland during the World Summit on the Information Society (WSIS), then working for the United Nations, as head of the Secretariat of the Working Group on Internet Governance (WGIG) and subsequently the Internet Governance Forum (IGF). It looks back at the WGIG through the lens of someone who was involved in its "plumbing" – from setting up the Secretariat, selecting WGIG members, supporting the WGIG work, writing the report and background report, to explaining and promoting the WGIG output. The paper is narrative in scope. It is based on personal recollection and personal archives which are not necessarily part of the public domain. While it is written from a subjective perspective, it aims to be as objective as possible. On the whole, the paper follows a chronological order, but is flexible in doing so and at times anticipates later developments, depending on the subject matter and the flow of the narrative.

The chapter has a strong focus on the final negotiations of WSIS-I, which took place in closed session, and on preparing and setting up the WGIG, as these phases have not been widely documented. Other contributors to this publication will provide their perspectives and thus add different pieces to the Internet governance puzzle that the WGIG helped evolve.

The WGIG was a collective effort and this paper does not do justice to all those who contributed to its work. Singling out those who worked closest with me in the Secretariat should not be interpreted as a value judgment of any sort – all WGIG members and many more who were involved in the process played an equally important role.

To begin with, WSIS was not about Internet governance, but about how best to bring the benefits of the Internet and information and communication technologies (ICTs) to the developing world and to bridge the so-called "digital divide". Internet governance came to the fore during the preparatory process for WSIS-I. While the debate was confused at times, it was less about technology than about geopolitics and in particular about the preponderant role of one government, the United States.

WSIS can also be seen as an attempt by some governments to take the upper hand in a sphere of economic activities that developed outside their influence. It was the recognition by governments of the importance of the Internet. The origins of WSIS can be traced back to the Plenipotentiary Conference of the International Telecommunication Union (ITU) held in Minneapolis in 1998.

In many ways it was a counterpoint to other major events in the same year which, as a common denominator, led to decisions to let the private sector move ahead outside of government regulations. Landmarks of this hands-off approach were the 1996 Information Technology Agreement (ITA) of the World Trade Organization (WTO)[1] or the decision by the 1998 WTO Ministerial Conference in Geneva to impose a freeze on customs duties on e-commerce. The Organisation for Economic Co-operation and Development (OECD) at its ministerial meeting in Ottawa broke new ground and for the first time at a ministerial event sought the active participation of non-governmental actors, advocated a hands-off approach and promoted voluntary cooperation rather than government regulation.[2]

Common to the WTO and OECD conferences was the recognition that the Internet, as a rapidly evolving technology, would be best served by not reining it in with regulation that might impede its further development. The same assumption was also the underlying motivation for setting up the Internet Corporation for Assigned Names and Numbers (ICANN), also in 1998. The Clinton administration came to the conclusion that the coordination of the Domain Name System would be more efficient if carried out in a novel type of organization, outside the traditional intergovernmental world.

In 2015, 10 years after WSIS, there is an intergovernmental review process underway, known as WSIS+10, while the Internet community is engaged in a broad-based bottom-up multistakeholder process to work out a proposal how to replace the residual authority of the United States over the so-called "IANA functions" – the functions that make the Internet work. It

1. The Agreement was updated in 2015. More than 50 countries signed up to the second version of the ITA (ITA-II) to expand the products covered by the Agreement and eliminate tariffs on an additional list of 201 products.

2. OECD Ministerial Conference "A Borderless World: Realising the Potential of Global Electronic Commerce", Ottawa, Canada, 7-9 October 1998. Conference Conclusions, SG/EC(98)14/FINAL. www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=sg/ec(98)14/final&doclanguage=en

was this role of the United States that sparked off the discussion on Internet governance in the WSIS context. This was also very much the heart of the WGIG report and one of the models put forward by the WGIG report addresses the heart of this year's discussion, commonly known as "IANA transition".

While WSIS had intergovernmental origins, it is remarkable to note that over time there was a move towards convergence between the two approaches. WSIS started as a classical meeting among governments and opened up towards other stakeholders. The WGIG played a key part in this evolution.

It is therefore timely to look back at the WGIG and the WGIG contribution to the Internet governance debate. The WGIG can be seen as an important watershed moment in the validation and promotion of the multistakeholder model. It showed that all stakeholders are able to work together and to move towards a common understanding on some critical issues. Maybe the most encouraging aspect was that governments accepted that other stakeholders had as much to say as they did and that their voice counted as much as the voices of governments.

From WSIS-I to WGIG

When the concept of holding a summit on ICTs emerged, the framework was based on traditional UN summits. The United Nations General Assembly (UNGA) in 2002 set the parameters for WSIS. By adopting Resolution 56/183, the UNGA designed the Summit as an intergovernmental process, but at the same time it invited "non-governmental organizations, civil society and the private sector to contribute to, and actively participate in the intergovernmental preparatory process of the Summit and the Summit itself."[3] This invitation, extended to non-governmental stakeholders, created expectations the intergovernmental process was not equipped to meet. The preparations of WSIS-I in 2002 and 2003 were contentious, as many developing countries in particular were suspicious of accepting new actors. Negotiations, to a large extent, focused on rules of procedure and on how governments would interact with non-governmental participants. By and large, the process was government-driven.

The original intention was to prepare the Summit in three preparatory conferences (referred to as PrepComs in the UN jargon). After PrepCom-2 in February 2003 it became obvious that more meetings would be needed. A so-called intersessional meeting held at UNESCO Headquarters in July 2003 helped make some substantive progress. The PrepCom resumed in September, but was unable to conclude and was extended several times.

3. www.itu.int/wsis/docs/background/resolutions/56_183_unga_2002.pdf

The negotiations on Internet governance were particularly confused. The text we had by then contained five different proposals that were mutually exclusive. The main sticking point was a paragraph on how to coordinate "Internet issues of an international nature related to public policies". The diplomatic subtleties made it clear that there were two schools of thought: those who were happy with the status quo and those who wanted to bring in intergovernmental organizations and, in particular, the UN. It seemed obvious by then that we would not be able to resolve this fundamental difference. Delegations were firmly entrenched in positions that were diametrically opposed and it would have been overly optimistic to find a far-reaching solution.

The PrepCom suspended its work on 14 November and decided to resume again three weeks later on 5 December. It gave a mandate to Switzerland to act as a mediator and try to produce new texts on the contentious issues. The Swiss delegation was able to count on the support of Nitin Desai, a seasoned UN diplomat, former Under-Secretary-General for Economic and Social Affairs and, after his retirement from the UN, Special Advisor to the Secretary-General for WSIS.

In between, we held the first consultations with Geneva-based diplomats on the open issues, including Internet governance. We tried to promote an idea that had been floating around for some time, namely that we needed to establish a process to deal with these issues between the two phases of WSIS and that we should concentrate on how to do this. There was one element that became very clear early on: it would not be possible to agree on one single organization that would be in charge of the process. Furthermore, it became also obvious that we were not ready to discuss what we meant with these "public policy issues", in particular whether we were thinking about a narrow definition, relating mainly to the Internet infrastructure, or whether we were referring to a broad definition that would also include content.

Based on these discussions we produced a chairman's text aiming to establish such a process. We thought the most appropriate way to proceed would be to set up a working group within the WSIS framework. We also proposed that this should be done "in close cooperation with relevant intergovernmental and international organizations, the private sector and civil society" and presented some elements as the core for the terms of reference of this working group, such as developing a working definition of Internet governance and identifying the areas of public interest matters that are relevant to Internet governance. The paper was well received. Of course, delegations had many questions, in particular with regard to this proposed working group. They asked who would be the chair, who does what, who would give the mandate, when should the report be ready and other questions of this practical nature. Many delegations stressed that they wanted an intergovernmental process. However, other delegations wanted the process to be private sector led and preferred "close cooperation" replaced by "with the participation of the private sector".

Based on these informal discussions we produced a new text that served as a basis for the resumed session of PrepCom-3 on 5 December. We held our first round of negotiations in a small setting on the evening of that day. This time we had the delegates from the capital who participated and they wanted to add their voice to a discussion which until now had been Geneva-based. While the intention was to negotiate the text for the WSIS outcome document, many delegations felt there was a need to address issues of a more general nature and engaged in a broad policy debate.

To simplify, the two sides repeated their preferences. On the one hand there were those who called for multilateral cooperation under the UN framework and on the other those who were happy with the status quo ("if it ain't broke, don't fix it"). The first school of thought made the point that at the national level governments played a role, that they had a platform for dialogue with the various stakeholders. However, at the international level there was no such forum for interaction. They stressed the need for establishing a multilateral mechanism, preferably with the legitimacy of the UN system. This would not replace any existing mechanism (ICANN was mentioned specifically in this regard), nor infringe on the work of any existing organization, but would be supplementary and deal with policy issues. Furthermore, these delegations felt that Internet governance related to national sovereignty.

The other school of thought highlighted that the present system worked well and before trying to solve a problem it would be necessary to know what problems needed to be addressed. On the whole, these delegations insisted on the importance of full and active involvement of the private sector and all stakeholders. This discussion lasted until midnight. It could have gone on for hours but we had to stop as the UN closed down the building at midnight. We left the meeting with the frustrating feeling that at the end we were further apart than when we had started.

We resumed our work the following morning and finally began discussing the text. By lunch time, we seemed to have lost momentum. When we resumed the negotiations in late afternoon we had only a few hours left to conclude the negotiations. Finally all delegations seriously began to look for a possible compromise. One decisive proposal was to give a mandate to the UN Secretary-General to set up this working group. It appeared that the WSIS format based on its past record would not have satisfied those who wanted a truly open process with the full and active participation of the private sector and other stakeholders. At the same time, it gave comfort to those who wanted the process to be within the UN framework. Furthermore, the role of the various stakeholders was spelled out more specifically, also with a stronger emphasis on participation from developing countries. One last contentious point concerned the wording on recommendations. The original proposal had called for "possible action" (I had argued that we should not prejudge the outcome of the working group). Some delegations felt that there was definitely a need for action and proposed deletion of

"possible". The final compromise was to be found with the almost classical UN qualifier "appropriate": "recommendations for appropriate action".

It is worth noting that the final negotiations were purely intergovernmental. At the request of some member states, I had to comply with the rules of procedure and send out all participants who did not belong to a governmental delegation, whether I liked it or not. Among the actors I had asked to leave was Paul Twomey, the president and CEO of ICANN – an event that caught the attention of global media. He was quoted by the International Herald Tribune as saying, "Here I am outside a UN meeting room where diplomats – most of whom know little about the technical aspects – are deciding in a closed forum how 750 million people should reach the Internet."[4] He had a point. It was evident then that non-governmental actors brought more expertise to the negotiating table than the diplomats who were negotiating the texts. However, the diplomats, who were very skilled at their own game, found it easier to negotiate and compromise behind closed doors. So, behind closed doors, we found a satisfactory compromise. By asking the Secretary-General of the United Nations to set up a Working Group on Internet Governance (WGIG), WSIS changed the dynamics of the process.

Shaping the WGIG framework

Discussions leading to the establishment of the WGIG took place from early 2004 onwards. Workshops and consultations at a wide range of meetings of intergovernmental and other organizations took up this issue. WSIS provided neither a roadmap nor a template for the implementation of its decisions. Both the Declaration of Principles and the Plan of Action used the same terse language without specifying how this should be done.[5] Ultimately this proved beneficial, as it allowed for some flexibility in the interpretation of the mandate and its implementation.

I was approached by the UN in early 2004 and asked whether I would consider driving this process. This task was definitely of interest to me, as it went beyond the boundaries of traditional diplomacy, both in terms of substance, a game-changing technology, and process, involving "the full and active participation" of non-state actors. As WSIS was over, it would have been normal routine to be assigned to another task in the Swiss Foreign Ministry. Working for the UN would also count as another assignment, but I would have to ask for an unpaid leave of absence. Given the fact

4. Schenker, J. L. (2003, 8 December). Nations Chafe at U.S. Influence Over Internet. *International Herald Tribune*.

5. "We ask the Secretary General of the United Nations to set up a working group on Internet governance, in an open and inclusive process that ensures a mechanism for the full and active participation of governments, the private sector and civil society from both developing and developed countries, involving relevant intergovernmental and international organizations and forums, to investigate and make proposals for action, as appropriate, on the governance of Internet by 2005." (WSIS, Declaration of Principles, Article 50, Plan of Action, Article 13.)

that Switzerland has a long tradition of seconding people to international organizations, I could expect approval in principle of such a request. However, there was no funding available for this activity in the UN budget and the process would have to be funded through so-called extra-budgetary resources, that is, voluntary contributions. I would therefore have to seek funding for a secretariat to support the WGIG, including my salary. Luckily, I received positive signals from the Swiss Agency for Development and Cooperation (SDC). Director Walter Fust said that SDC might consider funding development-related aspects of this process.

While these preliminary enquiries were underway, the ITU held a first workshop on 26 and 27 February 2004 to prepare the discussion on Internet governance. By then, my interactions with both the UN and the Swiss government on my possible involvement in the WGIG were not public and I was invited to report on the negotiations on Internet governance that I had chaired in the final phase of WSIS-I in December 2003. I gave an account of the negotiations and began to outline my thoughts on how to approach the process. I suggested starting the process with an analysis of "who does what" and then proceed to the definition of the issues to be dealt with. I also recalled that the discussions during the WSIS process so far focused mainly on issues relating to the DNS with a focus on ccTLDs and the role of ICANN. However, I cautioned that such a narrow focus might get us stuck in controversies and that in order to avoid a deadlock, there might be some merit in starting with a definition as broad as possible in order to avoid what I called "an undue focus on any single organization."

As regards modalities and working methods, I made the point that it would not be possible to draft the report in a plenary mode. However, one of the lessons learned from WSIS was to make sure that all stakeholders felt that they were part of any ongoing work. During the past two years, any attempt to come forward with a proposal by a restricted meeting had been doomed to failure. Presumably, a solution could consist in looking for a flexible format, with some open-ended plenary meetings and smaller meetings, maybe also with different expert meetings, in between. Whatever the modalities, the only chance for the working group to be successful would be to make sure that all stakeholders would recognize themselves in the final report.

Another meeting took place a month later in New York. On 25 and 26 March 2004 the UN ICT Task Force held a meeting to discuss a "range of issues arising out of the Geneva phase of WSIS." In my intervention I made the point that the discussion so far had shown that there was a perceived problem, whether or not it was real.[6] On the whole the misgivings related to what I then called "a narrow definition of Internet Governance and in particular the ccTLDs" – in other words, issues related to ICANN. I made

6. Kummer, M. (2004). The Results of the WSIS Negotiations on Internet Governance. In D. MacLean (Ed.), *Internet Governance: A Grand Collaboration*. New York: UN ICT Task Force.

the same points I had made a month earlier in Geneva and identified three process-related priorities:

- Firstly, as it was not possible to agree on any one single organization that would be in charge, the Summit asked the Secretary-General of the UN to set up a working group to deal with the issue. The institutional independence of the working group was therefore of paramount importance.
- Secondly, equally important was the open and inclusive character of the group. The issue of stakeholder participation was closely linked to the institutional aspect. It was one of the reasons why the proposal to set up a working group as part of the WSIS process was not accepted. It was felt by a significant number of key players that the WSIS process had not proved satisfactory with regard to the inclusion of private sector and civil society and that therefore the formula finally agreed on should give sufficient flexibility to be more inclusive.
- Thirdly, in order to be inclusive it was necessary to ensure that developing countries would be able to make their voice heard. Their full and meaningful participation in this process would be essential. The process leading to Tunis needed to reflect these priorities. It would be important to get the modalities right before starting the substantive work.

In concluding the meeting, UN Deputy Secretary-General Louise Fréchette announced the establishment of a "secretariat to support the Secretary-General's working group" and that on 25 March I was appointed to head the secretariat.[7]

The preparatory phase

Getting started

This official announcement marked the beginning of an informal phase of consultations on how to set up the WGIG in many meetings and conferences. I was in the somewhat awkward position that I had been appointed, but had not yet taken up my function. Immediately after the meeting I was approached by some civil society members who wanted to start a dialogue on these issues. We found a very satisfactory formula for our communication. They agreed they would not quote me verbatim, but would convey their understanding of our discussion to their respective members. This method allowed for an open two-way channel of communication which was based on mutual trust and should prove very helpful in the months ahead. A similar channel of communication was also opened with the business community through the International Chamber of Commerce (ICC).

7. Informal Summary of the Global Forum on Internet Governance, in *Internet Governance: A Grand Collaboration* (Ibid.).

Back in Geneva, I was introduced to the Director General of the UN in Geneva, Mr Sergei Ordzhonikize, who kindly offered me some office space at the Palais des Nations. I also met some key people in international organizations such as the ITU, WIPO, the WTO, UNCTAD, CERN and the WEF. When looking at the mandate we also looked at other examples of international efforts to bring together eminent persons or experts to look at a given problem and make recommendations. One of these efforts that was mentioned to me as particularly relevant was the World Commission on Dams (WCD). The Commission was set up by the World Bank and the International Union for Conservation of Nature (IUCN) in response to controversies over the construction of large dams.[8] It included experts from civil society, academia, the private sector, professional associations and also one government representative. Its Secretary-General was Achim Steiner, at the time Director-General of IUCN – and since 2006 Executive Director of the United Nations Environment Programme (UNEP). As IUCN is located in Gland, near Geneva, it was easy to set up a meeting with him. Steiner emphasized how important it was in the work of his Commission to bring together people from different walks of life with diametrically opposed lifestyles and views of the world – from the businessman who arrived in a private jet to the hunger striker – and to establish a culture of dialogue and find a common language. This was a remarkable result in itself, as WCD members in normal circumstances would not have talked, let alone listened to each other. In order to achieve this, he had held extensive consultations with all interested parties before setting up the Commission. This was his key advice: take your time for setting up the group and make sure that there will not be any surprises when the composition of the group is announced. This would be key to make sure to get the buy-in of all groups. Without that buy-in, the outcome of the group's work would be as good as meaningless.

This advice guided my activities from then on and I tried to convey this message whenever I was asked how the WGIG process would unfold. By then, that is April/May 2004, there was already a widespread feeling that precious time had been lost and the UN had no sense of urgency in implementing the mandate that was given to its Secretary-General. It was therefore all the more urgent to spread the message that the preparatory phase was equally important.

The WGIG Secretariat

In April, I went to New York to familiarize myself with the workings of the UN Secretariat and prepare the administrative side of the work ahead. This involved the usual paperwork, a medical and, most importantly, drafting a so-called "project paper". As the WGIG was not part of the regular UN work programme, it was set up as a project that would need to be funded through voluntary contributions. This is not unusual for the UN. In order to approach potential donors and ask for funding, there is a need for a

8. www.internationalrivers.org/campaigns/the-world-commission-on-dams

document that explains the rationale for the project, establishes a work programme and a budget. In talks with colleagues from the Executive Office of the Secretary-General – usually referred to by its acronym EOSG – and the UN Department for Economic and Social Affairs (UNDESA) – it was agreed that I would report to the EOSG in substantive matters, while the administration would be taken care of by UNDESA, as UNDESA had more administrative capacity for running projects.

An important concern in the process of setting up the WGIG was to ensure transparency, neutrality, inclusiveness and open participation by all relevant stakeholders. Furthermore, in setting up the WGIG it was felt that it would be necessary to keep in mind the widely divergent views expressed in Geneva on *inter alia* the scope and definition of Internet governance or the roles and responsibilities of various stakeholders and in particular the private sector and intergovernmental bodies.

The project document recognized that one of the challenges ahead was to strike a balance between the need to allow for the full and active participation of all stakeholders and the efficiency of the process. It also made clear that the Secretariat was independent from any specific stakeholder interest and that its staff would be recruited based on functional competency, not as representatives of a specific government or an organization.

The principal mandate of the Secretariat was to provide support to the Secretary-General in order to establish the WGIG and to provide substantive, organizational and administrative support to the Working Group in preparing its report and recommendations to the second phase of WSIS.

The Secretariat was given three main tasks:

- To assist the Secretary-General of the United Nations in establishing the WGIG.
- To implement the mandate set out by the first phase of WSIS; in particular, to assist the WGIG in preparing a report on Internet governance.
- To disseminate the results of the WGIG process in order to facilitate the negotiations of the Tunis Summit.

The road map foresaw three main phases:

- The first preparatory phase would focus on setting up the WGIG Secretariat and support the Secretary-General with the appointment of the WGIG Chair and its members and on consulting how best to structure its work. The composition of the WGIG should be completed by October 2004.
- The second phase would begin once the WGIG was set up and would be devoted to the implementation of its mandate and to prepare a report as its main output. Four meetings of the WGIG should suffice, with its members making maximum use of ICTs for its work. In conjunction

with its meetings, the WGIG would hold consultations with all governments and stakeholders in an open-ended format. The report should be issued not later than July 2005.

- The third phase would begin after the publication of the report. As there would be no further meeting activities of the WGIG, the Secretariat would be gradually scaled down, as a number of one-year contracts would run out. A core group would accompany the process until the Tunis Summit.

The project document emphasized the need for the open and inclusive character of the process, as this was seen to be of paramount importance for its credibility with all governments, relevant stakeholders and organizations. The project was approved in early May by the Deputy Secretary-General. From then on I was enabled to approach potential donors and seek funding. My own contract was set to start on 1 July. I was given the title Executive Coordinator and attached to the EOSG, while being administered by UNDESA. This was reflected in the definition of the reporting line which asked me "to report to the Deputy Secretary-General through the Under-Secretary-General of UNDESA."

Originally, the project document had expressed the need for up to six professional staff members with a budget totalling USD two million. This proved overambitious, as most governments and corporations have a budget cycle that does not allow them to free substantial funds at short notice. However, we succeeded in the end to raise just over USD one million, with contributions from the governments of Switzerland, the Netherlands and France as well as ICANN, the Number Resource Organization (the umbrella organization of the Regional Internet Registries), SWITCH (the operator of the Swiss ccTLD) and the Foundation for Multimedia.

The financial constraints would have an impact on the WGIG working methods. The budget was sufficient to fund a small Secretariat that supported the WGIG, but did not allow for recruiting staff with research capacities. The process therefore relied on the work of the WGIG members who were requested to make substantive contributions to the process. In the end the budgetary constraints may well have been a blessing in disguise, as it forced us to drive a truly member-driven bottom-up process. It was this very nature of the WGIG that lent credibility to its output.

The Secretariat started as a two-man team. I was lucky to have found a candidate for a staff position who had been recommended by a European Commission colleague. He was a young Tunisian, Tarek Cheniti, who had just finished an internship with the Secretariat of ICANN's Government Advisory Committee, which at the time was hosted by the European Commission. Tarek supported me until he left when he was offered a scholarship to conclude his PhD studies in Oxford in August 2005. In early January 2005, another full-time staff member joined the Secretariat, seconded by the Government of New Zealand: Frank March, a senior official with

many years experience in this field. His support would prove invaluable. He collected and collated all the working papers and forged them into what was to become the WGIG Background Report. Furthermore, Chengetai Masango, from Zimbabwe, then a PhD student at the Syracuse University School of Information Science and Technology, was granted an internship at the Secretariat from April to July. He went on to succeed Tarek for the rest of the WGIG mandate. Chengetai stayed on when the WGIG Secretariat was transformed into the IGF Secretariat. Together we built up the IGF Secretariat and saw the IGF through its first mandate. Chengetai took over from me in 2011 as the acting head of the IGF Secretariat.

As some of the financial contributions were earmarked for capacity-building, the Secretariat organized a fellowship scheme with the DiploFoundation. The programme had the objective of giving post-graduate students or young professionals from developing countries exposure to and first-hand experience of Internet governance and policy issues. Three candidates (from Brazil, India and Togo) were chosen in a competitive selection process in cooperation with the Global Knowledge Partnership (GKP). They joined the Secretariat for one-month fellowships in April and May 2005. In addition, three one-week fellowships were granted to candidates from Benin, Congo and Jamaica, to allow them to participate in PrepCom-3 in September 2005.

It was our ambition to make the best possible use of Internet technology to support the WGIG and we pioneered in a UN environment as regards the use of Wi-Fi, webcasting and real-time captioning. I came across real-time transcription for the first time while attending an ICANN meeting. It was a bit of a shock for me, when I saw my words popping up on a screen as I spoke, but I was immediately struck by the efficiency of this method. From the UN, I was used to simultaneous interpretation in all six official languages (Arabic, Chinese, English, French, Spanish and Russian), but not to the simultaneous transcriptions which take transparency to a new level. Being able to read the spoken word greatly facilitates the understanding of complex technical discussions, especially for non-native English speakers. It also assists the hearing-impaired by translating spoken words into text. In addition, real-time transcription allows for instant archiving of the proceedings and thus greatly enhances the transparency of the process. From April 2004 onwards the same team contracted by ICANN also provided real-time transcription to the WGIG and from 2006 onwards also to the IGF. The captioning was made available on the WGIG website immediately after the meetings. This was in line with our efforts to make the process as accessible and transparent as possible to all interested parties regardless of their geographical location or circumstance.

We also wanted to provide Wi-Fi and webcasting, at the time not part of the standard services provided by the UN. We were fortunate to find a sponsor (who wanted to remain anonymous) who kindly offered the hardware for the first installation of Wi-Fi at the UN in Geneva from the first

WGIG meeting onwards. Similarly, webcasting services were not provided by the UN at the time, but a WGIG member introduced us to a team of young Internet professionals from Torino University who were happy to support us and who came to Geneva to webcast the WGIG meetings from February onwards.

Consulting on the WGIG

From April to August I attended several meetings such as the ITU Telecom Africa in Cairo, and INET 04, organized by the Internet Society in Barcelona, and had informal meetings with the US administration and civil society in Washington and with the European Commission and representatives of its member states in Brussels. In all these meetings I conveyed the same message, namely that it was important first to have a common understanding of the profile of the WGIG members and the scope of its mandate, before discussing individual candidates. I kept asking the question whether we needed eminent persons rather than experts willing to roll up their sleeves – and I expressed my preference for the latter. I also kept repeating what I had said from the beginning, namely that we should look at the broader issues instead of focusing on a single issue and the remit of a single organization, implicitly referring to the DNS and ICANN. I kept stressing the need for a closed group, for efficiency's sake, in order to allow for the drafting of the report, but that the closed sessions would need to be held in conjunction with sessions open to all interested stakeholders.

I also countered those who argued that WSIS-I had failed to reach agreement on Internet governance and called the agreement to set up the WGIG a significant outcome of the Geneva Summit by placing a new issue on the agenda of multilateral cooperation. By recognizing some important principles, the Geneva Declaration laid the conceptual groundwork for any future form of Internet governance and in particular that the management of the Internet should involve governments, private sector, civil society and international organizations. Furthermore, I placed this problematique in the context of discussions on global governance and argued that WSIS had agreed on no more and no less than the need to adapt traditional models of governance to the needs of the 21st century and find new forms of cooperation which allow for the full and active participation of all stakeholders.

In Barcelona I met for the first time the two co-inventors of the Internet protocol, the TCP/IP, also commonly referred to as the "Fathers of the Internet", Vint Cerf and Robert Kahn. Both would be interested followers of and contributors to the WGIG process.

While getting installed in the UN in July, I was invited to some other meetings, in Paris, Tokyo and, most importantly, an ICANN meeting in Kuala Lumpur. It was the first ICANN meeting I attended and I was invited to give a presentation to the meeting in a plenary setting. It was not without apprehension that I climbed on the podium, facing the community that was responsible for making the Internet work. My message was simple: take the interest WSIS

took in the Internet as a sign of its importance as the backbone of globalization. The UN is not here to take over the Internet, but my task is to help WSIS to take the right decision. This message was well received and I spent much of the week in informal discussions with various groups and constituencies discussing the way ahead. At the end of the meeting I was confident that the Internet community was willing and keen to contribute to the process.

The WGIG and its relationship to WSIS

The most important meeting was in June, the first PrepCom for the second phase of WSIS. It took place in Hammamet, Tunisia, from 22 to 26 June 2004. Like all the other meetings before, I was in the somewhat awkward position that I was technically still in the service of the Swiss Foreign Ministry, but was invited to speak as the designated head of the WGIG Secretariat. This required close coordination with UN Headquarters in New York and in early June I attended my first video conference with the UN Secretariat Task Force, headed by the Deputy Secretary-General.

The main objective of this PrepCom was to organize the work of the preparatory process of the Tunis phase of WSIS. It was given the status of a PrepCom because some formal decisions needed to be taken as regards the election of the new president of the PrepCom and the composition of the bureau. Internet governance was very much in the centre of the negotiations on a draft decision as a result of the PrepCom. The negotiations on a brief document containing a decision on the focus, output and preparatory process of the second phase as well as the organization of the next PrepCom proved more difficult than anticipated.

I gave a presentation of the WGIG process along the lines which were outlined in the project document. This sparked off some determined opposition by developing countries, led by China, Pakistan, India, Iran, Saudi Arabia, South Africa and Brazil, who wanted the work to be controlled by the PrepCom process. In particular, they asked for the WGIG to be composed in an open-ended format and wanted its report to be finished in time for PrepCom-2, to be held in February 2005.

Several proposals were put forward that would have brought the negotiation on Internet governance back into the PrepCom process. The relationship and the interaction between the WGIG and the PrepCom process proved to be a delicate issue. While some governments saw the WGIG as falling under the authority of the PrepCom, civil society saw a strengthening of this relationship as a move aimed at giving governments more control over the WGIG. In their view, this would have been a dilution of the results of Geneva, which called for "the full and active involvement of all stakeholders."

In the end, none of these proposals was accepted and the WGIG was confirmed as a stand-alone exercise that was independent from the PrepCom process. The only remaining issue was what form the requested reporting back to PrepCom-2 should take. I had made clear in my discussions with the various regional groups that submitting a progress report would not present

a problem, but that the work would not be advanced far enough to make an interim report, as asked for by the Asian Group. The newly elected President of the PrepCom, Ambassador Jānis Kārkliņš, Permanent Representative of Latvia to the UN in Geneva, suggested the wording "preliminary report" as a compromise proposal. The decision finally adopted late on Saturday night asked for a preliminary report to be made available to PrepCom-2.

Some points that were made in informal consultations with the regional groups were noteworthy as regards the composition of the group. For Brazil, a balanced composition meant balance between pro-ICANN and anti-ICANN members. Along a similar line, South Africa and others pointed out that they did not recognize themselves in developing country representatives who worked for multinational corporations.

Setting up the WGIG

Reporting back to New York from the Hammamet PrepCom, finally from my office in the UN compound as a UN staff member, I saw a need to be pro-active to counter the tendencies of some governments to treat the WGIG as part of the PrepCom process. Hammamet had allowed narrowing the gaps in the conception of the WGIG and moving closer towards a common goal. It was therefore important and urgent now to build on the common ground and organize a round of informal consultations open to all governments and all stakeholders in order to reach a common understanding on how to move forward. My first action therefore as a UN staff member was to get in touch with the UN conference services to reserve a room and interpretation services for consultations in September.

The consultations on the setting up of the Working Group were held at the United Nations in Geneva on 20-21 September 2004. Nitin Desai agreed to chair the meeting. The aim of the consultations was to develop a common understanding of the structure and functioning of the Working Group. Discussions focused on the scope and working methods of the Group, as well as the profile, qualities and characteristics of its members. Over 250 participants, representing governments, civil society organizations and private sector entities, attended the consultations. The consultations were held in an open mode, allowing all actors involved in Internet issues to participate on an equal footing outside the usual UN protocol. This open format, which allowed members of civil society and the private sector to take the floor without any distinction from government representatives, was accepted by all. This format was to become the hallmark of the WGIG process.

In his opening remarks, Nitin Desai stressed that the UN had not sought the role it was given by the Geneva phase of WSIS, but at the same time was not shying away from it. The consultations allowed for a lively exchange of views among the different stakeholders. They achieved the aim we set ourselves at the outset and allowed us to move closer to a common understanding on how to manage the process. There was a convergence of views on some key ideas:

- The need to treat Internet governance from a broad perspective and that we should take into account what has been done elsewhere and build on what already exists. Topics that were particularly highlighted by the participants include the management of Internet resources, network security, cyber crime, spam, and multilingualism. However, many participants stressed that the WGIG should concentrate on a few priority issues.
- The WGIG should be based on a multistakeholder approach and this approach should be reflected in its composition.
- The composition of the WGIG should be balanced in terms of regional representation, stakeholders, gender, developed and developing countries, and differing schools of thought.
- The process should be open, transparent and inclusive. Regular consultations in an open format such as the ones held during the past two days would greatly contribute to this objective. It also became clear that the WGIG was expected to be different from classical expert groups and that an innovative approach would be needed to meet these expectations. To increase the efficiency of this process, the best possible use should be made of electronic working methods including online consultations. In this regard, the WGIG could learn from the Internet community.

While different views were held with regard to the composition, size and structure of the WGIG, many participants stressed the need for the WGIG to be constituted at a working or expert level (as opposed to a group of "eminent persons", as is often the case with panels or commissions set up by the UN) .

With regard to the process, governments and all stakeholders emphasized the need for regular consultations in an open format. There was a general agreement that the group needed to be accepted as being representative by governments and all stakeholders; this would be of paramount importance for its credibility.

The outcome of these consultations allowed the Secretariat to assist the Secretary-General in establishing the WGIG. This was the focus of the following weeks. Originally I had hoped for a group of between 15 and 20 members, as this would allow for building a cohesive team with efficient working methods. However, in consultations with the diplomatic missions in Geneva it became obvious that this would not be possible. All regional groups made it clear that in order to establish a sub-regional balance they would all need to be represented by at least four members. As there are five regional groups (Africa, Asia/Pacific, Eastern Europe, Latin America/Caribbean and Western Europe and Others), the WGIG would need to include 20 governmental members who would need to be matched by members representing civil society and the private sector.

There were several ways names were put forward, ranging from self-nominations by some individuals who wrote emails to the Secretariat, to official

communications by Missions to the UN at Geneva who sent their proposals with a diplomatic *note verbale*. We compiled all the names in a table, indicating their regional and stakeholder affiliation, and proposed a final selection.

In early October I submitted a note to the Deputy Secretary-General, summarizing the outcome of the consultations with a list of candidates for appointment as WGIG members. The note emphasized that there was a general convergence of views on the need for an open, inclusive and transparent process and for a balanced composition of the WGIG, taking into account regional representation, different stakeholder groups, gender, developed and developing countries, and differing schools of thought.

As regards the composition, size and structure of the WGIG, a group of up to 40 members, with roughly an equal number of government representatives and non-state actors would seem a reasonable compromise that seemed to gain favour among different constituencies. Nitin Desai was the logical candidate for chairing the WGIG, as his experience of intergovernmental diplomatic processes would prove invaluable and would be welcomed by all governments and other stakeholders.

The government representatives proposed in the list had been identified in consultations with key countries who played an active role in the negotiations on this issue. The private sector representatives were chosen mainly from a list submitted by the International Chamber of Commerce and the civil society representatives from a list which was the result of a vast and lengthy consultation process among the various NGOs involved in WSIS. The main objective was to achieve a balance between the regions and the different groups and also between the different groups within the regions. To achieve a perfect balance would have been an elusive goal. The list of proposed names achieved what at best might be termed a "reasonable balance". I expressed the hope that the WGIG in this proposed composition should be broadly accepted as being representative by governments and other stakeholders.

This list was approved and I was able to contact the designated members while waiting for the official announcement. This allowed them to make the travel arrangements in time for the first WGIG meeting.

The WGIG was formally established on 11 November 2004 with an official announcement by the UN that the Secretary-General had nominated 40 personalities from governments, the private sector and civil society as its members. The announcement specified that all members would participate on an equal footing and in their personal capacity.

The WGIG meetings

Overview

The WGIG held four meetings to produce its report. All meetings took place either in Geneva itself or in the immediate vicinity. In conjunction with all its meetings it held consultations open to all stakeholders. Three

of these consultations took place at the Palais des Nations and one at the International Telecommunication Union (ITU). The United Nations Office in Geneva (UNOG) provided interpretation in all six UN languages for all consultations. The restricted meetings of the WGIG were held at the Palais des Nations, the International Labour Organization (ILO) and the ITU. The last meeting took place at the conference centre of the World Council of Churches at the Château de Bossey outside Geneva. The group divided its work into three phases:

- Fact finding, from the first to the second meeting
- Assessing the Internet governance practices against the WSIS principles, from the second to the third meeting
- Making "recommendations for action", leading up to the fourth meeting.

The WGIG in its work followed the principles set out in the WSIS Declaration of Principles and Plan of Action. It was called upon to be "open and inclusive" in its work and design a "process that ensures a mechanism for the full and active participation of governments, the private sector and civil society from both developing and developed countries, involving relevant intergovernmental and international organizations and forums."

The WGIG agreed that transparency was a key ingredient to ensure ownership of the process among all stakeholders. Stakeholders were invited to prepare contributions and comments on WGIG papers throughout the process. Furthermore, in order to maximize transparency and open communication and to facilitate its own work, the WGIG resolved to use online resources to the maximum extent possible. Thus, members worked extensively through email, IP-based streaming video, bulletin boards, news alerts and through the use of the WGIG website to communicate with the public.

The website was the WGIG's main platform for communication with all stakeholders and provided an interactive collaborative space where all stakeholders could air their views and exchange ideas. It was used for posting papers, which documented the advancement of the Group's work, and for soliciting comments from all stakeholders. All stakeholder groups made regular use of this communication tool. A total of 773 papers were posted in the course of the WGIG process.

First meeting – fact finding

The WGIG met for the first time at the United Nations in Geneva from 23 to 25 November 2004. In order to meet the concern expressed by all participants in the September consultations with regard to the need for an open, transparent and inclusive process, a round of consultations open to all governments and stakeholders was held in conjunction with this meeting on 24 November 2004. The first meeting was devoted to organizing the WGIG's work and to setting the ground rules for interaction between its members

and representatives of the different stakeholder groups. As a basic principle it was agreed that all meetings of the group would be held under the Chatham House Rule.[9] Chairman Nitin Desai made it clear from the beginning that the group was not here to negotiate, but to prepare a report with recommendations aiming to facilitate the negotiations at the second phase of WSIS in Tunis. It was generally felt that the group had made a good start and had advanced well in its substantive work. The first session was devoted to a presentation from each group member. This gave a good idea of each member's respective individual background and aspirations as well as the diversity of the group. In general, the meeting was marked by a good atmosphere and a remarkable degree of openness and willingness of all WGIG members to listen to other opinions. During these three days the WGIG clearly developed a feeling of group identity. The attendance itself was remarkable, with 39 out of 40 WGIG members present in Geneva at relatively short notice.

The meeting agreed on a draft preliminary outline for the structure of the report, which would serve as a basis for its future work, and discussed what should be the point of entry into its substantive work. The Secretariat had proposed an issues-based approach, while some members wanted to start with the definitions, and others still preferred a principles-based point of entry. It was finally decided to prepare issue papers in a bottom-up process with the involvement of all members of the group. The Secretariat was asked to develop a template for the various papers. This template would include, as important benchmarks, the cross-cutting principles contained in the Geneva documents, such a transparency, democracy or multilateralism.

The interaction with the Geneva diplomatic community and all stakeholders at the open meeting on 24 November allowed the group members to listen to the input from a wide range of actors. On the whole, the list of priorities presented by various countries and stakeholders reflected earlier discussions (interconnection fees, DNS, address allocation, spam, security). Developing countries (South Africa, Brazil) repeated the need for a forum where their voice could be heard.

Some time was devoted to procedural issues, as a number of delegations reiterated their desire for all meetings to be open-ended. The WGIG members, while supporting transparency and openness, felt on the whole that they needed a space where they could voice their personal opinion without having to fear that they could be quoted. In particular, several WGIG members representing governments made this point. They clearly noted that they would not be able to speak as freely with onlookers present in the room. As a compromise, the group accepted a proposal by the chairman to alternate between "plenary meetings" (open to observers without the right to speak) and closed working meetings. On the last day, onlookers were allowed in half the time. Ironically, this pressure from the outside contributed to a better cohesion of

9. www.chathamhouse.org/about/chatham-house-rule

all WGIG members, as they felt they had to defend their space for an open exchange of ideas.

One opinion voiced by a non-WGIG member urged the group to concentrate on what he described as the core of the issue, namely "the management of Internet resources by ICANN, in particular top-level domains, which is where important issues remain unresolved." However, this failed to have much impact on the group's discussions.

The main substantive products of the first meeting were a draft outline of the Final Report, an inventory of public policy issues that the group considered relevant to Internet governance, and a template that could be used to describe these issues; identify the actors, institutions, and mechanisms currently engaged in their governance; and conduct an initial assessment of the adequacy of these arrangements.

The group emerged from its first meeting with an "Inventory of Public Policy Issues and Priorities" that contained 46 items sorted into five categories – equitable distribution of resources, access for all, stable and secure functioning of the Internet, multilingualism and content, and other issues for consideration.

The Secretariat circulated this list to WGIG members at the end of November 2004 along with the evaluation template that had been developed during the meeting, with a request that members indicate the topics on which they would consider either preparing an issue paper, or contributing to or commenting on an issue paper.

During this process, the number of issues on the WGIG inventory began to shrink, either as a result of the consolidation of closely-related topics, or because no one was willing or able to develop a paper, or because WGIG members were unable to achieve a sufficient degree of consensus to publish a paper. In order to maintain rough consensus within the group, particularly in relation to controversial topics, it was agreed that every paper would be published as a "draft working paper" and prefaced with a disclaimer stating that it reflected the preliminary findings of the drafting team, that it had been reviewed by all WGIG members, and that it did not necessarily represent a consensus position or contain language agreed by every member of the group.

Second meeting – assessing the adequacy of current arrangements

The WGIG held its second meeting in Geneva from 14 to 18 February 2005. The meeting discussed the outcome of a series of draft working papers prepared by WGIG members. It identified four issue clusters as a basis for its future work and agreed on some elements of a working definition of Internet governance.

Draft working papers on 21 issues began to be posted on the WGIG website at the beginning of February 2005. These papers drew comments from

seven governments, eight WGIG observers and 35 other interested parties, and provided the basis for the open consultations with stakeholders that took place during the second WGIG meeting.

With the issues, actors, institutions and mechanisms of the Internet governance terrain mapped in some detail, the working group faced two main challenges during its second meeting:

- To lay the foundations for the next stage of its work, which involved assessing the adequacy of current Internet governance arrangements in greater detail and developing a common understanding of the roles and responsibilities of different stakeholders.
- To prepare a Preliminary Report for the second session of the WSIS Preparatory Committee (PrepCom-2), which took place in Geneva from 21 to 25 February 2005.

The February meeting was scheduled to take place over five full days and was the longest of the four WGIG meetings. However, because half of this time was allocated to sessions that were open to all stakeholders, the group had relatively little "private time" to progress its work and prepare its report to PrepCom-2. The group's public sessions once again took place at the Palais des Nations, while the closed sessions were held in a quieter environment some distance away, at the headquarters of the ILO.

The Preliminary Report recognized that the WGIG's work should be guided by the key WSIS principles and also recognized the importance of horizontal issues that affect every aspect of Internet governance, such as the economic and social impacts of the Internet, the particular challenges facing developing countries, and the capacity of existing Internet governance arrangements to address governance issues in a coordinated manner.

The chairman submitted the Preliminary Report to PrepCom-2 on 20 February 2005. The Report was discussed by PrepCom-2 on 24 February 2005. In general, delegations commended the WGIG for the progress it had achieved.

Following the endorsement of the WGIG's Preliminary Report by PrepCom-2, the Secretariat proposed that the group should aim to produce papers on each of the issue clusters that had been identified in the Preliminary Report. The Secretariat also suggested that these papers should be short, crisp and clear, that they should identify the strengths and weaknesses of current governance arrangements, and that they should aim to clarify the roles and responsibilities of different stakeholders.

The working methods proposed by the Secretariat, which were accepted by WGIG members, drew on lessons that had been learned during the previous phase of the WGIG's work in preparing working papers on the inventory of public policy issues related to Internet governance. The principal aim of these proposals was to improve the efficiency of the WGIG's work and the overall quality and consistency of its outputs – inherently desirable

objectives that were reinforced by the relatively short interval between the presentation of the Preliminary Report at the end of February and the third WGIG meeting in mid-April 2005.

Once again, the group found it necessary to include a general disclaimer with each paper to the effect that it was a "draft working paper" reflecting the preliminary findings of the drafting team, that had been subject to review by all WGIG members, but that did not necessarily present a consensus position or contain agreed language accepted by every member. With this proviso, the assessment papers were posted in component parts as they were agreed by working group members from 5 April 2005 onwards. Over the next 10 days, the assessment notes were posted. Four governments, 23 WGIG observers and seven other interested parties provided comments. This laid the foundations for the final stage of its work.

As part of its capacity-building efforts, the Secretariat ran a fellowship programme in collaboration with the WSIS Executive Secretariat and the ITU. The programme funded 30 participants from developing countries, with priority given to participants from Least Developed Countries (LDCs), to attend WSIS PrepCom-2 and the open WGIG consultations.

Third meeting – moving towards recommendations

The WGIG held its third meeting in Geneva from 18 to 20 April 2005. The first day was devoted to a round of consultations open to all stakeholders. The meeting went well and the WGIG once again was commended for the openness of its proceedings.

The meeting included a round of consultations open to all stakeholders, and was based on a second series of working papers that assessed the adequacy of current governance arrangements with regard to key issues. During the meeting, the group revised the outline for the Final Report in order to begin aligning it more closely with the working group's terms of reference. This done, it asked the Secretariat to prepare a draft introduction for the Final Report which, in addition to summarizing the origin and evolution of the WGIG, would set out the general principles that had guided the development of the Internet, as well as the WSIS principles that had guided the working group in carrying out its mandate.

The group reached a rough consensus on the general features that a working definition of Internet governance should have and set up a small working group to draft a chapter for review at the next meeting that would not only include a proposed definition of Internet governance, but also explain why a definition was needed and what its terms were intended to mean.

During its third meeting, the group also spent a considerable amount of time discussing how existing Internet governance mechanisms could be improved and whether new mechanisms were needed. The papers assessing the adequacy of current governance arrangements had demonstrated that stakeholders faced significantly different governance challenges in different

issue areas. Accordingly, there was general agreement in the group that different kinds of solutions would be required, in terms of policy and process, to address the main governance challenges that had been identified through the cluster analysis. These challenges included: improving oversight of the management of core Internet resources; responding to new issues related to Internet use in areas where global governance arrangements are currently lacking, such as spam and information and network security; improving coordination between Internet governance and the governance of issues in areas such as trade and intellectual property rights, which are strongly affected by the Internet; and enhancing the capacity of developing countries to coordinate Internet governance at the national level. To facilitate action in response to these current governance challenges and others that arise in the future, there was a general feeling among WGIG members that it would be useful to have a global forum to discuss Internet governance-related issues where all stakeholders could meet on an equal footing. However, there was not yet a common view on the action that should be taken, even though there was general agreement in the group on the main Internet governance challenges that should be addressed.

The discussions on the whole revealed a good understanding of the functioning of the Internet, while the basic positions had not moved significantly. On the one hand there were those (mainly government delegations from developing countries) who wanted Internet governance arrangements to be rooted in the UN framework. They stressed that only the UN could give legitimacy to the system. On the other hand there were several government delegations and non-governmental actors who stressed the importance of private sector leadership. They held the view that present private sector-led governance arrangements were more efficient and better suited to the very nature of the Internet.

The main point on the meeting's agenda was to assess the adequacy of present government arrangements and to start looking at possible recommendations for future action. Discussions focused on the core infrastructure issues related to the administration of Internet names and addresses and the root server system as well as key public policy issues related to the use of the Internet, such as spam, network security and cyber crime.

With regard to the infrastructure issues the Working Group, in its closed session on 19 and 20 April, started a very open discussion on the changes that would be necessary to make governance arrangements acceptable to all. There was an emerging common understanding that what the chairman termed the "constitutional basis" of present arrangements would not be sustainable in the long run and that the system needed to be internationalized. Various proposals were floated on how to improve the present architecture. The group also came to a broad agreement on the need to improve coordination among existing institutions and organizations as well as to have better policy coordination at the national level.

The meeting also addressed the two other key public policy areas the Working Group had identified at its last meeting: issues that are relevant to the Internet but have a much wider impact; and issues relating to developmental aspects of Internet governance, in particular capacity building in developing countries. In these areas the Group agreed to concentrate on the interface between the work of well-established organizations such as the WTO, WIPO or the World Bank and UNDP with Internet governance issues.

The WGIG also discussed how to move forward and draft its report. It reviewed the report's structure to bring it more in line with its evolving discussions as well as with its mandate, as defined in the documents adopted at the Geneva phase of WSIS in 2003.

The group decided to produce a text for online discussion, with the goal of finalizing the draft at its next meeting, and agreed to present various options for possible decisions to be taken by the second phase of WSIS in Tunis in November 2005. The final report was to be submitted to the Secretary-General no later than early July.

All in all, the group moved closer to a common position than could have been expected at the outset. By now, the group had acquired a wide recognition as being relevant in this discussion and the comments received, in particular by professional bodies dealing with the Internet, paid tribute to the Group's work and achievements insofar as it had succeeded in creating a space for a well-informed policy discussion among all stakeholders. Of course, strong differences remained, but by April the Group had found its identity and it was felt that it should be able to come up with a final report that would provide a solid basis for the negotiations in the WSIS context.

Following the meeting, in order to help advance this discussion to the point where specific recommendations could be developed, the Secretariat circulated a questionnaire designed to elicit the views of WGIG members on the actions that needed to be taken to improve Internet governance with respect to four "process functions": a forum function; an oversight function; a function to improve coordination of existing international governance mechanisms; and a function to improve coordination of national governance mechanisms. In addition, a separate version of the questionnaire, prefaced by a "chapeau" explaining its purpose, was made available on the public portion of the WGIG website. Almost all WGIG members shared their views with their colleagues via the questionnaire. In addition, four governments and seven WGIG observers responded.

Fourth meeting – producing the WGIG Report

The WGIG held its final meeting at the conference centre of the World Council of Churches at the Château de Bossey outside Geneva. The meeting took place from 15 to 17 June 2005, and was preceded by open consultations at the ITU in Geneva on 14 June.

Prior to the meeting, the Secretariat had prepared a 65-page document that fleshed out the outline for the Final Report that had been agreed at the third WGIG meeting with material drawn from the Preliminary Report, as well as from the draft working papers on Internet-related public policy issues and existing governance arrangements. In addition, as agreed at the third meeting, the document included sections on the general principles that had guided the development of the Internet since its inception and on the WSIS principles that had guided the WGIG's work, as well as a draft chapter on the working definition of Internet governance.

In the opening session of the Chateau de Bossey meeting, WGIG members decided to write a short Final Report that would be easily accessible to the high-level policy makers participating in WSIS-II, and to present the document prepared by the Secretariat as a Background Report that would be of particular interest to policy analysts and other specialists. To achieve this objective, the WGIG departed from its usual practice of working in plenary and set up a number of working groups to draft text and recommendations for the different chapters of the Final Report.

For the final stage of the meeting, the WGIG re-assembled in plenary to review the draft Final Report that had emerged from the combined efforts of the different working groups. After fine-tuning recommendations, WGIG members agreed to the Final Report around 1:30 a.m. on Saturday, 18 June 2005. This was done on the understanding that the Final Report had the agreement of all WGIG members, that purely editorial changes could be made in the next week or so, once everyone had had a chance to read the text and recommendations in hard copy, and that any proposed change that potentially raised an issue of substance could only be made with the unanimous consent of the group as a whole. Not surprisingly, given the circumstances in which the WGIG Final Report had been written, there were a small number of issues related to the wording of parts of the report that required further discussion. All were satisfactorily resolved, and on 5 July 2005 the Final Report was transmitted to the UN Secretary-General.

The WGIG output

The WGIG Report

The Report was a concise document of 20 pages. It provided proposals to improve current Internet governance arrangements and set priorities for future action. Based on an assessment of what worked well and what worked less well, the Report identified a vacuum within the context of existing structures, as there was no global multistakeholder forum to address Internet-related public policy issues. It therefore proposed the creation of a global space for dialogue among all stakeholders to address these questions. The Report also proposed a further internationalization of Internet governance arrangements and set out four different models for the conduct of global public policy and oversight arrangements with varying forms

of government involvement, ranging from zero oversight to creating new bodies or new structures for interrelated areas of Internet policy governance, oversight and global coordination.

None of the four models had universal support in the WGIG.

The Report had a strong focus on developmental aspects. It identified the effective and meaningful participation of developing countries in Internet governance arrangements and the building of sufficient capacity in developing countries to address related issues as crosscutting priorities.

The Report dealt with the three main questions it was asked by WSIS to deal with. It contained a short and clear working definition of Internet governance with two key elements, namely Internet governance goes beyond Internet names and addresses and it goes beyond governments and involves all stakeholders. This definition reinforced the concept of a multistakeholder approach and the need for cooperation between all actors in Internet governance arrangements.

The Report identified key public policy issues that are of relevance to Internet governance and grouped them into four clusters:

- Issues relating to both the physical and logical infrastructure and the management of critical Internet resources.
- Issues relating to the use of the Internet, including spam, network security and cyber crime.
- Issues that are relevant to the Internet but have an impact much wider than the Internet and for which existing organizations are responsible, such as intellectual property rights or international trade.
- Issues relating to the developmental aspects of Internet governance, in particular capacity building in developing countries.

It set priorities and made recommendations for future action in the following areas: administration of the root zone files and system; allocation of domain names; IP addressing; interconnection costs; Internet stability, security and cyber crime; spam; data protection and privacy rights; consumer rights; intellectual property rights; meaningful participation in global policy development; capacity building; freedom of expression; and multilingualism.

The Report also discussed the different roles and responsibilities of the various stakeholders, recognizing that they can vary according to the issue or function of the problems that are being addressed. In addition, the WGIG recognized that there was a fourth stakeholder group, that is, the Internet institutions. They were not private sector, as on the whole they were constituted as not-for-profit organizations, and they were not civil society either, as they had an operational role.

The Report was submitted as an official document in all UN languages to the third session of WSIS PrepCom-3 and was posted on the WGIG website

on 14 July 2005. An unofficial translation into Italian was also made available. It was presented in an open session to all stakeholders in Geneva on 18 July 2005. Various panels composed of WGIG members introduced the different sections of the report. A concluding panel addressed the procedural issue of multistakeholder cooperation.

The Background Report

The Background Report[10] was made available on the WGIG website as an unofficial document. It was labelled as a reference document that was complementary to the Report without having the same status. The Background Report, a document of some 70 pages, reflected the wide range of opinions held within the group and incorporated comments made by stakeholders throughout the WGIG process. The *Organisation internationale de la Francophonie* financed the French translation of the Background Report, which was also made available on the WGIG website.[11]

The WGIG and the Tunis Agenda

The WGIG Report generated considerable interest and attracted media attention.[12] The WGIG was applauded for the open and inclusive way it had conducted its work. Also, the alternation between closed meetings of the group and consultations open to all stakeholders, as well as the use of an interactive website to present its work and the possibility for the wider community to comment on all its working papers was widely appreciated as an effort to create maximum transparency.

The WGIG process and subsequently the report were discussed in many gatherings as the process evolved throughout 2005 until the Tunis phase of WSIS. There were regional meetings in Accra and Dakar for the African countries, in Rio de Janeiro and Santiago de Chile for the Latin American and Caribbean region, and many other meetings ranging from the annual meeting of the World Information Technology and Services Alliance (WITSA) in Kuala Lumpur, to meetings in Moscow and Stockholm, to an OECD meeting in Paris and a Chatham House event in London, or a more academic event organized by the Oxford Internet Institute.

The ITU's WSIS Secretariat on 30 August 2005 published a compilation of all comments received on the WGIG Report. Internet governance was to be taken up by a sub-committee chaired by Pakistan's Permanent Representative to the UN in Geneva, Ambassador Mansoor Khan. He visited me in my office in August and asked me to walk him through the WGIG Report. He listened with keen interest and asked many questions for clarification. The big challenge for him was to present a paper as a basis for the negotia-

10. WGIG. (2005). Report of the Working Group on Internet Governance. wgig.org/WGIG-Report.html

11. www.wgig.org/BackgroundReport-French.html

12. See also on the WGIG website: www.wgig.org/meetings.html

tions. While he was able to use much of the report, he would not be able to present the four options for the future of Internet governance, as the Summit would have to come up with an agreed solution, whatever that would be. Ambassador Khan, with the help of the WSIS Secretariat, subsequently produced a first document he labelled "Food for Thought", which was to a large extent based on the WGIG Report and served as a starting point for the negotiations of WSIS PrepCom-3, held in Geneva from 19 to 30 September 2005. WGIG Chair Nitin Desai presented the report on the opening day of the PrepCom. He emphasized that the WGIG put the report in a clear development perspective with a two-pronged priority relating to both effective and meaningful participation in Internet governance arrangements and the building of capacity to address Internet governance issues.

He recalled that the group brought together people from different geographic, cultural and professional backgrounds who all became a group with a common purpose of listening to and learning from each other. In his view, this variety of background and this positive interaction among all its members were also the strength of the group's main output as a consensus report. The fact that it was possible to reach a consensus within such a heterogeneous group also gave weight to the Report. In short, he reported that the WGIG had fulfilled its mandate: it had produced the Report the Summit asked it to produce and gave the answers to three main questions raised by WSIS. He made the point that the Report should not be looked at as an isolated product of our work. Producing the Report (and the Background Report) was part of a process. This process was conceived right from the beginning as an open process in continuous interaction with all stakeholders. It was a key element of the WGIG work. WSIS wanted it to be open, transparent and inclusive and involve not only governments, but also the private sector and civil society. The WGIG had taken up this challenge and developed a process that allowed all stakeholders to participate on an equal footing in open consultations held in conjunction with all WGIG meetings, with the WGIG website providing a platform for input from all stakeholders.

PrepCom-3 was off to a laborious process, with much noise in the background about UN attempts "to take over the Internet". In concrete terms, the proposed forum function was resisted by some as unnecessary, while others proposed a "new model" to deal with Internet governance, mainly based on a government-led model. To counter the misinformation surrounding the role of the UN, the UN Secretariat's WSIS Task Force felt it would be necessary to respond with an op-ed by Secretary-General Kofi Annan. The drafting relied on transatlantic coordination between the EOSG and the WGIG Secretariat that was not always easy, but ended up to the satisfaction of everyone involved. The op-ed was published in the *Washington Post* on 5 November 2005 and was generally well received.[13] The Secretary-General made it clear that none of the four models the WGIG

13. Annan, K. A. (2005, 5 November). The U.N. Isn't a Threat to the Net. *Washington Post*. www.wgig.org/Annan_op_ed.pdf

submitted to the Summit for consideration suggested that "the United Nations should take over from technical bodies today running the Internet" and that all four models "share the conviction that the day-to-day management of the Internet should be left to technical institutions, not least to shield it from the heat of day-to-day politics." The op-ed was helpful, insofar as it clarified that it was not the UN itself, but some member states which were pushing for an intergovernmental Internet governance system. It was necessary and important to make this distinction.

The PrepCom-3 was unable to finalize its work and resumed three days before the opening of the Summit in Tunis on 13 November 2005. In three days of arduous negotiations delegates reached agreement on a substantive chapter on Internet governance in the final documents of the Summit.

The key elements of the WGIG Report found their way into the final document known as the Tunis Agenda for the Information Society (hereinafter referred to as the Tunis Agenda) which by and large endorsed the WGIG Report, its working definition of Internet governance, its list of issues, and its assessment that "the existing arrangements for Internet governance have worked effectively."[14] TheTunis Agenda places Internet governance into a broader development context and endorses most of the priority areas proposed by the WGIG, which require the attention of the international community, such as spam, cyber crime or the multilingualization of the Internet. As was to be expected, the more controversial part was the "proposals for action". That was the one area where WGIG members had been unable to agree and had proposed four different models for future oversight arrangements. The Summit itself found it equally difficult to reach agreement on this issue. The final compromise was the recognition of "the need for enhanced cooperation", which should "enable governments, on an equal footing, to carry out their roles and responsibilities, in international public policy issues pertaining to the Internet"[15] while at the same time taking up the proposal put forward by the WGIG Report to create a new multistakeholder platform for a policy dialogue. This call on the Secretary-General of the United Nations to convene an Internet Governance Forum (IGF) is seen by many as one of the most significant outcomes of the Summit.

In comparison with the debate in Geneva in 2003, the negotiations in Tunis in 2005 were by far more focused and issue oriented. In general terms, it showed that delegates in the intervening two years had learned much about the functioning of the Internet.

While in Tunis, the WGIG members held a first class reunion and, in a summit side event, presented a book on the WGIG experience.[16] The book, with

14. Tunis Agenda for the Information Society, paragraph 55.

15. Tunis Agenda for the Information Society, paragraph 69.

16. Drake, W. J. (Ed.). (2005). *Reforming Internet Governance: Perspectives from the Working Group on Internet Governance (WGIG).* wgig.org/book-Launch.html

the title *Reforming Internet Governance,* was edited by WGIG member William J. Drake and included contributions by WGIG Chair Nitin Desai, 21 WGIG members, and myself and four Secretariat colleagues. Writing in their personal capacities, the authors offered reflections on the value of multistakeholder cooperation in the WGIG and beyond, and on some of the key substantive issues and institutional reform proposals. The volume was published in the UN ICT Task Force's book series and was also made available on the WGIG website.

Conclusion

By and large, the WGIG succeeded in its task. It prepared the ground for the negotiations of the second phase of WSIS and, in general terms, contributed to a better understanding of how the Internet worked and of all the issues related to Internet governance. This process enabled delegates to conduct the negotiations at a higher level of information which was also conducive to reaching a substantive agreement. To begin with, Internet professionals and their institutions were very sceptical with regard to UN involvement in Internet related matters. However, they gradually bought into the process and recognized the need to engage in a policy dialogue with governments. The WGIG played a central role in this evolution.

While the WGIG was undoubtedly a successful example of multistakeholder cooperation, it was much more. It laid the foundation of the Internet governance debate for many years to come and it prepared the general acceptance of the multistakeholder model. The WGIG was a milestone for the UN. It set new standards for an open and inclusive multistakeholder process with a minimum of procedure and formalities and, from 2005 onwards, set the benchmark for openness and inclusiveness.

The WGIG influenced WSIS-II in Tunis in 2005 in terms of procedure and substance:

- In terms of procedure, gone were the negotiations behind closed doors. While the process remained essentially intergovernmental, other stakeholders, in particular those representing the technical community, on a regular basis were asked to comment and provide a reality check for the intergovernmental negotiations. However, they were not entitled to ask for the floor, and were only able to speak when invited by the chair to provide their comments.
- In terms of substance, the WGIG had transformed the debate. It evolved from the exchange of slogans into a substantive issue-oriented discussion.

The IGF was able to build on the WGIG model and to create a platform for policy dialogue where all stakeholders took part on an equal footing. The WGIG membership served as a template for the group the Secretary-General appointed to assist him in convening the Forum. The IGF was part of the Tunis compromise package. It did not have universal support to

begin with and had to overcome some initial scepticism, but it succeeded in creating a sense of community, a place where all participants felt comfortable discussing delicate issues.

In order to fully understand the true impact of the WGIG, it is worth looking back on how the multistakeholder discourse evolved. The term "multi-stakeholder" had been rarely heard or used in an Internet context before the WGIG. In the discussions on Internet governance during the first phase of WSIS, the term usually used to describe the existing arrangements was "private sector-leadership", in line with the language used in the setting up of ICANN. The WGIG then consolidated the use of the idiom "multi-stakeholder". The WGIG Report itself uses it 11 times and, among other things, identifies the need for a "global multi-stakeholder forum to address Internet-related public policy issues." It was via the WGIG that the term found its way into the Tunis Agenda for the Information Society.

The group appointed by the UN Secretary-General to assist him in convening the IGF was originally called the Advisory Group, but it soon became known in popular parlance as theMultistakeholder Advisory Group or by its acronym MAG. From February 2008 onwards, the UN in all its press releases officialized the name and its acronym.

By 2008, the concept of multistakeholder cooperation was well established in Internet governance spheres and had spread to intergovernmental organizations (IGOs). From the OECD Ministerial Meeting on the Future of the Internet Economy in Seoul[17] to the Council of Europe Ministerial Conference in Reykjavik in 2009[18] to the 2011 G8 Deauville Declaration – they all supported the "multi-stakeholder model for Internet governance".[19]The OECD in 2011 also adopted Principles for Internet Policy Making[20] with the stated objective of establishing a "framework to ensure the continued and innovative growth of an open Internet economy through multi-stakeholder co-operation." In 2013, the term was also picked up by the ITU in its World Telecommunication/ICT Policy Forum (WTPF), where member states were asked to consider a draft opinion on "Supporting Multi-stakeholderism in Internet Governance".

As an off-shoot of the IGF, national and regional IGF-type meetings helped spread the acceptance of the model also at a regional level, from the Inter-American Telecommunication Commission (CITEL) to the Africa Internet Summit. Particularly noteworthy is that the multistakeholder model found its way into Kenya's Constitution.

---

17. OECD Ministerial Meeting on the Future of the Internet Economy, 17-18 June 2008, Seoul.

18. First Council of Europe Conference of Ministers Responsible for Media and New Communication Services, Reykjavik, 29 May 2009.

19. G8 Summit of Deauville, 26-27 May 2011.

20. OECD High Level Meeting – The Internet Economy: Generating Innovation and Growth, Paris, 28-29 June 2011.

While there is no generally accepted definition of its meaning, the term "multistakeholder" is now seen as a key ingredient of the Internet model. The US government, when announcing its intention to transition its stewardship of the IANA functions, elevated "supporting and enhancing the multistakeholder model" to one of the four principles that should guide the process.[21]

The multistakeholder approach was also celebrated by the NETmundial meeting in Sao Paulo in 2014, which was able to build on the ground prepared by the WGIG and the IGF. The WGIG and the IGF had created the spirit of cooperation among stakeholders that paved the way for taking things a step further and moving towards a rough consensus on principles and the way forward on Internet governance.

The WGIG had shown that Internet governance is a pluridimensional issue, involving many different categories of stakeholders. The WGIG was not the end of the debate, but the beginning. The WGIG and the IGF took up this debate and gave credibility to the multistakeholder approach in a UN context. While the multistakeholder approach has a long tradition within the Internet community, the WGIG had the merit of bridging the two worlds and transferring the multistakeholder approach to the UN system. It was what then UN Secretary-General Kofi Annan called "the beginning of a dialogue between two different cultures: the nongovernmental Internet community, with its traditions of informal, bottom-up decision making, and the more formal, structured world of governments and intergovernmental organizations."[22]

The Internet in 2015 is not the Internet we had in 2005. When WSIS-I concluded, there were less than one billion users online. The one billion mark was crossed between WSIS-I and WSIS-II and by now we have three billion people making use of the Internet. The spread of technological advances – ranging from VoIP, video streaming, social networks, ubiquitous Wi-Fi and cloud computing to smart mobile devices with innumerable apps – changed the users' Internet experience. Most important maybe is the fact that the new users are from the developing world – the Internet has spread and by now is a truly global technology. The new users are from developing countries and they bring new perspectives, new cultural experiences, norms and expectations to the Internet.

The conclusion of the final WGIG project report that was sent to the donors looked ahead and made the point that the involvement of all stakeholders, from developed as well as developing countries, would be necessary for the future development of the Internet. In many ways this was the essence of the WGIG. Its emphasis on the development perspective and the multistakeholder approach is as relevant now as it was then.

---

21. National Telecommunications and Information Administration. (2014, 14 March). NTIA Announces Intent to Transition Key Internet Domain Name Functions. www.ntia.doc.gov/press-release/2014/ntia-announces-intent-transition-key-internet-domain-name-functions

22. Annan, K. A. (2005, 5 November). Op. cit.

UNDERSTANDING INTERNET GOVERNANCE

SHARING DECISION MAKING IN INTERNET GOVERNANCE: THE IMPACT OF THE WGIG DEFINITION

Wolfgang Kleinwächter

When the 56th General Assembly of the United Nations decided in December 2001 to convene a UN World Summit on the Information Society (WSIS), Resolution 56/183 did not make any reference to "Internet" or "Internet governance". In its preamble the resolution just said that UN member states are "convinced of the need, at the highest political level, to marshal the global consensus and commitment required to promote the urgently needed access of all countries to information, knowledge and communication technologies for development so as to reap the full benefits of the information and communication technologies revolution, and to address the whole range of relevant issues related to the information society, through the development of a common vision and understanding of the information society and the adoption of a declaration and plan of action for implementation by Governments, international institutions and all sectors of civil society."[1]

The preparations for the Summit, including the setting of the agenda and the modalities for the participation of non-governmental stakeholders, were delegated to an open-ended intergovernmental preparatory committee (PrepCom).

Internet governance in the WSIS I preparatory process

The first PrepCom took place in Geneva in July 2002. It adopted both the rules of procedure (which allowed some flexibility for the participation of non-governmental stakeholders) as well as a skeleton for an

1. UN Resolution 56/183. (2001, 21 December). www.un-documents.net/a56r183.htm

agenda. Annex 2 of the Final PrepCom-1 document listed eight issues to be discussed by the summit.[2] "Internet governance" was not included in this list.

This changed when the Preparatory Committee re-convened in February 2003 in Geneva for PrepCom-2. Between the two PrepComs there was a series of regional ministerial meetings where both procedural and substantive issues were discussed from a more local perspective. The meetings were dominated by discussion on how to use new ICT technology, how to bridge the digital divide, how to mobilize investment in the development of an ICT infrastructure, how to educate people and promote awareness of the challenges of the information age and how to deal with related public policy issues. The Internet, or more precisely "Internet governance", was not a real subject for discussion. In some of the regional ministerial meetings the issue of the management of domain names and IP addresses was mentioned as one issue among many others. One example is the European ministerial meeting which stated in Principle 5 of the Bucharest Declaration (November 2002): "The Information Society is, by nature, a global phenomenon and issues such as privacy protection, consumer trust, management of domain names, facilitation of e-commerce, protection of intellectual property rights, open source solutions etc. should be addressed with the active participation of all stakeholders."[3] The terminology "Internet governance" was not used in the document.

This changed with the last regional ministerial meeting for West Asia in Beirut (February 2003),[4] just days before the reconvening of the PrepCom in Geneva. Section 2 of the Beirut Declaration (ICT Infrastructure) included a paragraph which called for "governance of Internet and ICT resources". The language for the sub-paragraph on domain names was as follows: "Securing national domain names: The responsibility for root directories and domain names should rest with a suitable international organization and should take multilingualism into consideration. Countries' top-level-domain-names and Internet Protocol (IP) address

2. The Chairman of Subcommittee 2, based on the discussions and informal consultations that were held, identified the following themes as an initial basis for further work: i. Infrastructure: financing, deployment and sustainability; ii. Identifying and overcoming barriers to the achievement of the information society; iii. The role of government, the business sector and civil society in the promotion of ICTs for development; iv. Education, human resources development and training; v. Access to information and communication technologies; vi. Information network security; vii. Development of a policy and regulatory framework; viii. ICT applications (education, health, culture, poverty eradication, government, employment, business). www.itu.int/wsis/documents/doc_single.asp?lang=en&id=14

3. Final Declaration of the Pan-European Regional Conference, Bucharest. (11 November 2002). www.itu.int/wsis/documents/listing-all.asp?lang=en&c_event=rc|pe&c_type=all|

4. Final Declaration of the Western Asian Preparatory Conference, Beirut. (4 February 2003). www.itu.int/wsis/documents/listing-all.asp?lang=en&c_event=rc|wa&c_type=all

assignment should be the sovereign right of countries. The sovereignty of each nation should be protected and respected. Internet governance should be multilateral, democratic and transparent and should take into account the needs of the public and private sectors as well as those of civil society."[5]

However, PrepCom-2 (February 2003) did not extensively discuss Internet governance. The issue was debated in some sessions in the parallel programme[6] but did not occupy a lot of time in the main plenary sessions. This changed during the intersessional meeting of the PrepCom in Paris (July 2003) when the Plenary established working groups. The original plan to have four working groups was extended at the very last moment and a fifth working group for Internet governance was established.

The first meeting of Working Group 5 took place in the late evening in one of the meeting rooms on the underground level of the UNESCO headquarters. The small room was packed and it was unclear who was present in the room. According to the rules of procedure, meetings of working groups were open for governments only. But for this first Working Group 5 meeting at this late hour, nobody checked the badges of participants at the entrance door. When the meeting started the majority in the room came from the technical community, the private sector and civil society. In the opening statement the chair, who represented a government, introduced the Internet as something like a "new mass media" which should be managed, regulated and controlled like traditional media such as the press or broadcasting. This provoked some questions. Paul Wilson, CEO of the Asia-Pacific IP address registry APNIC, took the opportunity to explain the differences between mass media and the Internet and the specifics of the management of Internet protocols, Internet addresses and domain names. This intervention did not really clarify the issue but triggered more discussion about differences, similarities and interdependencies between technical and political regulations.

In the growing confusion one could see the emergence of two camps among the governmental members within this working group: one group recognized that specific expertise of non-governmental experts is needed to

5. There was some rumour that this paragraph was included after an intervention by a non-governmental individual who was lobbied by the ITU to raise this issue in the final plenary of the Beirut meeting. In 1997 the ITU entered into a Memorandum of Understanding on Domain Names with five other members of a so-called "Interim-ad-Hoc-Committee" (IAHC) on new gTLDs. The MoU was rejected by the US government and was not ratified by the ITU Plenipotentiary Conference in 1998 in Minneapolis. The mandate to manage domain names and IP addresses was handed over in November 1998 to the newly established Internet Corporation for Assigned Names and Numbers (ICANN). Part of the Minneapolis Package was the launch of a process which led to the WSIS, convened by the UN but organized by the ITU. However a lot of staff members, including ITU Secretary General Utsumi, and some ITU member states never accepted that the ITU should have no mandate to manage domain names and IP addresses.

6. See: Workshop III: Civil Society and Internet Governance: Lessons learned from ICANN, 21 February 2003, Geneva. www.itu.int/wsis/docs/pc2/inf/workshop/flyer3.doc

discuss the Internet issue seriously. The other group argued that the Internet cannot be left to technical experts but needs governmental leadership. Furthermore, some governments understood the task of Working Group 5 in a narrow way, as the management of critical Internet resources (domain names, IP addresses, Internet protocols). Other governments concluded that this group has to do with the general future of the Internet as a whole and with all related public policy issues which emerge when people use the Internet: from freedom of expression to data protection, from intellectual property to e-commerce.

Working Group 5 reconvened during PrepCom-3 in Geneva (September 2003). This meeting started as an open meeting. But when one governmental delegate raised the issue of which environment should be in charge of negotiating Internet governance in the future (ICANN, as proposed by the US or ITU, as proposed by China), the chair of the working group decided to remove the non-governmental stakeholders from the room.

This created a rather tense situation and fuelled controversies both among governments as well as among governmental and non-governmental stakeholders. Protest came in particular from civil society. The Civil Society Internet Governance Caucus (IGC) argued that governments were talking the multistakeholder talk but were not ready to walk the multistakeholder walk. They complained the original invitation to civil society, laid down in UN resolution 56/185, to participate in the various preparatory processes was "lip service" and a "farce" as long as civil society was excluded from substantial discussions. Some groups proposed to walk out and to organize a counter summit.

In a pre-meeting before PrepCom-3 the chair of the PrepCom, Adama Sammasekou, had invited civil society to move from turmoil to trust. Civil society accepted this invitation but argued that trust can be built only if civil society input into the negotiation process has a certain impact. This approach was supported by representatives from the private sector and the technical community.

But controversies around Internet governance were also growing among governments. There was neither a common understanding about what Internet governance is nor an agreement on where Internet-related policy issues should be negotiated. Regardless of an immense intensification of the negotiations around Internet governance during PrepCom-3+ (November 2003), PrepCom-3++ (December 2003) and PrepCom-3+++ (on the eve of the summit) no bridge could be built. The risk was high that the whole Geneva Summit could collapse over the disagreement on Internet governance.

The last-minute compromise was a typical diplomatic solution. The parties agreed to disagree on Internet governance issues and asked the UN Secretary-General Kofi Annan to establish a working group with a mandate to

define Internet governance, to identify public policy issues and to make recommendations on how to move forward in this political minefield.[7]

The WGIG definition of Internet governance

One of the key achievements of the establishment of the WGIG was its multistakeholder composition. In the past, UN working groups were composed by member states only. In many cases governments have invited independent experts as advisors. But those advisors did not have negotiation or voting rights and did not participate in working group meetings on an equal footing. The WGIG was different. Half of the 40 members came from non-governmental groups: the private sector, civil society, technical and academic communities from both developed and developing countries. And all members had the same rights.

This mix of expertise, affiliation and background was extremely useful to channel discussion in constructive directions and to avoid a destructive politicization of the debate. The WGIG worked in very close contact with the broader community and did not retreat into an ivory tower. The open and free discussion within the group (under the Chatham House Rule) was embedded in open consultations with the broader multistakeholder Internet community, including governments, on the eve of each of the formal WGIG meetings in Geneva. Parts of the work were put out for public comment.

Two weeks before the first WGIG meeting, Kofi Annan outlined his expectation for the outcome of the WGIG in a speech during the Global Governance Forum in New York in March 2004: "The issues are numerous and complex. Even the definition of what we mean by Internet governance is a subject of debate. But the world has a common interest in ensuring the security and the dependability of this new medium. Equally important, we need to develop inclusive and participatory models of governance. The medium must be made accessible and responsive to the needs of all the world's people." And he added that "in managing, promoting and protecting [the Internet's] presence in our lives, we need to be no less creative than those who invented it. Clearly, there is a need for governance, but that does not

7. WSIS. (2003). Geneva Plan of Action. Paragraph C6, 13.c.: "We ask the Secretary General of the United Nations to set up a working group on Internet governance, in an open and inclusive process that ensures a mechanism for the full and active participation of governments, the private sector and civil society from both developing and developed countries, involving relevant intergovernmental and international organizations and forums, to investigate and make proposals for action, as appropriate, on the governance of Internet by 2005. The group should, *inter alia*: i) develop a working definition of Internet governance; ii) identify the public policy issues that are relevant to Internet governance; iii) develop a common understanding of the respective roles and responsibilities of governments, existing intergovernmental and international organisations and other forums as well as the private sector and civil society from both developing and developed countries; iv) prepare a report on the results of this activity to be presented for consideration and appropriate action for the second phase of WSIS in Tunis in 2005."

necessarily mean that it has to be done in the traditional way, for something that is so very different."[8]

From the very first meeting of the WGIG the drafting of a definition was at the centre of the WGIG work. Different proposals came from different sources: some governments proposed a more political definition, other WGIG members a more technical definition. Over time, a basic agreement emerged that a definition of Internet governance should be short, clear, precise, high level and as neutral as possible.

It was natural that the academic members of the WGIG should see here their special field of expertise. And indeed, the drafts from academic members were accepted as the starting point for drafting the final language of the definition. The academics researched some other definitions from related fields in social sciences, in particular definitions from international relations, and adjusted them to the specifics of the Internet.[9]

The majority of the WGIG members did see this as the most neutral approach. The proposed language was both simple and comprehensive. When the first version of the final draft was put on the table, only some minor amendments were made, such as the identification of stakeholders and their specific roles, the philosophy of "sharing" and the introduction of two layers for the governance of the Internet.

The final wording was as follows:

> A working definition of Internet governance is the development and application by governments, the private sector and civil society, in their respective roles, of shared principles, norms, rules, decision-making procedures, and programs that shape the evolution and use of the Internet.[10]

This definition was simple, embraced a complex issue and offered flexibility. It made it clear that Internet governance is more than names and numbers, that it goes beyond the conflict between ICANN and ITU and that

---

8. Annan, K. (2004). Internet Governance Issues are Numerous and Complex. Speech at the Global Governance Forum, New York, 25 March. www.unicttaskforce.org/perl/showdoc.pl?id=1333. See also Kleinwächter, W. (2004). WSIS, ICANN, GBDe: How Global Governance is Changing in the Information Age. In B. De Schutter & J. Pas (Eds.), *About Globalisation: Views of the Trajectory of Mondialisation*. Brussels: VUB Press, 205-226; Kleinwächter, W. (2009). Internet Co-Governance: Towards a multilayer multiplayer mechanism of consultation, coordination and cooperation (M3C3). In R. Mansell (Ed.), *The Information Society*, London/New York: Routledge; and Kleinwächter, W. (2006). Internet Governance: Auf dem Weg zu einem strukturierten Dialog. In D. Klumpp, H. Kubicek, A. Roßnagel & W. Schulz (Eds.), *Medien, Ordnung und Innovation*. Berlin/Heidelberg/New York: Springer.

9. It was WGIG member William Drake who did special academic research on the definition and drafted the first proposal. See: WGIG. (2005). Background Report of the Working Group on Internet Governance, 9 ff. www.wgig.org/docs/BackgroundReport.pdf

10. WGIG. (2005). Final Report of the Working Group on Internet Governance, 4. www.wgig.org/docs/WGIGREPORT.pdf

it is relevant both for technical and public policy Internet-related issues. It offered the opportunity to structure future discussions, framing issues and determining actors and procedures to solve existing and emerging issues.

According to its mandate the WGIG proposed this language as a "working definition". But when the UN member states – during PrepCom-3 in Geneva (September 2005) – discussed the definition, they had nothing to add. The governments agreed to accept this definition as it was proposed by the WGIG.

This is an astonishing fact. It is rather the exception in UN practices that proposals made by expert groups are included literally into a text negotiated by governments. But in this case, nobody challenged the proposed definition. The WGIG definition – word for word – made its way directly into Paragraph 34 of the Tunis Agenda.

Heads of governments of the UN member states accepted the working definition for Internet governance at the WSIS II summit as a starting point for further negotiations around the controversial issue of the evolution and the use of the Internet. They accepted and supported the multistakeholder model as the main principle for Internet governance, the philosophy of "sharing" in Internet-related policy development and decision-making processes and the existence of different layers in the Internet governance ecosystem. This agreement can be seen as a very substantial achievement and a remarkable innovation for a new diplomacy in the information age of the 21st century.

The WGIG definition is a short definition. It contains 41 words. But there is a lot of substance in the short text. In a deeper analysis, one can subdivide the WGIG definition into three parts: Part 1 clarifies the "Who" (the actors), part 2 refers to the "How" (the procedures and principles) and part 3 covers the "What" (the issues).

The "who": Actors

The controversy during WSIS I whether the Internet should be governed via private sector leadership or via governmental leadership was ended with the recognition that the Internet does not need a leader but its governance has to include all stakeholders. This agreement was based on the fact that the Internet itself is a decentralized and layered network of networks with no central authority or top-down decision-making body.

Many different institutions and organizations are managing different parts of the Internet and they enable other players to offer services and applications by using technical protocols and virtual resources such as domain names and IP addresses. The WGIG concluded that the governance of the Internet does not need a centralized governing body. They recognized that the Internet governance ecosystem is a decentralized multiplayer multilayer mechanism of communication, coordination and collaboration where involved and affected governmental and non-governmental stakeholders develop policies in bottom-up, open and transparent processes on a case-by-case basis.

By mentioning governments, the private sector and civil society in one clause as the main stakeholders, this definition lays the foundation for the multistakeholder model which is – 10 years later – the broadly accepted basis for all efforts to govern the Internet. The Internet is too big and too complex to be governed by one stakeholder alone. Neither can it be governed by two stakeholders (as some have proposed in the form of a so-called public-private partnership model between government and the private sector). All stakeholders have to participate.

The WGIG definition refers to government, the private sector and civil society as the main stakeholders. But the report mentions also the technical and academic community as potential fourth and fifth stakeholder groups.[11]

There was a long discussion within the WGIG about the role of these groups. WGIG members recognized that technical and academic experts are on the one hand special groups of their own. But on the other hand they are also linked closely to the three other stakeholder groups. Experts are hired as advisors by governments or as consultants by private corporations. And social scientists see themselves as part of civil society. Thus it was understandable that the WGIG treated the "technical and academic community" more as a stakeholder group *sui generis* which must also be involved in one way or another in Internet-related policy developments.

One of the controversial issues was the question of the legitimacy of the non-governmental stakeholders to participate in policy development and decision making at the international level. Governments see themselves as the legitimate representatives of their states and their people. Some governments questioned the legitimacy of non-governmental stakeholders. In particular representatives of civil society were seen by some governments as "noise makers" that do not have a legitimate mandate to represent constituencies.

This issue was discussed at length within the WGIG. One result of this discussion was the recognition of the fact that there are more sources of legitimacy than democratic elections in a national context. Special knowledge, linkage to grassroot processes, market acceptance and recognition by broader communities were, inter alia, identified as additional sources of legitimacy. Many non-governmental organizations – very often with thousands of members – have their own internal procedures which include elections that give the elected representatives a certain kind of legitimacy to speak on behalf of a broader constituency.

This discussion produced a rough consensus about an enhanced understanding of legitimacy. Nevertheless, some governmental representatives insisted that the legitimacy of governments to act on behalf of their states is different from the legitimacy of non-governmental stakeholders to act on behalf of their constituencies and communities.

---

11. Ibid., paragraph 36, p.10.

This special discussion is reflected in the language of the WGIG definition. In the first part of the definition, where the three main stakeholder groups are listed, the language "in their respective roles" was added. This was a very controversial point.

The WGIG discussed at length the specific roles of the stakeholder groups and how they should interact moving forward in policy development and decision making. The WGIG recognized that the stakeholders are not equal, play different roles, cannot substitute for each other, and have – as said above – different sources of legitimacy, but have to work together as equals by respecting the integrity, identity and sovereignty of each partner, recognizing their different legal status.

In Chapter 4, paragraph 36 ff., the WGIG Report offers a long but not comprehensive list of the specific roles the various stakeholders could and should play in the Internet governance ecosystem. But the WGIG could not agree how the interaction among the different stakeholder groups could be formalized via pre-defined procedures.

The language "in their respective roles" was introduced by some governmental representatives. One motivation behind this amendment was to ensure that the special status of governments as representatives of a sovereign state is recognized when it comes to public policy making and decision taking. The reference was paragraph 49 of the Geneva Declaration of Principles which defines the role of governments in Internet governance: "Policy authority for Internet-related public policy issues is the sovereign right of States. They have rights and responsibilities for international Internet-related public policy issues."[12]

For some governmental representatives this amendment was seen as a safeguard to secure their sovereign right to manage, control and censor the Internet within their national territory. Those governments had no arguments against the multistakeholder model, but they feared that its implementation would have the potential to undermine their sovereign rights.

Therefore it was not a surprise that the same governmental WGIG members rejected another amendment stating that the stakeholders would have to work together "on equal footing". They also blocked a paragraph in the final WGIG Report about the interaction among stakeholder groups.

WGIG Chair Nitin Desai closed the discussion on a proposed paragraph at the last night session at Château Boissey with the comment that there should be some remaining work for future generations.

The "how": Procedures and principles

The interpretation that the reference to the "respective roles" of stakeholders can be used to justify a supreme role of governments is countered by

12. WSIS. (2003). Geneva Declaration of Principles, para. 49. www.itu.int/wsis/documents/doc_multi.asp?lang=en&id=1161|1160

the second part of the WGIG definition which speaks about "shared principles, norms, rules, decision-making procedures, and programmes".

The key word here is "sharing". Sharing has been one of the basic pillars of Internet development from its very early days and it is also a guideline for its governance.

One driving force for the development of the Internet in the 1970s and 1980s was the sharing of limited resources. But it was not only sharing limited computer capacity, it was also sharing of data, information, knowledge and wisdom. All the governance procedures which emerged in the technical Internet community were driven by "sharing" of a common good in the public interest.

In an interview Vint Cerf gave to *Computerworld* in 2010, the father of the Internet answered a question whether he and Bob Kahn were aware about the consequences when they introduced the TCP/IP protocol: "The question was would it be something that could be rolled out to the rest of the world? We didn't know for sure but when we worked on it we decided not to patent, not to copyright, not to control but to share everything we knew about the Internet design to the general public all around the world."

In the Internet Engineering Task Force (IETF) the philosophy of sharing was reflected in its leitmotiv, "We do not believe in kings, presidents and voting, we believe in rough consensus and running code." A decision which is made on the basis of rough consensus needs the inclusion of all important stakeholders on equal footing. Certainly it is true that even in the IETF not everybody is equal. But everybody has a right to raise their voice to express concerns and to make comments as well as proposals which have to be taken into consideration before the final decision is made. Thus the use of "sharing" as a key concept for Internet governance in the language of the WGIG definition restricts an interpretation of "in their respective role" as a licence for individual governments to exercise unlimited sovereignty in making decisions on Internet-related public policy issues.

The idea of "sharing decision making" in Internet governance is supported also by Principle 1 of the Geneva Declaration which says in paragraph 20: "Governments, as well as private sector, civil society and the United Nations and other international organizations have an important role and responsibility in the development of the Information Society and, as appropriate, in decision-making processes. Building a people-centred Information Society is a *joint effort* which requires cooperation and partnership among all stakeholders."[13]

These formulations give enough flexibility to move forward with different decision-making procedures as long as all stakeholders are involved. In other words, the "respective roles" part of the definition can be also seen

13. Ibid.

as an invitation to all stakeholders to bring their special expertise on political and legal (governments), economic (private sector), technical (technical community) and social (civil society) aspects to the negotiation table to find balanced solutions taking into account all reasonable and legitimate arguments and to move towards rough consensus for the concrete issues under discussion.

The United Nations Charter is based on the sovereign equality of states. But the seven *jus cogens* principles, which constitute the legal basis of contemporary international law and are enshrined in the UN Charter, include also the principle of self-determination of peoples and the principle of international cooperation. The principle of self-determination of peoples gives non-governmental stakeholders a number of rights and constitutes the basis for the duties of governments to respect and guarantee individual human rights. The principle of international cooperation obliges governments to collaborate with each other and to respect the no-harm principle, that is, to avoid decisions which could have negative impacts on other countries. All seven principles of international law – which include also the principle of non-interference in the internal affairs of other countries and the duty of peaceful settlement of disputes – have to be seen as mutually interrelated.

The "respective roles" part of the definition cannot be isolated from the "shared decision making procedures" part. Thus the "respective role" language is less a justification for an unlimited use of sovereign rights by a national government, and more an invitation to enhance the traditional understanding of "national sovereignty" into an environment of "collaborative sovereignty" or a "shared sovereignty", which is closer to the new realities of a borderless cyberspace.

Another important element of the second part of the WGIG definition is the reference to principles. Principles can give guidance in exploring the new territory of cyberspace. They offer a certain form of stability by not blocking the needed flexibility in dealing with new challenges which come from the endless stream of innovation in the Internet world.

There has been a long debate about the need and usefulness of a legal instrument for Internet governance. The discussion goes back to the 1970s when UNESCO discussed proposals for a New World Information and Communication Order (NWICO) and the option of an international legally binding treaty for cross border communication. After the end of the NWICO debate in 1991 the idea was re-introduced via the ITU.[14]

However, all proposals for a legally binding instrument for Internet governance were rejected by many governments but also by non-governmental

14. Kleinwächter, W. (forthcoming). The History of Internet Governance: New Technologies - Old Problems. In W. J. Drake & M. Burri (Eds.), *Global Internet Governance Institutions: Multistakeholder, Multilateral, and Beyond.*

stakeholders as too complex, too controversial and too difficult to negotiate. As a way forward to find the right balance between a regulated and unregulated space, more and more groups recognized that a set of non-binding principles which constitute political commitments at a high level could be a better alternative.

The Geneva Declaration of Principles, adopted by WSIS I in Geneva in December 2003, was a good start. It defined on a general level basic principles for the information society. The Tunis Agenda – in its chapter on Internet governance – specified those principles by adjusting some of the Geneva principles more directly to Internet-related public policy issues. Examples here are principles for multilingualism in the Internet domain name system or the responsibility for the management of the national domain name space.

However, the WGIG definition speaks about "shared principles" in the context of the multistakeholder model. But both the Geneva Declaration and the Tunis Agenda are intergovernmental agreements. Thus the WGIG definition can also be seen as an invitation to enhance negotiations on further specification of Internet governance principles and to include non-governmental stakeholders in future drafting processes.

The "what": Issues

The third part of the WGIG definition differentiates between "the evolution" and "the use" of the Internet. This goes back to the Geneva Declaration of Principles which stated in paragraph 49: "The management of the Internet encompasses both technical and public policy issues and should involve all stakeholders and relevant intergovernmental and international organizations."

It was Larry Lessig in his book *Code and Other Laws of Cyberspace* (1999) who opened the eyes of policy makers to the fact that "code making" and "law making" in the information age are two different but interdependent spaces. Lessig, who was invited as one of the keynote speakers to one of the WSIS PrepCom plenary meetings, argued in his book that "in real space we recognize how laws regulate – through constitution, statutes and other legal codes. In cyberspace we must understand how code regulates – how the software and hardware that makes cyberspace what it is, regulate cyberspace as it is." And he continued: "This code presents the greatest threat to liberal or libertarian ideals, as well as their greatest promise. We can build, or architect, or code cyberspace to protect values that we believe are fundamental, or we can build, or architect, or code cyberspace to allow those values to disappear. There is no middle ground. There is no choice that does not include some kind of building. Code is never found, it is only ever made, and only ever made by us."[15]

15. Lessig, L. (1999). *Code and Other Laws of Cyberspace*. New York: Basic Books.

Lessig opens our eyes to the fact that traditional policy and law making, which frames public policy issues into national and international legislation, finds itself now in a framework which is constituted by technical codes and standards. Like the natural laws of physics, the architecture of the Internet determines the spaces in which public policy can be developed and executed. But while the laws of physics are not made by man, the architecture of cyberspace is constructed by individuals and institutions. This leads us deeper into the interdependence of code and law making in the information age.

It was clear from the very first WGIG meeting that there is a "clash of cultures" between code making in the technical world and law making in the political world. But it was also clear that these two different spaces can no longer be clearly separated. With the further penetration of the Internet into all areas of the public, political, social, cultural and economic life of our societies, the two worlds are becoming more and more interdependent.

The WGIG definition does not provide a silver bullet for bridging the world of code makers and the world of law makers. However, its language delegates to all stakeholders, through shared decision making, a joint responsibility for both the technical evolution and the political (economic, social, cultural) use of the Internet.

Implementation

In the 10 years since the adoption of the Tunis Agenda the definition has played an instrumental role. It has offered general guidance and has helped to structure Internet governance discussions, the establishment of new Internet governance bodies and the drafting of Internet governance documents.

The multistakeholder model

As described above, the identification of the three main stakeholder groups was driven by more practical considerations which reflected the reality of engagement in Internet governance policy development. The broad nature of these groups, and the additional reference to the technical and academic community in the Final Report, allowed a lot of flexibility in interpretation. However, it is interesting to note that UN bodies as well as other governmental or non-governmental institutions took their orientation for the composition of Internet governance bodies from the WGIG definition.

The UN Commission on Science and Technology for Development (UNCSTD), an intergovernmental body which was tasked to discuss at its annual meetings the implementation of the WSIS recommendations, followed the proposed structure when it formed two working groups for the improvement of the IGF and enhanced cooperation (WGEC) and included, alongside government representatives, 15 representatives from civil society, the private sector and the technical community. The OECD, another intergovernmental organization, at its Ministerial Meeting in Seoul in 2008, added

to its private sector advisory committee two other advisory committees representing civil society (CISAC) and the technical community.[16]

When the Brazilian government launched the NETmundial Conference in 2014, it took guidance from the WGIG definition when it formed the various preparatory and drafting committees which produced the Sao Paulo Declaration of Internet Governance Principles and the Sao Paulo Roadmap on Internet Governance. And when the NETmundial Initiative (NMI) was launched as a follow-up of the Sao Paulo conference (in January 2015), its Coordination Council (NMI.CC) was structured along the lines of the WGIG definition: five members each from governments, private sector, civil society and the academic-technical community.

Where did the candidates come from? Governments have their own procedures within the UN for selecting or electing member states to participate in the work of committees and other sub-groups. Over the years, self-organized bottom-up mechanisms have also emerged among the non-governmental stakeholder groups to nominate representatives for such policy-making bodies, guaranteeing a rather high level of representation and legitimacy.

For the technical community, which includes institutions like ICANN, IETF, RIRs, IEEE, W3C and others, it was the Internet Society (ISOC) with more than 100 national chapters from all parts of the world which slipped into the role of organizing the nomination of candidates for bodies like UNCSTD Working Groups or speakers for international meetings like the IGF. For the private sector this role was taken up by ICC Basis (Business Action to Support the Information Society of the International Chamber of Commerce). The ICC represents thousands of large, medium and small businesses around the world. For many years it was the Internet Governance Caucus (IGC) which played this role for civil society.[17] Later, after other civil society platforms emerged, an Internet Governance Civil Society

16. When the OECD adopted its Internet Policy Making Principles (2012) it involved the non-governmental advisory committees in the drafting process. However, CISAC did not agree on two principles and refused to support the declaration.

17. The IGC was formed as the civil society Internet governance platform during the first phase of WSIS. It coordinated the work of hundreds of civil society organizations during the two phases of WSIS for all Internet governance-related issues. It prepared statements for plenaries and working group sessions, produced language for draft resolutions and nominated speakers for IGF plenaries and participants for working groups. The growth of civil society engagement also produced new entities alongside the Caucus, such as Best Bits, Just Net Coalition and others. As a result, in 2011 an Internet Governance Civil Society Coordination Group (CSCG) was formed as an umbrella organization. The Association for Progressive Communications (APC) served as a kind of secretariat. However, during the IGF in Bali in November 2013 and in particular during the NETmundial Conference in Sao Paulo in April 2014, some civil society groups like the Just Net Coalition blocked any further cooperation. A deep split emerged in civil society. Just Net Coalition and some other civil society groups refused to participate in the NETmundial Initiative (NMI). They also attacked the multistakeholder model as a trap which would lead to capture by the big Internet corporations and preferred a government-led process in the United Nations. Furthermore they started a counterproposal in the form of an "Internet Social Forum" (ISF) linked to the World Social Forum.

Coordination Group (CSCG), formed by four civil society networks, took on this role with the Association for Progressive Communications (APC) in the leadership position.

Shared principles

A key element of the WGIG definition was the reference to "shared principles". As argued above, the principles adopted by the Geneva and Tunis summits were negotiated between governments. The debate on principles, norms and regulations for Internet governance continued after the Tunis Summit. And there was no consensus on what type of political-legal instrument would be needed to bring more "law and order" into the Internet governance ecosystem.

For many years there was a dominant fear that new legal instruments, going beyond the Geneva and Tunis commitments, would open the door for restriction and censorship in the Internet world and would stop the free flow of information, innovation and economic growth. On the other hand – against the background of growing misuse of the Internet for cyber crime and cyber terrorism – there was growing recognition of the need to specify rights and duties as well as freedoms and responsibilities in cyberspace in a more concrete form.

In 2011 there was something like an "Internet Principle Hype". "The world must collectively recognize the challenges posed by malevolent actors' entry into cyberspace and update and strengthen our national and international policy accordingly," argued US President Obama in his International Strategy for Cyberspace in May 2011. "Activities undertaken in cyberspace have consequences for our lives in physical space, and we must work towards building the rule of law, to prevent the risks of logging on from outweighing its benefits." And he added: "The future of an open, interoperable, secure and reliable cyberspace depends on nations recognizing and safeguarding that which should endure, while confronting those who would destabilize or undermine our increasingly networked world."[18]

In June 2011, the G8 Summit in Deauville, France adopted a declaration in which the heads of state of the USA, the United Kingdom, Germany, Italy, Canada, France, Japan and Russia agreed on a number of Internet governance principles, including the principle of multistakeholderism.[19] In the same year a Ministerial meeting of the Council of Europe adopted a Declaration on Internet Governance Principles[20] and the OECD agreed on

18. White House, US Government. (2011). International Strategy for Cyberspace. www.whitehouse.gov/sites/default/files/rss_viewer/international_strategy_for_cyberspace.pdf

19. Group of Eight. (2011). G8 Deauville Declaration: Renewed Commitment for Freedom and Democracy. ec.europa.eu/archives/commission_2010-2014/president/news/speeches-statements/pdf/deauville-g8-declaration_en.pdf

20. Council of Europe Committee of Ministers. (2011). Declaration on Internet Governance Principles. https://wcd.coe.int/ViewDoc.jsp?id=1835773

Principles for Internet Policy Making.[21] The Shanghai Group with China and Russia listed a number of Internet governance principles in their proposal for a Cybersecurity Convention for the UN General Assembly. And a similar list of principles including a proposal for the establishment of a UN Council for Internet Related Policies (CIRP) was tabled by the IBSA Countries (India, South Africa and Brazil) at the 66th UN General Assembly in fall 2011.

Next to those governmental initiatives a growing number of non-governmental stakeholders drafted documents with Internet governance principles, including the private sector-based Global Network Initiative (GNI), the Association for Progressive Communications (APC), a global civil society organization, and the technically oriented I*-organizations. The IGF Dynamic Coalition on Rights and Principles also produced a comprehensive document with numerous Internet principles. And in Brazil, the national multistakeholder Internet Steering Committee CGI.br proposed a "Marco Civil" (Civil Rights Framework for the Internet) which made its way into the Brazilian parliamentary process.

As a result, by 2013 there were more than 25 different documents defining Internet governance principles flying around. This contributed to confusion and invited "principle shopping" where actors just picked the principles they liked to justify their behaviour in cyberspace. The weakness of all those principles and documents was that they were supported either by only one stakeholder group or were limited in scope by geography and substance. None of the 25+ documents was universal and multistakeholder. On the other hand a comparison of all those documents showed that around 70 percent of the principles were identical, 20 percent very similar and only 10 per cent controversial:[22]

- All parties support the multistakeholder model (MSM) as a basic governance principle.
- All parties support the historically grown architectural principles of an open Internet (e2e).
- All parties identify three main areas for Internet governance policies: human rights, security and economy.

But the various parties had different priorities with regard to public policy issues.

21. OECD. (2011). *Principles for Internet Policy Making*. www.oecd.org/internet/innovation/48289796.pdf

22. Kleinwächter, W. (2014, 10 May). PINGO: NETmundial adopts Principles on INternet GOvernance. *CircleID*. www.circleid.com/posts/20140510_pingo_net_mundial_adopts_principles_on_internet_governance

What this Internet Principle Hype documented was an important policy shift from a controversial "no law vs. binding law" constellation to a more flexible soft law approach for a new "netiquette" which is aimed not only at the geeks and freaks of the technical Internet community but also at governments, business and civil society around the globe. More and more parties agreed that such a soft law approach could indeed deliver both the needed flexibility and a higher degree of security, stability and resilience to gain the trust of the next billion Internet users, the next wave of Internet entrepreneurs and the next generation of Internet policy makers.

The IGF became the place for a broader discussion around Internet governance principles. At the 6th IGF in Nairobi (2011) the Council of Europe organized a workshop titled: "A Constitutional Moment in the History of the Internet". The debate continued at the 7th IGF in Baku (2012) when the proposal was made to bring the various projects into a process of "enhanced communication".

At the 8th IGF in Bali (2013) for the first time the main sponsors of the various declarations – OECD, Council of Europe, the governments of Russia, China and India, CGI.br, APC, I* and GNI – were sitting at the same table. And they concluded that it would make sense to move from enhanced communication to enhanced cooperation and try to "globalize" and "multistakeholderize" the process of the making of Internet governance principles. One idea was to form a "Drafting Team" in collaboration with the IGF Dynamic Coalition on Rights and Principles and to present at the 9th IGF in Istanbul (September 2014) a draft which could be further improved for adoption at the 10th IGF in 2015.

However, this plan was overtaken by the dynamic events which followed the revelations of Edward Snowden in summer 2013. Brazilian President Dilma Rousseff gave a speech at the 68th UN General Assembly in September 2013 and called for a new approach to Internet governance which resulted in the convening of NETmundial in April 2014. In the NETmundial preparatory meeting in Barcelona (January 2014) the High Level Committee decided that the Internet governance principles could be an issue for agreement at NETmundial. And indeed, nearly half of the 186 proposals which were made for the final document, proposed the adoption of a set of principles. The draft which was distributed on the eve of NETmundial was only a little changed in the meeting itself, and it was finally adopted by a rough consensus of all stakeholder groups, with the exception of the governments of Cuba, Russia, Saudi Arabia and India.

This is remarkable. Suddenly there is a document which defines eight principles with 17 subparagraphs on how the Internet should be governed. And this document is supported by the majority of governments, by the most recognized and respected leaders from the private sector, the gurus of the technical community and a broad range of civil society organizations. In other words, the Principles of Internet Governance, adopted in

Sao Paulo, summarized the previous 25+ documents, "globalized" and "multistakeholderized" them and constituted a unique base to measure good or bad behaviour in cyberspace by governments, corporations and individual Internet users.

The Preamble of the Sao Paulo Document states that the principles are not legally binding. But never before in the history of Internet governance has there been a document with Internet governance principles which have such broad political support from key players from all stakeholder groups. Thus, regardless of its legal nature, this document could soon become a main reference point for the evaluation of the use of the Internet. There is no mechanism to bring a wrongdoer to an Internet court, but the NETmundial document allows "naming and shaming" if a government or a corporation does behave badly in cyberspace.[23]

Shared decision making

The most complicated part of the WGIG definition is obviously the invitation to share decision making in Internet policy development. As long as those decisions are made within one stakeholder group this is not such a big challenge. All these groups have their own procedures which have worked more or less over decades. The problems start when stakeholders with different legal status are pulled into processes which need a joint decision at the end of the process.

A very concrete example about innovative procedures for shared decision making among different stakeholders was the development of two new programmes within ICANN on internationalized domain names (IDNs) and on new generic Top Level Domains (gTLDs). Both programmes were developed in bottom-up, open and transparent and iterative policy processes (PDPs) which included public comment periods and open consultations with all involved and affected parties. They included the private sector (registries and registrars), the technical community (IETF and NRO) and civil society (ALAC and NCUC).

Governments played a special role via the GAC. According to the ICANN bylaws the GAC has the right and the duty to give advice to the board on issues related to public policies. ICANN has a very narrowly defined technical mandate. But it was obvious that a national top level domain in a local language script has a public policy dimension. And it was also clear that the introduction of generic top level domains raises public policy issues.

The GAC became very engaged in both programmes. In this process new forms of interaction among the non-governmental groups of the ICANN constituencies and the governmental members of the GAC emerged which went beyond the fixed procedures laid down in the ICANN bylaws. When ICANN developed the new gTLD programme the GAC produced a long

23. NETmundial Multistakeholder Statement of Sao Paulo, 22 April 2014. www.netmundial.br

list of scorecards which led to a new level of communication between the ICANN Board and the GAC. Furthermore based on the positive experiences with the scorecards, communication was more extended when ICANN started to select from among nearly 2000 applications the candidates for new gTLD delegates to registries. In its Shanghai Communique the GAC listed about 500 new gTLDs where governments had raised concerns. Only a small number of new gTLD applications were given a "red light" in formal GAC advice. But the concerns expressed by the governments triggered processes of enhanced communication among ICANN staff, applicants and other involved parties about how to accommodate expressed concerns without stopping or delaying the programme as a whole.

There was a long debate about the "legal nature" of GAC advice and a "GAC veto" over ICANN Board decisions. However, the practical day-to-day enhanced communication procedures were more efficient than endless theoretical discussion about legal definitions. In practice, GAC consensus advice is taken seriously by the ICANN Board. If the Board rejects an item of GAC advice it enters into consultation with the GAC. If this fails it gives a rationale to referring to the broader community. But communication does not stop. The "early engagement approach" proposed by the GAC in its Toronto Communique (2013) was a clear and constructive signal that it is much better to start cooperation early in the process and not to wait until clashes are unavoidable. So far this has worked well, although this is no guarantee that substantial conflicts will not arise. Cases like .amazon or .africa in the new gTLD programe have the potential to test the stability of the communication channels in the mutual relationship.

This enhanced communication calls for more flexibility and understanding on both sides. The GAC realized that it has to become engaged early on in ICANN's bottom-up, open and transparent PDP and cannot delay its advice until the very last moment when the process has already moved to the ICANN Board for the final decision. On the other hand, the ICANN Board – and other ICANN bodies such as the GNSO Council or the At Large Advisory Committee – recognized the need to deepen conversations with the GAC at an early stage and to liaise in order to improve the level of awareness and understanding on both sides to avoid unneeded clashes at the end of a special PDP.

This shared policy development process is not free from frictions and controversies. However, it is a way forward to develop new forms of mutual collaboration which enhances the trust among stakeholders and leads to more sustainable results.

There were similar experiences in the process of the IANA transition and the enhancement of ICANN's accountability. In March 2014 the US government announced its readiness to terminate the IANA contract from 1998 and to hand over the IANA functions to a multistakeholder mechanism. ICANN reacted to this announcement by establishing two groups:

the IANA Transition Coordination Group (ICG) and the Cross Constituency Working Group on Accountability (CCWG-A). Both groups included a balanced representation from all stakeholder groups, including governments.

Without any exaggeration one can label the plan to transfer responsibilities for IANA oversight from the US government to a multistakeholder mechanism as the hardest test so far for the workability of the multistakeholder model. Many US Congressional hearings discussed the broader implications of such a transition. The US General Accounting Office (GAO) published a special study on "Internet Management" in September 2015.[24] In October 2015, when this article was written, the plans for IANA transition and an enhanced accountability for ICANN were still under discussion. If the two processes come to a positive end, this will be a triumph for the multistakeholder model.

However, regardless of the equal involvement of all stakeholders in ICANN PDPs, the final decision-making process remains – under the present bylaws – in the hands of the ICANN Board where governments are represented only by a liaison without voting rights. In other words: ICANN's model works quite well, but it represents a multistakeholder model under private sector leadership.

A different multistakeholder model has emerged in the context of WSIS and the UN. The WSIS process involves all stakeholders; however, the final decision-making capacity remains in the hands of the governments of the UN member states.

A good example is the work of the UNCSTD. The Tunis Agenda gave the UNCSTD the mandate to organize and review the follow-up of the two WSIS summits. The UNCSTD is an intergovernmental body. At its first annual meeting after the Tunis Summit it was unclear how non-governmental stakeholders, that is, recognized participants in the WSIS process, could continue to participate in the UNCSTD meeting. The flexible solution was to allow non-governmental stakeholders to make oral and written contributions to the meeting but to keep the drafting of the final resolution in the hands of the governments. Over the years, the UNCSTD has made remarkable efforts to open itself to non-governmental stakeholders. The two WSIS-related UNCSTD Working Groups on IGF Improvement and Enhanced Cooperation (WGEC) included, alongside 15 governmental representatives and five representatives from intergovernmental organizations, another 15 non-governmental members from civil society, the private sector and the technical community.

24. US General Accounting Office. (2015). Internet Management: Structured Evaluation Could Help Assess Proposed Transition of Key Domain Name and Other Technical Functions. www.gao.gov/products/GAO-15-642

In the beginning it was unclear whether all members of a UNCSTD Working Group would be treated as equals. When the first meeting of the UNCSTD IGF Improvement Working Group met in Montreux in Switzerland, there was only one big table in the main conference room of the Hotel Majestic. It was unclear whether this table was reserved for the governmental working group members only. But when the non-governmental members started to put their laptops on the big table, nobody intervened and the chair of the working group, Frederich Riehl from the Swiss government, did treat all participants equally when the conversation started. Riehl's successor as chair, the Hungarian diplomat Peter Major, continued this practice. And even in the drafting of the report of the two working groups, each participant had the same rights to make proposals and to participate in the negotiation about the final language. Sub-groups – like the WGEC Correspondence Group – were chaired by non-governmental representatives. There was no final voting. Recommendations were adopted by consensus.

On the other hand, the drafting of the annual UNCSTD resolution remained the privilege of governments. The UNCSTD resolutions are sent to the UN Economic and Social Council (ECOSOC), a purely intergovernmental body. And the ECOSOC resolution is forwarded to the 2nd Committee of the UN General Assembly which negotiates the language of the annual UN resolution. In this final process non-governmental stakeholders are excluded. In other words: the WSIS process works quite well, but it is a multistakeholder process under governmental leadership.

A third model is the IGF. The IGF was designed as a multistakeholder platform for discussion. The IGF was not established as a policy-development or decision-making body. Its steering committee, the Multistakeholder Advisory Group, is composed of representatives of all stakeholder groups. But its decision-making capacity is limited to issues related to the organization of the annual IGF. In other words: the IGF is a multistakeholder process without any decision-making power.

As an innovation the NETmundial Conference in 2014 produced a new model for decision making in a multistakeholder environment. The preparatory committees for NETmundial included on equal footing representatives from all four stakeholder groups. The drafts for the final document – the declaration of principles and the roadmap – emerged from the discussions among the stakeholders. The text was further amended by incorporation of the public comments which arrived after the publication of the first draft of the final document. The committee in Sao Paulo which drafted the final text included individuals from all stakeholder groups who participated on equal footing in the final negotiations. Those final negotiations took place in an open environment and not behind closed doors. The end result – the Sao Paulo Declaration – was adopted by acclamation on the basis of rough consensus. Four governments and some non-governmental groups raised concerns and expressed some reservations to the final text.

In other words: NETmundial was a multistakeholder process with truly shared decision-making procedures.[25]

Governance of the Internet and governance on the Internet

The WGIG definition made a distinction between "the evolution" and "the use" of the Internet. This part of the definition was aimed at building a bridge to bring the technical and policy aspects of Internet governance under one umbrella. However, even 10 years after the adoption of the Tunis Agenda it is not easy to combine technical code making and political law making into one "harmonized" process.

On the contrary, a number of academics continue to make a distinction between "governance of the Internet" – which means the management of critical Internet resources – and "governance on the Internet" – which means the regulation of Internet-related public policy issues.[26]

On the one hand, this approach is helpful. It simplifies the real complexity of the related issues and allows them to be put into different baskets. On the other hand, this also has its flaws because the technical and political (economic, social, cultural) aspects of nearly every single Internet-related issue are so interwoven that they can hardly be separated.

One example for new forms of closer cooperation can be seen around efforts to enhance privacy in Internet-based communication. On the one hand, the IETF is working on enhanced mail protocols which would bring more security to individual users. On the other hand, law makers, inter alia in the European Parliament, are trying to improve existing data protection legislation. Nevertheless, the gulf between the two worlds is still deep. And the challenges will grow. The problems of the Internet of Things and cloud computing are just waiting around the next corner.

The only way out of this dilemma is enhanced communication and cooperation among code and law makers. Both groups have to learn to live together, to learn from each other and to get past the clash of cultures. There is a long way to go. It will take some time.

Conclusion and recommendations

Internet governance will remain on the global policy agenda. And it will remain a controversial issue. Controversies will emerge among governments but also within other stakeholder groups. There is a broad spectrum of different opinions among non-governmental stakeholder groups. In the private sector big corporations often have different interests from small

25. Kleinwächter, W. (2014). NETmundial: Watershed in Internet Policy Making? In W.J. Drake & M. Price (Eds.), *Internet Governance: The NETmundial Roadmap*. Los Angeles: USC Annenberg Press.

26. De la Chapelle, B. (2011). Multistakeholder Governance Principles and Challenges of an Innovative Political Paradigm. In W. Kleinwächter (Ed.), *Internet Policy Making*. Berlin: MIND.

and medium size Internet companies. Within civil society there are different positions between more radical and more moderate groups which propose different strategies. Even in the technical community there are nuances which do not make it easy to find even rough consensus.

Nevertheless, 10 years after its adoption by the heads of governments of the UN member states, the WGIG definition still offers good guidance on how to structure processes, to frame discussions and to determine the membership of working groups and other political bodies.

It is also remarkable that the WGIG proposal for a multistakeholder approach is now recognized by nearly all stakeholders, including governments and intergovernmental organizations. China and India, major sceptics with regard to the multistakeholder model in the early WSIS days, have embraced the concept. And even the ITU – after the debacle of the WCIT Conference in Dubai (December 2012) – have signalled that they plan to enhance the involvement of non-governmental stakeholders in parts of their processes.

It remains to be seen how far this will go. Intergovernmental organizations have established rules which cannot be changed overnight. But very often a flexible interpretation of some rules allows new and enhanced forms of communication which can lead to innovative procedures. One chance will be the preparatory process for the WSIS+10 High Level Meeting, scheduled for December 2015 in New York. Another opportunity is the next OECD Ministerial Conference, scheduled for June 2016 in Mexico.

And there will be other new projects, such as the NETmundial Initiative (NMI), the follow-up of the Sao Paulo conference, the Future Internet Initiative (FII) of the World Economic Forum (WEF) or the Internet Social Form (ISF) of the World Social Forum (WSF), where the theory and practice of the multistakeholder model, of shared decision making and the collaboration between code and law maker can be further enhanced.

THE WGIG AND THE TAXONOMY OF INTERNET GOVERNANCE

Jovan Kurbalija

This chapter discusses the contribution of the Working Group on Internet Governance (WGIG) to the initial mapping of the Internet governance field. Back in 2005, the WGIG Report provided one of the first taxonomies of Internet governance issues. The WGIG influenced the framing of Internet governance at a series of Internet Governance Forum (IGF) meetings, and numerous subsequent conferences, research projects, and events.

Preparing this chapter was also an occasion to revisit my presentation on the *Taxonomy of Internet Governance*[1] delivered at the ITU Workshop on Internet Governance (26-27 February 2004)[2] and a follow-up paper: *The Classification of Internet Governance* (October 2004).[3]

Findings in this chapter are supported by a quantitative analysis of the IGF text corpus, which includes 641 transcripts of IGF meetings held between 2006 and 2014, and other Internet governance text corpora (NETmundial, Internet governance books, etc.). The analysis of the Internet governance text corpora was conducted through the use of statistical modelling and applied linguistics. It led to the identification of complex patterns and interrelatedness among various Internet governance issues and the ways they have been classified by the WGIG Report and other classifications.

1. The text is available at: https://www.itu.int/osg/spu/forum/intgov04/contributions/taxonomy_internet_governance.pdf

2. For more information about the workshop please see: https://www.itu.int/osg/spu/forum/intgov04

3. The text is available at: www.diplomacy.edu/sites/default/files/Internet_Governance_Classification_ver_07102004.pdf

Background

Whether organizing papers on a table, books in a library, or making sense of the news, we are constantly putting things and ideas into manageable order. The taxonomy of Internet governance introduces a means to classify and map the rapidly emerging field of digital policy.

Today, as in 2004 when the WGIG was initiated, there are both practical and theoretical reasons for mapping the Internet governance field. Practically speaking, many actors, including nation states, face a considerable challenge in grasping the complexity of Internet governance. The question of the governance of data[4] provides a good example. The e-commerce community considers data as the foundation of a new digital economy. But this understanding is incomplete without the privacy aspects contributed by the human rights community, or the standardization details provided by the technical community. Any attempt to grasp digital policy should be broad enough to give a comprehensive view, yet specific enough to provide in-depth knowledge on areas of particular concern. The practical need for a useable classification was identified by the World Summit on the Information Society (WSIS) Action Plan, which mandated the WGIG to "identify the public policy issues that are relevant to Internet governance."

On the theoretical side, an Internet governance taxonomy is needed to provide an analytical framework for the study of digital policy and Internet governance. Prior to the WGIG work, the main focus of academic research was on ICANN and other issues belonging to the so-called "narrow definition" of Internet governance (managing Internet names and numbers). The broader theoretical framework was lacking, especially when it came to the international aspects of Internet governance.

More specifically, a useful classification could help Internet governance actors with:

- Clearer identification of the main negotiation issues[5]
- Reduction of negotiation "noise" caused by disparate interpretations of the main concepts
- Avoidance of duplicate efforts in addressing the same issues in multiple forums
- Overcoming policy silos by identifying common attributes among different Internet governance issues

4. For a summary of various aspects of the governance of data please see Kurbalija, J. (2015, 10 June). Bridging Policy Silos in Digital Field. *The Huffington Post*. www.huffingtonpost.com/jovan-kurbalija/bridging-policy-silos-in-_b_7544926.html

5. The term negotiation is used here with a wider meaning, to indicate a way of reconciling different positions and interests through human interaction. For example, there is no official negotiation in the IGF, but – effectively – there are a lot of negotiations in the preparatory process around selecting topics, arranging the agenda, etc.

- Identification of the common attributes of different issues, to help players learn from the practices of other international systems; for example, some experiences from the highly successful regime on civil aviation could be transferred to Internet governance, after the common attributes for both areas have been identified.

Ultimately, a proper mapping of Internet issues should make the process of negotiating Internet governance more efficient. This would be of particular benefit to countries with limited financial and human resources, who often face a problem in navigating the complexity of Internet governance processes, scattered among numerous international bodies and forums.

Terminology

Different terms are used to describe the process of placing ideas and things into a manageable order, including classification, typology, taxonomy, categorization, scheming, mapping, nomenclature and cataloguing. Some of these words, such as taxonomy, have very precise meanings. Most of the other words can be used interchangeably, to a large extent, to describe different ways of organizing ideas and things. A further linguistic analysis to identify the subtle differences between these terms is beyond the scope of this paper.

The use of the term *taxonomy*,[6] which is in the title of this text, has evolved since my first presentation, *The Taxonomy of Internet Governance*, at a 2004 ITU Workshop. Following the workshop, my research identified the very precise use of the term *taxonomy* in biology (classifying species in different categories), and my next paper, *The Classification of Internet Governance*,[7] focused on the process of *classifying* Internet governance issues (October 2004). In the meantime, additional research has solidified the emerging practice of using the term *taxonomy* in a more general way in social sciences such as linguistics. Thus, this paper will use the term *taxonomy* to describe the product and result of the classification process.

The classification process was described by Huxley as follows:

> By the classification of any series of objects is meant the actual or ideal arrangement together of those things which are like and the separation of those which are unlike, the purpose of the arrangement being, primarily, to disclose the correlations or laws of union of properties and circumstances, and, secondarily, to facilitate the operations of the mind in clearly conceiving and retaining in memory the characters of the objects in question.[8]

---

6. The word taxonomy derives from the two Greek words *taxis* ("arrangement") and *nomos* ("law"). The closest literal translation of taxonomy would be "the law of arrangement".

7. Please see www.diplomacy.edu/sites/default/files/Internet_Governance_Classification_ver_07102004.pdf

8. Cited in Jones, A. L. (1909). *Logic, Inductive and Deductive: An Introduction to Scientific Method.* New York: H. Holt and Company, p. 36.

Classification methods

The first step of every classification is the identification of basic properties of the classified artifacts. Even in highly precise scientific environments, the selection of classification properties is a subjective decision based on particular research approaches. In the social sciences, the level of arbitrariness is even higher. The research standpoint determines the classification scheme. For example, a librarian classifies a book according to its content, a bookbinder according to its binding, and a bibliophile, perhaps according to its date of printing. Thus, a book, like most things being classified, has more than one classification attribute. The challenge is to select the most relevant attribute.

The classification process can be either top-down or bottom-up. A top-down, or deductive approach, begins with setting up conceptually broad categories, within which particular elements will later be placed. The result of this approach is usually called a typology. Most Internet governance mappings/classifications are typologies.

In a bottom-up, or inductive classification, empirical data are gathered and entities are placed into broader categories (e.g. mammals, in biology) according to their characteristics (e.g. red blood, fur) resulting in the development of a taxonomy.

This paper combines these two approaches. It starts with a deductive approach based on the five-basket classification which has been used in Diplo's research and training activities since 1996.

The top-down analysis is supplemented by bottom-up input based on two major inputs. The first is data mining of the IGF transcripts. The IGF transcripts provide collective wisdom on how the Internet governance field was shaped by thousands of participants at the annual IGF gatherings, including diplomats, government officials, technical experts, and academics.

The second input comes from Diplo's courses on Internet governance. As of September 2015, 4,816 participants from 207 countries and territories have attended Diplo's courses since 1997. Their inputs, comments and discussions have provided ongoing feedback about the Internet governance taxonomy. The current Internet governance taxonomy has gone through numerous iterations. The latest major adjustment was the addition of two new baskets, security and human rights, to the previous five-basket structure (infrastructure and standardization, legal, economic, development, and sociocultural).

The application of classification methodology to Internet governance

By its nature, Internet governance is a highly complex field. Internet governance is multidisciplinary, involving technical, legal and economic aspects to name a few. Internet governance is multi-actor, involving a wide range of players from governments to business and civil society. Internet governance is multi-levelled, taking place on different policy levels from global to local.

In addition, specialists in different fields related to Internet governance hold different perspectives on the topic, determining their approach to classification, reminding us of the saying: "To a man with only a hammer, every problem looks like a nail." For example, telecommunications specialists focus on cables and telecom infrastructure. Computer specialists focus on the development of different standards, such as XML or Java. Communication specialists stress the facilitation of communication. Human rights activists view Internet governance from the perspective of freedom of expression, privacy, and other basic rights. Lawyers concentrate on jurisdiction. For security people, Internet governance is about the security of the Internet infrastructure. Each of these professions, as well as others that have a stake in the development of Internet governance, highlights its own particular area of interest.[9] Increasingly, Internet governance is viewed as equal in importance to the field of cybersecurity.

The proposed classification methodology for Internet governance consists of three steps: delimitation, identification of clusters, and assigning issues to baskets. The classification is implemented through a combination of deductive and inductive approaches. The deductive approach provides the overall classification and meta-scheme. The inductive approach is based on the data mining of Internet governance transcripts and the inputs of experts and policymakers.

First step: Delimitation

The primary basis for identifying Internet governance issues is the TCP/IP-based Internet infrastructure. TCP/IP is the *differentia specifica* between the Internet and other related fields, such as general ICT networking and telecommunications, as well as hardware and software development. To put it simply, if an issue is related to the development, maintenance or management of TCP/IP, it can be classified within Internet governance. Moreover, all issues that depend on TCP/IP-based network activities will also be part of Internet governance.

Second step: The identification of clusters/baskets

The second step in the Internet governance classification process starts with the identification of the main classification clusters. Adjusting the terminology to the world of diplomacy, Diplo has adopted the term "basket" instead of "cluster" (the term "basket" was introduced in diplomatic practice during OSCE negotiations).[10]

---

9. This trend of putting Internet governance and cybersecurity on an equal status has been accelerated since the start of 2015. For example, one of the major academic events in 2015 at Columbia University was named "Conference on Internet Governance & Cyber-security" (14-15 March 2015): https://sipa.columbia.edu/experience-sipa/cross-cutting-initiatives/cyber-security/conference-on-internet-governance-cyber-security

10. The OSCE (initially the CSCE) process consisted of three baskets: politico-military, economic-environmental, and human rights.

The following five baskets were introduced in 1997, when Diplo started developing its classification scheme:

- Infrastructure and standardization
- Legal
- Economic
- Development
- Sociocultural.

Two additional baskets were added in 2014:

- Security (previously part of the infrastructure and standardization basket, as cybersecurity)
- Human rights (previously part of the sociocultural basket).

The WGIG Report identifies the four key public policy areas, which can be mapped onto Diplo's seven-basket classification as shown in Table 1.

TABLE 1

Comparison of the main policy areas in WGIG and Diplo classifications

WGIG classification	Baskets in Diplo's classification
Infrastructure and management of critical Internet resources	Infrastructure and standardization
Issues relating to the use of the Internet (spam, network security and cybercrime)	Security
Issues that are relevant to the Internet, but have an impact much wider than the Internet	Economic, legal, sociocultural, and human rights
Issues relating to the development aspects of Internet governance	Development

Third step: Assigning issues to baskets

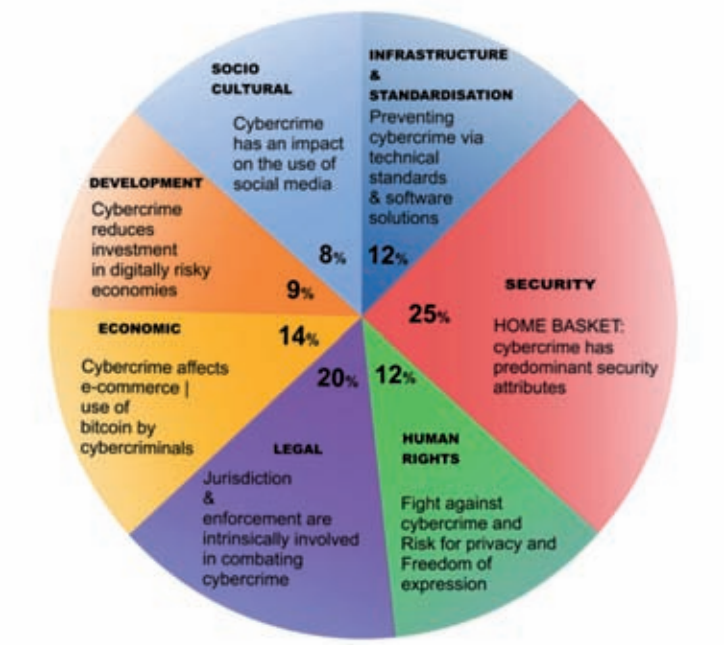
The third step involves categorizing issues into one of the seven baskets, depending on their main attributes. As most Internet governance issues are multidisciplinary, they may carry more than one attribute. Attributes are identified by answering the question: *what* is the topic about?

For example, cybercrime deals with fighting against various forms of crime related to the Internet. This is its main attribute. It is a security attribute. Other attributes include jurisdiction and enforcement (legal); the impact of cybercrime on e-commerce, and the use of Bitcoin by cybercriminals (economic); the impact of the level of cybercrime on investment in digitally risky countries (development); the impact of cybercrime on the Internet infrastructure (infrastructure and standardization); the impact of cybercrime on social media (sociocultural); and the need to ensure protection of basic human rights while fighting cybercrime (human rights). Each attribute is

assigned a numeric value (out of 100). For cybercrime, the core value related to the security aspect is 24 out of 100 (see Figure 1).

FIGURE 1

Cybercrime – attribution to different Internet governance policy aspects



Other Internet governance classifications

There have been two major waves in Internet governance mapping and classification. The first wave dates back to the WSIS period, in particular during the work of the WGIG (2004-2005). The second wave of classifications gained momentum after the NETmundial conference in April 2014.

WSIS-period classifications include:

Roadmap: Global Policy Making for Information and Communications Technologies: Enabling Meaningful Participation by Developing-Nation Stakeholders, prepared by the G-8 DOT Force.

Louder Voices: Strengthening Developing Country Participation in International ICT Decision-Making, published by the Commonwealth Telecommunications Organisation and the Panos Institute, London, in 2002.

The 2004 *Issues Paper on Internet Governance* by the International Chamber of Commerce (ICC) proposed classification around three main components: technical coordination, technical engineering, and the handling of public policy matters.

Internet Governance: A Discussion Document (prepared for the UN ICT Task Force by George Sadaowsky from the Global Internet Policy Initiative

and Internews Network, and Raul Zambrano and Pierre Dandjinou from the UNDP) proposed ICT governance as a broad framework, with Internet governance issues as subsets.

ICT Policy: A Beginner's Handbook, edited by Chris Nicol and published by the Association for Progressive Communications (APC) in 2003, was one of the most comprehensive publications on Internet governance during the WSIS period with an extensive underlying classification scheme.

Internet Governance and the World Summit on the Information Society (WSIS) by Adam Peake (June 2004) was a second contribution from APC. It focused mainly on Internet infrastructure while including a few broader Internet governance issues: e-commerce, taxation, encryption, and intellectual property rights.

Global Governance of Information and Communication Technologies: Implications for Transnational Civil Society Networking by Seán Ó Siochrú (the Social Science Research Council) in 2003 prepared a comprehensive survey of Internet governance issues with a strong focus on the role of transnational civil society networks and development issues.

Internet Governance: The State of Play by the Internet Governance Project (researched by John Mathiason, Milton Mueller, Hans Klein, Marc Holitscher and Lee McKnight) opted for a technological slant by employing the network layer approach. It identifies three main groups of Internet governance issues including: technical standardization, resource allocation and assignment, policy formulation and enforcement, as well as dispute resolution.

More recently (2014-2015), the main focus of classification and mapping has been on providing online resources for easier navigation of the field of Internet governance:

- The UN Commission on Science and Technology for Development (CSTD) *Mapping of international Internet public policy issues* includes 41 Internet governance issues organized in seven clusters: infrastructure and standardization, security, human rights, economic, legal, development, and sociocultural.[11]
- The NETmundial Initiative (NMI) supports the NETmundial Solutions Map which was developed by ICANN, The GovLab @NYU, and SecondRise. The map identified more than 70 Internet governance issues divided into five main clusters: access, content, code, trade, and trust.[12]
- The Friends of the IGF organized a website around the following issue areas: access, critical Internet resources, development, diversity, enhanced cooperation, human rights, Internet governance principles, multistakeholderism, openness, privacy, regional and national initiatives, and security.

11. Available at: unctad.org/meetings/en/SessionalDocuments/ecn162015crp2_en.pdf

12. Available at: https://map.netmundial.org

Comparison of the classification in the WGIG Report and other policy documents

Policy documents contain explicit and implicit classifications. For example, the UN CSTD report *Mapping of international Internet public policy issues* contains an explicit classification. Implicit classifications are in-built in the way a document is organized (e.g. table of contents, organization of chapters). Table 2 contains a comparison of the WGIG Report and other main Internet governance policy documents that contain classifications. As the survey shows, the WGIG Report, together with the UN CSTD Internet governance mapping report, is one of the most comprehensive classification exercises. The WGIG Report has comprehensive coverage of the issues, with the exception of issues that have emerged since 2005, such as cloud computing, net neutrality and the Internet of Things.

WGIG report and analysis of the text corpora

The data analysis of the text corpora provides an empirical test for the seven-basket Internet governance classification. The text corpora came from the following main resources:

- Three policy documents that provide comprehensive coverage of the Internet governance field: the Report of the WGIG (June 2005), the NETmundial Multistakeholder Statement (April 2014) and the UN CSTD *Mapping of international Internet public policy issues* (May 2015).
- 614 transcripts from IGF meetings (2006-2014).
- Selected Internet governance books and articles that provide comprehensive coverage of Internet governance topics.[13]

The WGIG Report had high coverage of infrastructure and standardization issues (42.81%). This was expected, since the WGIG mapping was done at a time of concentrated focus on critical Internet resources, mainly the ICANN-related issues of domain name system, IP numbers, and root

13. *An Introduction to Internet Governance* by Jovan Kurbalija.
Peacetime Regime for State Activities in Cyberspace: International Law, International Relations and Diplomacy, edited by Katharina Ziolkowski (2013, NATO CCD COE Publications).
Internet Policy Making, edited by Wolfgang Kleinwachter (2013, Internet and Society Co:llaboratory).
The Evolution of Global Internet Governance: Principles and Policies in the Making, edited by Roxana Radu, Jean-Marie Chenou and Rolf H. Weber (2013, Springer and Schulthess).
Exploring Multi-Stakeholder Internet Governance by John Savage and Bruce McConnell (2015, East-West Institute).
Reimagining the Internet: The Need for a High-level Strategic Vision for Internet Governance by Mary Raymond and Gordon Smith (2013, Global Commission on Internet Governance).
Internet Governance: Inevitable Transitions by James Lews (2013, Global Commission on Internet Governance).
The Regime Complex for Managing Global Cyber Activities by Joseph S. Nye Jr. (2014, Global Commission on Internet Governance).
Reforming Internet Governance: Perspectives from the UN Working Group on Internet Governance, edited by William J. Drake (2005, UN ICT Task Force).

TABLE 2

Comparative survey of the WGIG Report and other public documents containing Internet governance classifications (E–explicit reference, M–mentioned in the text)

	Resource				
Internet governance issues	Report of the Working Group on Internet Governance (WGIG) - July 2005	OECD Principles for Internet Policy-making - June 2011	NETmundial Multistakeholder Statement - April 2014	Mapping of international Internet public policy issues (Report of UN CSTD) - May 2015	WSIS+10 Review Non-paper -September 2015
Infrastructure and standardization					
Telecommunication infrastructure	E	E	M	E	M
Technical standards	E		E	E	
Web standards	M		E	E	
Internet protocol numbers	E		indirect (IANA)	E	
Domain name system	E		indirect (IANA)	E	
Root zone	E		indirect (IANA)	E	
Net neutrality		E	M	E	
Cloud computing				E	M
Convergence	M			E	
Internet of Things				E	
Security					
Cybersecurity	E	E	E	E	M
Cybercrime	E	E	M	E	M
Internet - critical information infrastructure	E			E	
Cyber conflicts				E	
Child safety online				E	
Encryption				E	
Spam	E			E	
Digital signatures				E	
Human rights					
Freedom of expression	E	E	E	E	M
Privacy and data protection	E	E	E	E	M
Rights of people with disabilities and the Internet	M		E	E	M
Women's rights online	M		M	E	M
Legal					
Jurisdiction	M	E		E	
Arbitration and other forms of dispute resolution	M	E		E	
Copyright	E (IPR)	E		E	
Trademark	E (IPR)	M		E	

TABLE 2

Comparative survey of the WGIG Report and other public documents containing Internet governance classifications (E–explicit reference, M–mentioned in the text)

	Resource				
Internet governance issues	Report of the Working Group on Internet Governance (WGIG) - July 2005	OECD Principles for Internet Policy-making - June 2011	NETmundial Multistakeholder Statement - April 2014	Mapping of international Internet public policy issues (Report of UN CSTD) - May 2015	WSIS+10 Review Non-paper -September 2015
Labour law				E	
Intermediaries' responsibilities		E	E	E	
Economic					
E-commerce	E			E	M
E-money and virtual currencies				E	
Consumer protection	E		M	E	
Taxation				E	
Development					
Access	E	E	E	E	M
The digital divide	E			E	E
Capacity development	E	E	E	E	
Sociocultural					
Content policy	E	E		E	M
Cultural diversity	M	E	E	E	
Multilingualism	E	E	E	E	M
Online education	M			E	
Internet as a global public good				E	
Other issues that are not listed in this taxonomy	Interconnection costs	Codes of conduct	Freedom of association, Freedom of information, Access to information, Right to development	Internet and ethics	Broadband, Right to development, Internet exchange points

servers. As the analysis (Table 3 and Figure 2) shows, Internet governance coverage has broadened in subsequent years towards other security, legal, economic, sociocultural, development, and human rights aspects of Internet governance.

TABLE 3

Percentage of the text corpora dedicated to the seven main baskets

	Report of the Working Group on Internet Governance (WGIG) - June 2005	NETmundial Multistakeholder Statement - April 2014	Mapping of international Internet public policy issues (UN CSTD) - May 2015	IGF transcripts (2006-2014)	Selected IG books and articles
Infrastructure & standardization	42.81%	20.62%	31.11%	25.14%	30.68%
Security	8.50%	23.71%	12.19%	15.66%	23.72%
Human rights	3.27%	17.53%	9.57%	17.16%	6.90%
Legal	16.99%	14.43%	16.17%	6.94%	12.13%
Economic	7.19%	2.06%	10.43%	3.57%	9.46%
Development	11.76%	17.53%	10.91%	16.66%	6.86%
Sociocultural	9.48%	4.12%	9.62%	14.87%	10.25%

FIGURE 2

Percentage of the text corpora dedicated to the seven main baskets

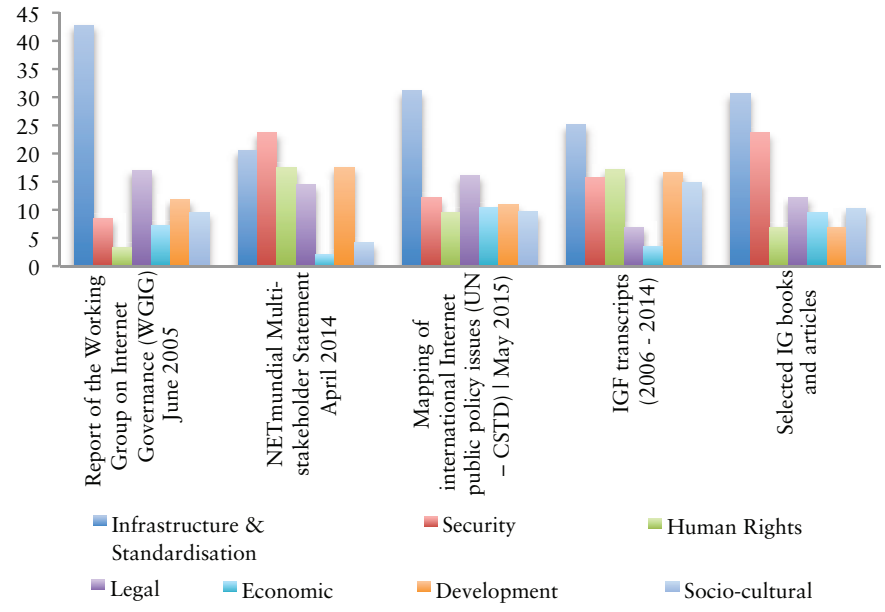


Table 4 shows the list of Internet governance issues according to the percentage of the Internet governance text corpora related to these issues.

TABLE 4

Internet governance issues according to the percentage of the Internet governance text corpora related to these issues

Issues	Basket	% of IG text corpora
Access	Development	8.47
Domain name system	Infrastructure & standardization	8.37
Cybersecurity	Security	8.32
Content policy	Sociocultural	6.63
Online education	Sociocultural	6.34
Internet protocol numbers	Infrastructure & standardization	5.56
E-commerce	Economic	5.24
Web standards	Infrastructure & standardization	5.06
Technical standards	Infrastructure & standardization	4.47
Data protection	Human rights	4.17
Multilingualism	Sociocultural	4.02
Telecommunication infrastructure	Infrastructure & standardization	3.53
Copyright	Legal	3.34
The digital divide	Development	2.89
Intermediaries' responsibilities	Legal	2.24
Jurisdiction	Legal	2.10
Freedom of expression	Human rights	1.65
Internet of Things	Infrastructure & standardization	1.53
Cybercrime	Security	1.47
Women's rights online	Human rights	1.35
Rights of persons with disabilities and the Internet	Human rights	1.17
Cloud computing	Infrastructure & standardization	1.16
Child safety online	Security	0.97
Root zone	Infrastructure & standardization	0.84
Capacity development	Development	0.82
Net neutrality	Infrastructure & standardization	0.78
Trademark	Legal	0.56
Labour law	Legal	0.53
Spam	Security	0.50
E-payment	Economic	0.27
Cultural diversity	Sociocultural	0.26
Taxation	Economic	0.22
Encryption	Security	0.18
Digital signatures	Security	0.10
Arbitration & other dispute resolution	Legal	0.07
Internet as a global public good	Sociocultural	0.03
Consumer protection	Economic	0.03

Seven baskets – Internet governance taxonomy

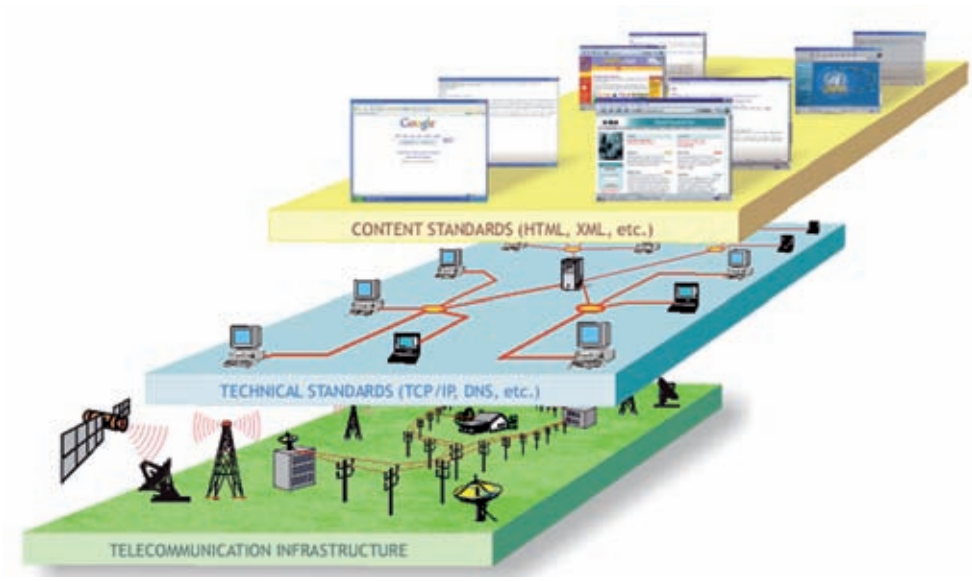
Infrastructure and standardization basket

The infrastructure and standardization basket includes the basic, mainly technical, issues related to the running of the Internet. The main criterion for placing an issue here is its relevance to the basic technical functionality of the Internet. These issues are organized in the following main layers:

- The telecommunication infrastructure, through which all Internet traffic flows.
- Technical standards and services (e.g. TCP/IP, DNS, SSL) that make the Internet work; we also include such issues as the role of Internet service providers and Internet bandwidth providers, as well as our Economic Model for Internet Connectivity on this layer.
- The application/content standards (e.g. HTML, XML, FTP) that enable the World Wide Web and other Internet applications and services.

FIGURE 3

Multi-layer illustration of the first group of issues related to infrastructure and standardization



One of the Internet's strengths is the fact that technical standards such as TCP/IP remain independent of the telecommunication infrastructure (the bottom layer) and of the applications standards (the top layer). This independence makes the Internet very flexible.

The WGIG Report included the main issues from the infrastructure and standardization basket: telecommunication infrastructure, technical and web standards, Internet protocol numbers, domain name system, and root zone. Convergence was mentioned.

A possible explanation for the WGIG Report's high focus on infrastructure and standardization issues (42.81% of the overall report text) is the high relevance of ICANN-related issues (Internet names and numbers) during the WSIS process (2002-2005). Later on, the relevance of ICANN-related issues lowered to the average 25.14% coverage in the IGF transcripts (2006-2014). The lowest percentage was in the NETmundial Multistakeholder Statement (20.62%), while it is found in the middle range in selected Internet governance books and articles (30.68%) and the UN CSTD Mapping of international Internet public policy issues (31.11%).

The second highest level of incidence of an infrastructure and standardization issue in the Internet governance text corpus was found with the issue of the domain name system (8.37%).

Since the WGIG Report was published in 2005, three new Internet governance issues have emerged in the policy debate: net neutrality, cloud computing, and the Internet of Things.

TABLE 5

Infrastructure and standardization issues in the Internet governance text corpus

Text corpus (specific documents and collections of documents)	% of the text on infrastructure and standardization basket issues in text corpus
Report of the Working Group on Internet Governance (WGIG) - June 2005	42.81%
NETmundial Multistakeholder Statement - April 2014	20.62%
Mapping of international Internet public policy issues (UN CSTD) - May 2015	31.11%
IGF transcripts (2006-2014)	25.14%
Selected Internet governance books and articles	30.68%

Security basket

Security was introduced as a separate basket during the 2014 revision of the Internet governance taxonomy. Previously, security was part of the infrastructure and standardization basket. The Snowden revelations accelerated the trend toward the growing relevance of cybersecurity. It gained additional momentum in 2014 and 2015. The security basket includes the following issues: cybersecurity, cybercrime, cyber conflict, child safety online, encryption, spam, the Internet as a part of the critical information infrastructure, and digital signatures.

TABLE 6

Security issues in the Internet governance text corpus

Text corpus (specific documents and collections of documents)	% of the text on security basket issues in text corpus
Report of the Working Group on Internet Governance (WGIG) - June 2005	8.50%
NETmundial Multistakeholder Statement - April 2014	23.71%
Mapping of international Internet public policy issues (UN CSTD) - May 2015	12.19%
IGF transcripts (2006-2014)	15.66%
Selected Internet governance books and articles	23.72%

The WGIG Report has a lower than average focus on security issues. At the time it was prepared, security was not a major concern of the global policy community. Its coverage increased substantially in analysis of Internet governance books and articles (23.72%), and the NETmundial Multistakeholder Statement (23.71%).

Human rights basket

Human rights was the second basket which was introduced in the 2014 revision of the Internet governance taxonomy. Human rights issues that were previously part of the sociocultural basket include the following Internet governance issues: freedom of expression, privacy and data protection, rights of people with disabilities on the Internet, women's rights online.

Like security, the relevance of human rights issues increased after the Snowden revelations.

TABLE 7

Human rights issues in the Internet governance text corpus

Text corpus (specific documents and collections of documents)	% of the text on human rights issues in text corpus
Report of the Working Group on Internet Governance (WGIG) - June 2005	3.27%
NETmundial Multistakeholder Statement - April 2014	17.53%
Mapping of international Internet public policy issues (UN CSTD) - May 2015	9.57%
IGF transcripts (2006-2014)	17.16%
Selected Internet governance books and articles	6.90%

Legal basket

Since every aspect of Internet governance has a legal component, legal issues are sometimes considered "horizontal" issues. Issues such as e-commerce or cybercrime have strong legal components. The reason for introducing legal issues as a separate basket is that there are issues that can be classified only as legal issues, including the following: jurisdiction, arbitration and other forms of dispute resolution, copyright, trademark, labour law, and intermediaries' responsibilities. At the time of the WGIG Report, questions of jurisdiction and arbitration were mentioned, while copyright and trademark were part of intellectual property rights. Labour law and intermediaries' responsibilities did not feature in the WGIG Report.

The presence of legal issues in the Internet governance text corpus is relatively stable on a level between 12 and 16% of the total text corpus (see Table 7). Legal issues featured at a lower level in the IGF transcripts.

TABLE 8

Legal issues in the Internet governance text corpus

Text corpus (specific documents and collections of documents)	% of the text on legal basket issues in text corpus
Report of the Working Group on Internet Governance (WGIG) - June 2005	16.99%
NETmundial Multistakeholder Statement - April 2014	14.43%
Mapping of international Internet public policy issues (UN CSTD) - May 2015	16.71%
IGF transcripts (2006-2014)	6.94%
Selected Internet governance books and articles	12.13%

Economic basket

Early Internet governance was based on the economic relevance of the Internet. The document that initiated the reform of Internet governance and established ICANN was titled "Framework for Global Electronic Commerce" (1997). The framework states that "the private sector should lead" the Internet governance process, and that the main function of this governance would be to "enforce a predictable, minimalist, consistent and simple legal environment for e-commerce." An e-commerce-centred approach is the foundation of the ICANN-based Internet regime. Economic issues were not as visible in the WGIG Report, as this was during an early phase of ICANN developments. The WGIG Report made explicit references to e-commerce and consumer protection, while the question of e-money, virtual currencies, and taxation did not feature in the WGIG Report.

TABLE 9

Economic issues in the Internet governance text corpus

Text corpus (specific documents and collections of documents)	% of the text on economic basket issues in text corpus
Report of the Working Group on Internet Governance (WGIG) - June 2005	7.19%
NETmundial Multistakeholder Statement - April 2014	2.06%
Mapping of international Internet public policy issues (UN CSTD) - May 2015	10.43%
IGF transcripts (2006-2014)	3.57%
Selected Internet governance books and articles	9.46%

Development basket

Development issues are another set of horizontal issues tackling almost every aspect of Internet governance. However, there are a few issues which are development *per se*, including access, the question of the digital divide, and capacity development. Access is the most frequently covered Internet governance issue in the Internet governance corpus (8.47%). Access, the digital divide and capacity development featured highly in the WGIG Report. The presence of development-related issues is constant in the IGF transcripts and other text corpora, with a slight drop in analyzed books and articles (6.88%).

TABLE 10

Development issues in the Internet governance text corpus

Text corpus (specific documents and collections of documents)	% of the text on economic basket issues in text corpus
Report of the Working Group on Internet Governance (WGIG) - June 2005	11.76%
NETmundial Multistakeholder Statement - April 2014	17.53%
Mapping of international Internet public policy issues (UN CSTD) - May 2015	10.91%
IGF transcripts (2006-2014)	16.66%
Selected Internet governance books and articles	6.86%

Sociocultural basket

Internet governance issues in the sociocultural basket reflect the broad impact of the Internet on the social and cultural life of modern society. This basket includes the following issues: content policy, cultural diversity, multilingualism, online education, and the Internet as a global public good.

TABLE 11

Sociocultural issues in the Internet governance text corpus

Text corpus (specific documents and collections of documents)	% of the text on economic basket issues in text corpus
Report of the Working Group on Internet Governance (WGIG) - June 2005	9.48%
NETmundial Multistakeholder Statement - April 2014	4.12%
Mapping of international Internet public policy issues (UN CSTD) - May 2015	9.62%
IGF transcripts (2006-2014)	14.87%
Selected Internet governance books and articles	10.25%

Conclusion

The classification in the WGIG Report has withstood the test of time. It broadened the coverage of Internet governance beyond Internet names and numbers, which, prior to the WGIG, were typically the issues associated with the term "Internet governance". The WGIG Report explicitly listed 20 Internet governance issues, and mentioned an additional eight. By contributing to the initial mapping of Internet governance, the WGIG Report fostered more informed discussion at the WSIS meeting in Tunis, subsequent IGF meetings, and other Internet governance events.

The WGIG's initial classification has been repeatedly checked and updated through the preparation of the programmes of the annual IGFs (2006-2014) and other events. For example, issues such as net neutrality and the Internet of Things were included in the IGF process when they became relevant. The early classification work of the WGIG was revisited in 2015 by the UN Commission on Science and Technology for Development, which prepared the report *Mapping of international Internet public policy issues*, containing 41 Internet governance issues organized in seven main clusters. The WGIG legacy, as the first official attempt to map the field of Internet governance, will remain relevant in the years to come as the need to map the fast-growing field of digital policy gains further importance.

A CRITICAL LOOK AT CRITICAL INTERNET RESOURCES, SINCE THE WGIG

Paul Wilson and Pablo Hinojosa

The WGIG was tasked with developing a working definition of Internet governance, and indeed it produced a very workable definition which is still widely used today. The WGIG Report added a note to that definition, that "Internet governance includes more than Internet names and addresses," and that Internet governance includes many other significant public policy issues such as "critical Internet resources, the security and safety of the Internet and development aspects."

While encompassed within the definition of Internet governance, "critical Internet resources" (CIRs) were not themselves defined in the WGIG report. However, the many deliberate references to "management of CIRs" made them a sensitive topic during the second phase of WSIS. This was apparently not due to any demonstrated problem with the prevailing management of CIRs, but rather to a singular political issue, that of the special role held by the US government in its oversight of ICANN and the Internet's Domain Name System (DNS).

At the time of WSIS, the US government was not ready to relinquish the IANA functions, or its historical role as their central overseer, but instead continued to contract them to ICANN under a series of agreements. Because of this, WSIS left most of the emerging Internet nations uncertain about the ultimate aims of the US government, and sceptical of the existing private-sector-led Internet governance model. WSIS also left its key organizer, the United Nations, and its member states with a growing realization that a state-centric governance system would not "fly" as an alternative model to the status quo.

That is how, following WSIS, the international debate on Internet governance got stuck: trying to solve the "ICANN issue" – often under the

guise of "critical Internet resources" – instead of making progress on more substantive Internet policy topics, for example, in the realm of security, human rights or development. Facing this unfinished business, WSIS concluded with the creation of the Internet Governance Forum, the IGF, as a public space where people could continue to discuss these sensitive issues. As Jeannette Hoffman said at the IGF in Vilnius, "In several ways [critical Internet resources] was the founding conflict of the IGF."

At the first IGF, held in Athens in 2006, the recent divisions concerning critical Internet resources were still very fresh. Organizers seemed reluctant to reignite the fires which had heated the WSIS process, and which could see the IGF born as a place of conflict rather than collaboration. Therefore, Internet governance and critical Internet resources were hardly discussed at all during that first meeting.

However, at the second IGF, in Rio de Janeiro, the management of critical Internet resources was adopted as a theme, and was the specific subject of a "main session" where it was extensively discussed. In fact, CIRs remained a designated theme of each IGF thereafter, and the subject of hundreds of subsequent workshops.

The approach taken in most CIR-related sessions was deliberately exploratory and educational, with most time spent on presentations and submissions from experts who could guide discussions around facts, practices and operational topics, rather than pre-set political agendas.

This chapter will examine the evolution of the discussions on critical Internet resources in the 10 years after the WGIG Report, after the introduction of CIRs as a key (but ill-defined) Internet governance issue. It argues that as the CIR debate evolved, its ideological intensity progressively dissipated and decayed. The focus of the discussions became less about principles and more about practical matters, including technical, operational and business issues. While this period did feature the venting of many frustrations (both genuine and perceived), it also increased mutual understandings among most if not all stakeholders involved. And at the same time, outside the IGF and in parallel with it, there has been significant progress in advancing both these understandings and consequent outcomes.

Critical Internet resources: What are they?

Like many emerging concepts, "critical Internet resources" is one without a single fixed definition, but with a variety of more or less "narrow" or "broad" interpretations.

In the WSIS context, a narrow interpretation of critical Internet resources was generally applied, which came to encompass domain names, root servers, and Internet protocol addresses. This is a subset of the functions which have been managed historically by the Internet Assigned Numbers Authority (or IANA). Located in California, and historically under the authority

of the US government, the IANA was transferred in 1999 into the hands of the Internet Corporation for Assigned Names and Numbers, or ICANN. ICANN was established specifically for the purpose of taking full and independent responsibility for IANA stewardship; however this did not eventuate as quickly as planned. During the entire WSIS process in fact, ICANN continued to undertake the IANA functions only with the permission of the US government and under a contract to it.

When the WGIG came to examine the issue in 2005, it chose to apply a much broader interpretation of "critical Internet resources", perhaps recognizing the complexity of the Internet and the number of factors critical to its success.

The WGIG report in fact contained only two uses of the term; however, each of them implies a broad interpretation:

> 12. It should be made clear, however, that Internet governance includes more than Internet names and addresses, issues dealt with by the Internet Corporation for Assigned Names and Numbers (ICANN): it also includes other significant public policy issues, such as critical Internet resources, the security and safety of the Internet, and developmental aspects and issues pertaining to the use of the Internet.

and

> 13. … Based on this fact-finding work, the WGIG established four key public policy areas:
>
> (a) Issues relating to infrastructure and the management of critical Internet resources, including administration of the domain name system and Internet protocol addresses (IP addresses), administration of the root server system, technical standards, peering and interconnection, telecommunications infrastructure, including innovative and convergent technologies, as well as multilingualization.

With the commencement of the IGF and the obvious interest expressed in CIRs (particularly after Athens), it became clear that the scope of the definition would be an important question for the IGF.

To explore the full breadth of conceptions of CIRs, Paul Wilson undertook a survey in 2007, just before the second IGF, in which he asked respondents simply to identify the things that they regarded as critical Internet resources. The results of the survey showed a lack of convergence on any small set of items to be included in the definition, but rather a huge array of factors, ranging from electricity, undersea cables and internet exchange points; to human capability, knowledge and data; to social networks, directories and search engines; to Internet standards, IP addresses, domain names and protocol identifiers.

Many of the debates on CIRs that occurred during IGFs were still scoped on the narrow view: root servers, the domain name system and IP addresses. Some argued that these were the only critical resources; others insisted that even these resources were not necessarily critical. As Raúl Echeberría, the then head of LACNIC, explained at the IGF in Rio: "One thing is critical resources. Another thing are resources that, due to their own essence in their operation, need to include a risk management approach, which is the case of most of these resources [root servers, DNS and IP addresses]."

Bob Kahn, in that same session said: "The thing that's critical inside the Internet itself are IP addresses. That's what allows packets to move around the Internet from one place to another." He was discarding DNS as critical, because he said it was built as an application, adding that it is not the only Internet identifying option available (referring of course to his own "Handle" system).

Kahn's view here was particularly atypical, given the common conception of IANA functions as intrinsic parts of a single whole. But he had a case, because in fact the "bundling" of these functions in one place has been a historical circumstance serving primarily for administrative convenience. The three recognized sets of IANA functions – namely those related to names, numbers, and protocol parameters – are in fact fundamentally different, with almost entirely independent management and policy structures, in terms of geographic, economic and management factors; in terms of the communities involved as stakeholders, decision makers and customers. And beyond the IANA itself, these particular resources are managed in a distributed and decentralized fashion, involving hundreds of different registries and organizations spread throughout the world, with little, if any, intersection.

Through nine IGF events to date, both ends of the narrow-broad spectrum have been explored, just as demonstrated in Paul Wilson's survey. Even if somewhat facetiously, some have agreed that electricity was the most critical Internet resource. A point to which Abdullah Aldarrab from Saudi Arabia alluded: "Fortunately, electrical power is not controlled by a single country in the world. Otherwise, we may not be meeting here."

Among this diversity, there is admittedly one viewpoint which is probably shared more often than others, though still not by a majority; and that is of "critical Internet resources" as a convenient label for the IANA functions, nothing more and nothing less. This is in spite of the fact that those functions share little in terms of technical or management characteristics, specific communities of interest, geographic scope or other features. The reason is simply that this set of specific functions, over which there was in fact little or no demonstrated administrative dispute, served well as an alias or proxy for the political question of US government privilege in Internet governance, as we will discuss in the next section.

Critical Internet resources: The political debate

During WSIS, "critical Internet resources" had become a code word for ICANN and the unilateral oversight, by one nation state, of the functions that it performs. Most considerations of this debate were not technical or administrative, but the focus was on the geopolitical implications: about the role of governments in international Internet public policies and whether a UN intergovernmental organization should take control, or whether a multistakeholder model – rather than a multilateral one – was capable of meeting the current and future challenges of Internet governance. CIRs represented what was in Milton Mueller's words the "continuing saga of who rules the root."

During the course of the first nine IGFs, workshops and sessions under the CIR theme addressed the broadest range of topics; however, the contentious debates centred on the narrow view. Critical Internet resources continued to fuel a global governance debate on the role of governments (whether one or many), and the IGF served well to help raise awareness of that question. The IGF, however, was not conducive to accepting the premise that governments alone had a given role to assert unilateral control over Internet public policy issues. Over the years, the IGF became a safe place where difficult discussions could be held, with an open-minded approach to the range of solutions under consideration.

It is worth noting that in parallel with these discussions on critical Internet resources at the IGF, discussions were also happening elsewhere, particularly on the role of governments and intergovernmental organizations in relation to CIRs. In 2008, for example, the World Telecommunication Standardization Assembly (WTSA) discussed propositions about the ITU possibly becoming a Regional Internet Registry for IPv6 addresses, and a dedicated "IPv6 Group" was formed in the ITU to study this idea. Discussions intensified in 2012 at the WTSA conference which was held prior to the World Conference on International Telecommunications (WCIT). In a more sensitized global environment, these ITU processes became more widely known than in the past, and their mode of conduct and level of openness came under scrutiny, particularly as they contrasted with the now established IGF model.

It was no coincidence that at this time the ITU acted decisively with measures to allow increased participation of non-governmental stakeholders. This was most noticeable during and after the major WCIT event in 2012. And the most recent ITU World Conferences, such as WTDC 2014 and the Plenipotentiary Conference in Busan showed ongoing progress towards openness: many documents were made publicly available, sessions were transcribed and webcast, and many non-governmental players took an active part as ITU Sector Members and as part of many governmental delegations. The fact that such practices were well established in Internet circles, and then also in the IGF, should not diminish the importance of these changes within the intergovernmental realm of the ITU.

We would like to suggest that the ITU's own evolution was in direct response to the advent of the IGF; but we would further argue that the IGF's ability to shift the conversation away from the political undertones towards the pragmatic, practical and operational realities has also had an equally important influence on the larger global debate. This is particularly important in view of the pace of change within the Internet itself; the fact that while progress was significant in the processes we have been discussing, changes within the Internet itself continued at high speed.

During the long decade that followed the WGIG report, more than two billion new users joined the Internet worldwide. The value of the Internet economy multiplied rapidly as new companies were born and grew into major international empires; and as global business and government organizations alike became quickly and heavily dependent on its infrastructure.

At the same time, a restructured ICANN multiplied its net assets fifty-fold, largely through the release of new top-level and internationalized domains which became more established around the world. The IGF continued to grow and evolve, and in those years hosted annual main sessions on critical Internet resources, along with hundreds of workshops and other sessions on the topic.

It was finally in 2014 that the US government reconsidered its WSIS position and announced its willingness to transition the IANA functions into the hands of the global community. In March of that year, the Department of Commerce's National Telecommunications and Information Administration (NTIA) finally announced its intention to transition its historical oversight role of the IANA functions, and laid down requirements for a community-driven multistakeholder effort to define the transition plan.[1]

While it took some 15 years for this development to happen – after the establishment of ICANN – and while at this stage the transition is not yet complete, the intensity of the political debates throughout the post-WSIS years has been replaced with community-driven actions – which include governments and other stakeholder groups – focused on the operational management of CIRs.

Critical Internet resources: Enhanced cooperation

The concept of "enhanced cooperation" has followed a similar, and similarly intertwined, evolution to that of CIRs. The phrase itself was coined in the final moments of the Tunis negotiations. It appeared just three times, in paragraphs 69 and 71 of the Tunis Agenda, but provided a solution to an impasse that had threatened to deadlock the negotiations over Internet-related public policy issues. But again, however, no defini-

1. NTIA. (2014, 14 March). NTIA Announces Intent to Transition Key Internet Domain Name Functions. www.ntia.doc.gov/print/press-release/2014/ntia-announces-intent-transition-key-internet-domain-name-functions

tion was given for enhanced cooperation, and nor were any scope or processes defined.

European Union Commissioner Vivian Reding said at the first IGF in Athens: "Enhanced cooperation does not replace negotiations between governments [...], but it is complementary as a process. And I expect that it will generate a lot of ideas, a lot of solutions, and these ideas and solutions I intend to introduce into the talks between governments."

Haiyan Qian, from the UN Department of Economic and Social Affairs (UNDESA), said at the IGF in Hyderabad: "The meaning of enhanced cooperation, as most organizations understand, is to facilitate and contribute to multistakeholder dialogue. It seems to be also understood as formal or informal cooperative arrangements."

During the course of the years, "enhanced cooperation" has meant for some the establishment of an intergovernmental mechanism within the United Nations structure, which would enable governments to pursue public policy issues pertaining to the Internet. Concrete proposals have been made on this front by some governments, but have not reached full agreement or support. The predominant view is that even with this uncertainty, enhanced cooperation is already taking place along the lines envisaged in the Tunis Agenda, albeit with gaps and the need for improvement.

This cooperation is apparent in existing Internet governance mechanisms, including the Internet Governance Forum, the Governmental Advisory Committee of ICANN and a variety of other fora. In 2014, there was a collaborative exercise called NETmundial, which demonstrated how a multistakeholder setting could produce consensus on an output document. These examples have helped to shift political debates, once solely government-led, into more practical matters, but without losing the important role that governments can continue to play.

Critical Internet resources: From politics to practicalities

Assuming that we can indeed put the politics aside, the interoperability of the Internet is still dependent on a huge range of operational, technical, business and trade realities that need to be considered, with many of them playing critical roles. As the IGF evolved from Athens to Istanbul, CIR discussions were approached more and more at this practical level, both in main sessions and in the hundreds of workshops related in one way or another to CIRs. These discussions focused on information sharing and mutual education among technical and non-technical audiences, while covering the most diverse range of topics under the CIR banner.

The breadth of these CIR-related issues grew steadily as the IGF continued, and came to include topics such as the introduction of new Top-Level Domains, the implementation of Internationalized Domain Names, the exhaustion of IPv4 addresses, the case for and realities of IPv6 adoption, the

role of Internet exchange points, the roles of Internet organizations such as ICANN and the RIRs, and many more. The list is nearly as long as the combined agendas of every IGF so far.

The most important result of the IGF has been in the building of human capacities through the sharing of expertise and experience; and this has occurred not only between experts and lay people, but also among participants from innumerable cultural and disciplinary backgrounds. The handling of critical Internet resources in particular relied on this educational dimension, because of the need to gather and understand real-world requirements and experiences, in real-time, as a critical consideration in practical Internet governance.

At the time of writing, planning is underway for IGF 2015 in Joao Pessoa, where there will be a "Best Practices Forum" on IPv6 deployment. This also exemplifies the continuing shift in focus to the practical challenges of actual deployment, which are being faced around the world as IPv6 is finally being put into production. This has put IPv6 exactly where it should be in the IGF – as an important practical challenge which faces the full spectrum of Internet stakeholders, and on which there are experiences to be shared and lessons to be learned.

Conclusion

More than 10 years have been devoted to reconciling the WSIS predicament of "critical Internet resources", the most debated subject in Internet governance since its inception. The rapid pace at which resolutions on this subject are unfolding has no precedent. Thousands of different views have been discussed, aggregated and compiled in an open, bottom-up and self-organized fashion. That enormous amount of work in such a short time, led by the global Internet community, is a clear indication that the multistakeholder Internet governance model works well. It always did – by original design.

The "non-threatening" environment of the IGF has allowed thousands of people to express views, and encouraged more to listen to views which might differ from their own. It has provided a model for others to follow, continually "raising the bar" for standards of openness and inclusion, providing both a challenge to be met and an example to be followed.

We think that nowhere has the IGF proven its value more than in the realm of critical Internet resources. It has demonstrated clearly that what is most critical about the Internet should be understood, and can be understood, by all stakeholders who have a genuine interest. We might say that that which most urgently needs to be understood on the Internet is also most critical, being most at risk of misunderstanding and mishandling. And again, the pace of change on the Internet adds a very real urgency to that process, and creates the need for new approaches exemplified by the IGF (but not unique to it).

A major achievement of the WGIG, and indeed of the WSIS process, was not to invent Internet governance, but rather to discover it; and then to identify the multistakeholder nature of that governance as its most critical feature. An understanding of the myriad aspects of that model has certainly emerged, and is still emerging from the IGF, as demands on the model continue. While the Internet keeps growing and changing, governance challenges will continue to emerge, and the expectations of the Internet's governance model will continue to grow. Perhaps this leaves the multistakeholder model itself as the most critical of all "critical Internet resources", and the resource most needy of the IGF's continuation.

Acknowledgements

We are both big fans of the IGF, and we believe that its core value resides in its discussions: through a rich debate, different parties increase mutual understanding, agendas evolve, and ultimately, at the time of decision making, outcomes can be improved. In preparing this chapter we tracked the evolution of the discussions on critical Internet resources in the last nine iterations of the IGF.

To make this research possible, we were given access to the transcripts of the CIR main sessions and workshops, stored in the database of the Friends of the IGF which underlies their very powerful website.[2] In this rich resource we found that while discussions evolve, this is not a linear process, and early discussions still contain invaluable content and contributions.

Easy access to the memory of the IGF was essential to us, and is essential for the IGF to serve its main purpose. We certainly thank our "Friends" of the IGF for their effort, and support of this small research activity; we also hope to see open access to the IGF archives given high priority in future, along with increasingly capable tools for mining them.

2. www.friendsoftheigf.org

INTERNET GOVERNANCE IN RUSSIA: A BRIEF HISTORY OF THE TERM AND THE PROCESS

Michael Yakushev

It is very important to remember the background to the concept of "Internet governance" in the countries that were integrated into the global cyberspace with a certain (but not too significant) delay. Russia is a good example. And this is not just because we can thus recall the milestones of the development of the Internet there. It also allows us to trace the evolution of how the theoretical analysis and the terminology followed the development of the access infrastructure and the content. In turn, this was accompanied, with a certain time lag, by government regulation and self-government.

The term "Internet" first appeared in the Soviet Union, as well as around the world, in the late 1980s. However, at that moment people mostly spoke about "data transfer networks" and very few understood the fundamental difference between this new phenomenon and the potentially new features of cable or telex technology. With the emergence of the WWW, hypertext and email services, ordinary citizens and businesses began to show their interest in the Internet. But public authorities were not yet among them. Even the Soviet Union had its own top-level national domain (.su), which by the way still exists despite all the geopolitical changes.

After the collapse of the USSR, the Russian top-level domain .ru appeared in 1993, and its administrator was appointed under an agreement between 13 local providers, who selected one of the research institutes (Russian Institute for Public Networks, RIPN) as its registry. Technically this agreement ended the "prehistoric" period of Internet governance, since the decision to request the delegation of the .ru top-level domain was taken independently by business organizations, who were competing with each other but found it reasonable to start their own Russian-style "Internet governance"

and to cede a leading (coordinating) role to a non-commercial, non-government institution. More precisely, this style meant mutual consent and equal participation by all stakeholders. Although nobody knew at the time how to refer to this in the Russian language. We may call that epoch the "romantic" period of governance of the Russian Internet, or *RuNet* as it became fashionable to refer to the Russian "segment" of the global Internet. It may also be called "classical" by analogy with the golden age of science and arts in ancient Greece or Rome.

The combination of words "Internet governance" began to appear during discussions of the Okinawa Charter on the Global Information Society by the G-8 (including Russia) in 1999-2000. I was a Russian member of the Digital Opportunities Task Force (DOT Force), representing one of the organizations of Russian civil society (the Association of Internet Operators), and I was lucky to be an eyewitness, for the first time, to how fast, efficient and friendly comprehensive discussions of fairly complicated issues could be when government representatives, the private sector, and communities experts were involved all together. Unfortunately, the Action Plan for the implementation of the Okinawa Charter was virtually forgotten and was not embodied in any legal documents (at least not in Russia). Almost simultaneously, the biggest problem became evident in those years: the problem of terminology. It became clear that many of the subjects that we talked about (with no problem understanding each other) in English did not have adequate equivalents in other languages, such as Russian. This fact required not only developing a kind of "IT-Russian Dictionary", but also a "Russian-Russian" phrasebook, to be able to explain what was literally meant in some Russian-sounding words, each of which would be understandable on its own, but put together in phrases had little meaning.

In 2004, when I worked in the Ministry of Information Technologies and Communications of the Russian Federation, the Working Group on Internet Governance (WGIG) was formed under the United Nations Secretary General, and I was appointed to represent the Russian government. So at least in official documents, the combination of words "Internet governance" finally appeared.

However, it had no clear and unambiguous equivalent in Russian. Russian translations of "Internet governance" included "management of the Internet", "regulation of the Internet", and even "management of Internet usage" – terms still used in the Russian versions of official UN documents, which lead to nothing but sad bewilderment… In those years, numerous articles and essays appeared in Russian with titles like "How should we regulate the Internet?" or "What may be regulated on the Internet?" And regular conferences and workshops on "the Internet and the law" started being held in Russia and in other countries where Russian is spoken as well.

Questions were also raised about the principle of multistakeholderism. The essence of the concept is clear. Who the stakeholders are is clear too. But it

was not clear how to name this notion in Russian. And again, there were various options like "participation by interested parties", "collective management", or a mere phonetic transcription that does not mean anything in the Russian language – "*multisteykholderizm*" – along with a couple of paragraphs to explain what it meant.

Issues of terminology and other discussions on the WGIG Final Report (2005) forced Russians to analyze more important and meaningful problems. Namely, the nature of the Internet in terms of governance (or, more preferable for Russian government officials: What is the nature of the Internet, to be regulated by domestic legislation)? By the mid-2000s, it became quite clear that what we call the "Internet" means at least three levels of organization. At the lowest level: physical infrastructure, telecommunication channels, fibre optics, and subscribers' terminal devices (like notebooks and smartphones). Next comes a logical layer: IP-addressing, Domain Name System (DNS) and a set of other unique identifiers. Finally, everything involved in the everyday use of the Internet corresponds to the highest layer of application: websites, search engines, email, online media, social networks and so on. Therefore, questions like "what should be regulated on the Internet?" may have at least three different answers, depending on the different layers of infrastructure.

The multi-layer nature of the Internet facilitated a theoretical understanding of the concept of "multistakeholderism" in countries like Russia. It is clear that at every layer of the Internet different stakeholders may have different sets of interests, and every layer may demonstrate specific features of their interaction. Moreover, after careful analysis of the interaction at each layer or level, one may easily determine that selected international organizations (such as the International Telecommunication Union, ITU) have evident responsibility for the telecommunication components; organizations such as the Internet Corporation for Assigned Names and Numbers (ICANN) and regional registries like RIPE NCC for Europe deal with the logical layer of the global network; which leaves room for the legal regulation of Internet applications at the applications layer.

In fact, this broader understanding of the Internet did become a major factor enabling the fast development of the Internet in Russia in the 1990s and 2000s. The network was developing based on the principle of self-regulation by operators and providers of network services. Not until 2005 did the Russian government (Federal Ministry of Communications), after studying the results of the WGIG, decide to "recognize" itself as one of the "interested parties" and appoint its representative to the Board of the .RU Country-Code Top-Level Domain Coordination Centre. Furthermore, joint and effective interaction between representatives of the Russian government and the .RU Coordination Centre helped a great deal to launch and delegate the first Cyrillic internationalized top-level domain IDN (.rf).

Another interesting manifestation of linguistic problems was the following. As everyone knows, the original language of the Internet was English. Step by step, starting in the early 1990s, the Russian "Internet vocabulary" was formed, mostly by Russian providers to support their local business activities. The terminology was used in contracts with customers, terms of use, presentations at various conferences and the description of web-based services.

However, since ICANN started its globalization programme and introduced new domain zones, including IDNs, we faced an active introduction of yet another version of "Russian-sounding" Internet jargon with little correlation with the vocabulary already in use. The "ICANNese language" of the time practically failed to take into consideration linguistic realities in the former republics of the Soviet Union (and especially the existence of the already developed vocabulary and special terminology in Russia). As a result it formed another divide, a "language gap" between the two versions of Internet terminology, and in different communities a preference may be given to either one, or to another option. Nowadays, as a vice president of ICANN for Eastern Europe and Central Asia, I have to spend much time unifying the two "Russian Internet" languages used in the region.

But that is not all. With the increasing attention by government regulators to the Internet, the third version of the "Russian Internet" language is being developed right now. And it is the most obscure, both for users and for Internet service providers. For example, euphemisms and acronyms, so characteristic of Soviet-style political slogans and literature, are still widely used in Russian legislation. Thus, the term "computer" is still replaced in the legislation by the phrase "(E)lectronic (C)alculating (M)achine", and the word "Internet" is most often replaced by "information-telecommunications network". It may seem too long, but it looks "solid". So, in Russia we have three different versions of names and descriptions for everything associated with the development of the global network and/or Internet governance.

Nevertheless, the 1990s and 2000s were years of successful initiation and implementation of the multistakeholder approach in governance of the Russian Internet. It developed freely and independently. Actively participating in global Internet governance, Russian stakeholders had an opportunity to share best practices and protect their interests. And no matter what language they spoke with their foreign counterparts, they were able to understand the same subject matter.

The following conclusions may be drawn from the above:

First, the primary sources of Internet terminology, which were in the English language, allowed the Russian community to describe and more accurately explain their questions, with the aim of full integration in the processes of global Internet governance. Although, of course, there is a need to finalize the unification process on both the global and regional (or local)

levels, bridging the gap between the "practical", the "ICANNese" and the "legislative" Russian Internet terminology.

Second, Russia was well-prepared to accept the multistakeholder approach as a result of having developed an adequate system of self-regulation by the local stakeholders. An important factor here was an early perception of the multi-layer structure of the Internet and a correct understanding of which stakeholders may exist and how they may interact at every layer of the network infrastructure.

Third, the above conclusions may be applied to the period up to around 2011, when the "romantic" or "classical" era of management of the Internet in Russia was ended by the adoption of numerous legislative acts that censored the use of the Internet and restricted the rights of Russian users and operators. Of course, to some extent this flood of legislation – which ruined the free and independent system of Internet governance in Russia – reflected some more global trends. It allows us to characterize the current period as "medieval", with its feudal fragmentation and obscurantism. But (a) the reasons and consequences of such a transformation are outside the scope of this review, and (b) world history confirms that a "renaissance" will inevitably come.

INSTITUTIONALIZING MULTISTAKEHOLDER COOPERATION

MULTISTAKEHOLDERISM AND THE DEMOCRATIC DEFICIT

Peng Hwa Ang and Sherly Haristya

The multistakeholder approach to governance is a new paradigm that has been a legacy of the work done on Internet governance. It is new to the extent that when the Tunis Agenda was concluded, one delegate, probably a diplomat, was heard exclaiming, "We have achieved multistakeholderism."[1]

Back in 2005 it was an achievement to get a roomful of, well, multistakeholders, to agree that multistakeholderism would be a key pillar in Internet governance. For civil society especially, multistakeholderism meant not being kicked out of meetings with government officials at the UN. It was a reason to celebrate.

Until quite recently, it had been assumed that a multistakeholder approach to Internet governance would mean a transparent, open, inclusive and therefore democratic approach to governance. Lately, however, it has been argued in some quarters that multistakeholderism is a fig leaf for the bad old days of exclusion. After all, so the argument goes, a multistakeholder approach limits participation only to stakeholders and by excluding non-stakeholders is therefore inherently undemocratic. Such an approach could then be used by more powerful actors to strengthen their participation, voice and influence in the governance process, instead of balancing the power among the different stakeholder groups.[2] This

1. The delegate, alas, cannot be identified. But the first author has heard this anecdote from a few sources.

2. DeNardis, L. (2013). Multi-Stakeholderism. *Harvard International Review*, 34(4), 40-44.

approach is said to provide merely "symbolic participation"[3] rather than the meaningful kind.

This paper traces the origin of the term "multistakeholder" in order to understand its meaning, and then attempts to place the meaning in the context of enhancing democracy for Internet governance.

The goal of governance

It may surprise some people but the research in this area invariably concludes that the end goal of governance is not to check on the entity being governed. Instead, at its baldest (and blandest) it is to arrange for common affairs.[4] The governance process manages the diversities of the various actors with the aim of arriving at a cooperative arrangement. To achieve that objective, the governance process requires order.[5] From this perspective, and perhaps at its loftiest, it could be said that the intrinsic goal of better governance is greater democracy.[6] Better governance gives greater confidence to those in the system that their investments in time, effort and other resources in the system will not be wasted. Good governance will ensure that good ideas get picked up and used and bad ideas – including mischief and misbehaviour – will be eliminated. Good governance therefore necessitates clear and transparent rules and processes that are easy to understand and follow and that will also be robust against abuse. In turn, the greater democracy increases the acceptance and legitimacy of the governance system in a virtuous reinforcing cycle.

Applied to the Internet, governance means the entire set of rules and processes, including software and hardware architecture, that affect its use.[7] The very nature of the Internet requires that it will take a multistakeholder arrangement to exercise Internet governance. This is because the ever-changing nature of the applications on the Internet makes it impossible for any government to be the sole arbiter and regulator. The Working Group on Internet Governance (WGIG) recognized the importance of the academic and technical community (many of whom would not consider themselves as belonging to the business community) in Internet governance.

---

3. Bäckstrand, K. (2006). Democratizing Global Environmental Governance? Stakeholder Democracy after the World Summit on Sustainable Development. *European Journal of International Relations*, 12(4), 467-498.

4. Commission on Global Governance. (1995). *Our global neighborhood: The report of the Commission on Global Governance*. Oxford: Oxford University Press.

5. Scholte, J. A. (2002). Civil Society and Democracy in Global Governance. *Global Governance,* 8(3), 281.

6. Nanz, P., & Steffek, J. (2004). Global Governance, Participation and the Public Sphere. *Government and Opposition,* 39(2), 314-335.

7. WGIG. (2005). Report of the Working Group on Internet Governance. www.wgig.org/docs/WGIGREPORT.pdf

Origin and meanings of multistakeholder

The term multistakeholder and the spirit behind it are not original to the World Summit on the Information Society (WSIS). The International Labour Organization (ILO) adopted a form of multistakeholderism when it arranged a tripartite representation of governments, employers and unions within the organization in 1919.[8]

Edging closer to our current understanding are the terms "other interested stakeholders" and "other relevant stakeholders" in paragraphs 7.20 and 7.23 of Agenda 21 from the 1992 UN Conference on Environment and Development in Brazil. In paragraph 7.23, "other interested stakeholders" embraces "the World Bank, the regional development banks and bilateral agencies" and "particularly international and national representatives of local authorities." Although it extends to stakeholders beyond governments, the extension does not quite include civil society. "[O]ther relevant stakeholders" in paragraph 7.20 is wider, as the stakeholders preceding the phrase are "urban managers, technicians, administrators."

As Agenda 21 was drawn up by governments for their action, the mere mention of other stakeholders was a major step towards recognizing the need to include non-government actors for global action. But these non-government actors did not include civil society specifically, and those who were included were confined to action, not policy making. Paragraph 7.23 called for governments to work with "other relevant stakeholders" in human resources and capacity building.[9]

Although urban legend credits (or blames, depending on one's perspective) the current use of "multistakeholder" to WSIS, the first use in fact was in the Geneva Plan of Action.[10] Under the heading "C. Action Lines" and the subhead "C1. The role of governments and all stakeholders in the promotion of ICTs for development", are the following lines:

- Each country is encouraged to establish at least one functioning Public/Private Partnership (PPP) or Multi-Sector Partnership (MSP), by 2005 as a showcase for future action.
- Identify mechanisms, at the national, regional and international levels, for the initiation and promotion of partnerships among stakeholders of the Information Society.
- Explore the viability of establishing *multi-stakeholder* portals for indigenous peoples at the national level. (Emphasis added.)

8. ILO. (n.d.). Origins and history. www.ilo.org/global/about-the-ilo/history/lang--en/index.htm

9. United Nations. (1992). Agenda 21. https://sustainabledevelopment.un.org/content/documents/Agenda21.pdf

10. WSIS. (2003). First phase of the WSIS: Geneva Plan of Action. WSIS-03/GENEVA/DOC/0005. www.itu.int/wsis/documents/doc_multi.asp?lang=en&id=1160%7C0

The term multi-stakeholder (hyphenated) is not defined and is distinguished from a public/private partnership or a multi-sector partnership. Here again, the role is limited: it is intended to be an action role, specifically for a task and at the national level.

Kummer[11] said that following this, the next use of "multistakeholder" was in the collection of papers "Internet Governance: A Grand Collaboration" edited by Don MacLean, then an independent consultant who had worked for the ITU and the Canadian government. The papers were contributions to a meeting organised by the UN ICT Task Force titled "Global Forum on Internet Governance" in March 2004 to discuss how to set up the WGIG.

Kummer[12] observed that in the first phase of WSIS, the phrase used to describe the existing arrangements was "private sector leadership", in line with the language used in the setting up of the Internet Corporation for Assigned Names and Numbers (ICANN).

The recounting by Kummer[13] shows that even before the Final Report of the Working Group on Internet Governance, the term multistakeholder was being bandied around and understood loosely as the involvement of three different stakeholder groups, namely government, private sector and civil society. Even then, the term was always used to mean inclusiveness.

The inclusiveness was in sharp contrast to what attendees to WGIG meetings at the UN then were more accustomed to: small group discussions in which government representatives sometimes went around the table asking participants to identify themselves and specify whether they were representing their respective governments. Those who were not were sometimes told to leave the room, as happened at least once to the first author. The use of the term "multistakeholder" was therefore a novelty.

It was the Final Report of the Working Group on Internet Governance that, in the words of Kummer,[14] "consolidated" the use of the term. The Final Report had identified a gap in that there was "no global multi-stakeholder forum to address Internet-related public policy issues"[15] and thus called for such a forum to be created.

At WSIS II, such a forum was created in the form of the Internet Governance Forum (IGF), in which the body programming the meeting was called the Multistakeholder Advisory Group. It was also when the cry of "we have achieved multistakeholderism" rang out.

---

11. Kummer, M. (2013, 14 May). Multistakeholder cooperation: Reflections on the emergence of a new phraseology in international cooperation. *Internet Society*. www.internetsociety.org/blog/2013/05/multistakeholder-cooperation-reflections-emergence-new-phraseology-international

12. Ibid.

13. Ibid.

14. Ibid.

15. WGIG. (2005). Op. cit.

Kummer[16] noted that by 2008, "the concept of multistakeholder cooperation was well established in Internet Governance spheres" and had been adopted by intergovernmental organizations such as the G8 and the Organisation for Economic Co-operation and Development (OECD).

Democratic deficits: Due to multistakeholder approach or global governance?

The nature of Internet governance is that it demands globalization. But whether democracy can scale into the global level has been questioned.[17] Democracy at the global level is different from that at the nation-state level because there is no well-established central authority and system at the global level. The absence of a central authority opens up more opportunities for interested actors to put forward their own agenda and compete among themselves, which may be viewed as a positive factor for democratic discourse. On the other hand, the absence also means there is no firm accountability mechanism to whom these related actors should be held responsible for their decisions and actions. Besides accountability, researchers have attempted to address the deficits in other areas such as representativeness and participation.[18] [19] [20] These deficits, some of which appear difficult if not intractable to resolve, suggest that democracy in Internet governance needs to be conceptualized differently. For example: to whom should the related global governance institutions and initiatives justify their decisions and to whom should they be held accountable?[21] [22]

These issues have led some to criticize the multistakeholder approach as lacking the criteria for true democracy. Some of the criticisms appear to have some validity. For example, the NETmundial Initiative (NMI) has been criticized over legitimacy because of its claims on transparency, inclusiveness, and its bottom-up consultation process.[23] Various initiatives and institutions have sprung up to address the complexities of Internet governance, including democratic deficits.

But some of the criticisms appear to be misapprehensions. One misconception of participation – whether in the deliberation or the decision-making

16. Kummer, M. (2013, 14 May). Op. cit.

17. Dryzek, J. S. (1999). Transnational Democracy. *Journal of Political Philosophy*, 7(1), 30-51.

18. Bäckstrand, K. (2006). Op cit.

19. Held, D., & Koenig-Archibugi, M. (2004). Introduction. *Government and Opposition*, 39(2), 125-131.

20. Scholte, J. A. (2002). Op cit.

21. Nanz, P., & Steffek, J. (2004). Global Governance, Participation and the Public Sphere. *Government and Opposition*, 39(2), 314-335.

22. Scholte, J. A. (2002). Op cit.

23. Pohle, J. (2015, 6 January). Multistakeholderism unmasked: How the NETmundial Initiative shifts battlegrounds in Internet governance. *Center for Global Communication Studies*. www.global.asc.upenn.edu/multistakeholderism-unmasked-how-the-netmundial-initiative-shifts-battlegrounds-in-internet-governance

process – is that anyone must be able to participate, and the multistakeholder approach, by limiting participation only to stakeholders, is therefore inherently undemocratic. Malcolm argues persuasively that participation by everyone is not necessary in order for a process to be considered democratic because it can be attended by some expert groups.[24]

Further, as a matter of practicality, Dryzek[25] makes the point that in order for discursive representation for deliberation to scale globally, the global discussion can only involve various proficient participants. These participants would have to be conscious that acceptance of the outcome would only emerge from the resonance of the result with public views. That is, even if the participants were not deputized as representatives of various positions and stakeholders, in the course of their deliberations they would have to take into account these alternative views. The effect then is that even if the other stakeholders were not represented, their views would be.

Deliberative democracy as the baseline of the multistakeholder approach

Moving on to begin to resolve the issue of the democratic deficit, one first has to define the model of democracy being used because the precise definition of the nature of the democratic deficits varies depending upon the framework of democracy used as a baseline. In order to ground this investigation in reality, it is important to strike a balance between assessing real world democracy practice and conceptual and empirical analysis.[26] By conceptual analysis it is meant that the analysis needs to be based on certain types of democracy, such as the four classic types of nation-state democracy: namely classical, republicanism, liberal and direct democracy.[27] To address questions in the global governance context, researchers have extended the use of models of democracy from the national to the global level.

The two most comprehensive models of transnational democracy are cosmopolitan and deliberative democracy. Cosmopolitan democracy envisages the establishment of political order at the local, national, regional and global levels. It proposes the formation of new institutions at the regional and global levels that have "administrative capacity and accountability" that would complement the arrangement at the local and national levels. This is to be embodied through short- and long-term arrangements in "polity/governance" and "economy/civil society". The short-term arrangement in "polity/governance" includes, for example, reforming the United

24. Malcolm, J. (2015). Criteria of meaningful stakeholder inclusion in internet governance. Paper contributed to the Best Practice Forum (review.intgovforum.org/igf-2015/best-practice-forums/strengthening-multistakeholder-participation-mechanisms) and available at: https://docs.google.com/document/d/1d4jHTahdLhebykMHbaPFpTjIkECZGi5OQgjOTqGn2jg/edit?pli=1

25. Dryzek, J. S. (2010). *Foundations and Frontiers of Deliberative Governance*. Oxford University Press.

26. Moravcsik, A. (2004). Is there a 'Democratic Deficit' in World Politics? A Framework for Analysis. *Government and Opposition*, 39(2), 336-363. doi: 10.1111/j.1477-7053.2004.00126.x

27. Held, D. (2006). *Models of Democracy* (3rd ed.). Cambridge: Polity.

Nations Security Council, increasing regional structures, developing "a new, international Human Rights Court" and establishing international military power. The key ideas of the longer-term proposal in "polity/governance" are the development of a global parliament and an integrated global regulatory system in which all global governance institutions will be responsible for the global parliament that might be able to supersede the national arrangement for issues that have global impacts. Meanwhile, the short-term proposal for the "economy/civil society" is to strengthen civil society participation in the deliberation and decision-making process at the various levels. The long-term ideas include forming civil society groups, achieving diversity of ownership in economy and developing "public framework investment priorities".[28]

Cosmopolitan democracy has been criticized for its utopian blueprint. To build it requires two steps: first institutional development and then democratization of those institutions. Along the way, it will face diverse actors, interests and governance mechanisms that might disagree with and thus hinder the cosmopolitan vision.[29]

The second model, deliberative democracy, emphasizes the circumstances and procedures of deliberation in arriving at decisions. The effect of the model is to enhance the legitimacy of decisions.[30] Deliberative democracy includes communication forms[31] and also decision-making procedures to embody democratic deliberation.[32] [33] In essence, the deliberation process makes anyone's views publicly testable.

This public test suits global Internet governance because there is no central authority in the space. Related actors in the potential empowered space need to justify their legitimacy and authority by executing and showing that they run good procedures in developing the initiative. Besides that, the related participants need to deliberate in order to convey their views and convince each other or probably challenge each other's ideas so that at the end of the process, it is plausible to arrive at a voluntary shared decision.[34]

---

28. Ibid.

29. Dryzek, J. S. (2006). *Deliberative Global Politics: Discourse and democracy in a divided world.* Cambridge: Polity Press.

30. Held, D. (2006). Op cit.

31. Haug, C., Rucht, D., & Teune, S. (2013). A methodology for studying democracy and power in group meetings. In D. d. Porta & D. Rucht (Eds.), *Meeting Democracy.* Cambridge: Cambridge University Press.

32. Nanz, P., & Steffek, J. (2004). Global Governance, Participation and the Public Sphere. *Government and Opposition,* 39(2), 314-335.

33. Thompson, D. F. (2008). Deliberative Democratic Theory and Empirical Political Science. *Annual Review of Political Science,* 11(1), 497-520.

34. Risse, T. (2004). Global Governance and Communicative Action. *Government and Opposition,* 39(2), 288-313.

This paper therefore uses the deliberative democracy model because such practices are embedded in the multistakeholder approach to global Internet governance.

Democratic deficits and democratization of a deliberative system in global governance

The multistakeholder approach in Internet governance has been understood as taking place in an individual organization or site, which may be understood as a setting, forum or meeting.[35] There are at least three reasons why the multistakeholder approach is essential in the larger framework of a global deliberative system, which is what the IGF is.

The first reason is that the approach of addressing the multistakeholder approach in a single deliberative site is not comprehensive, considering that for an individual site there are different mechanisms for each single multistakeholder approach.[36] An example of such a mechanism here is input and output legitimacy. Input legitimacy refers to the quality of deliberation and also decision-making processes.[37] Some examples of input legitimacy values are transparency, accountability, inclusiveness and participation. Output legitimacy is compliance with the process and output.[38] In other words, people perceive that the process and output of deliberation have gone through appropriate procedures and thus they accept these as workable for resolving some issues. To speak of the procedures of a single multistakeholder approach may mean the application of an inappropriate mechanism from one site to another.

Second, multistakeholder deliberation can take place in both public space (where there is no decision-making) and also the empowered space (such as parliaments and congresses). At this point, an elaboration of the meanings of public and empowered space may be helpful. In the public space, the public can freely discuss their views but there is no outcome beyond the discussion. Mailing lists are an example of such a public space. Particularly for global Internet governance, the IGF could be considered an example of a public space that does not produce any results (beyond "outcomes") from the discussions. This contrasts with the empowered space, which has the potential to produce authoritative mutual decisions that could be in the

35. DeNardis, L., & Raymond, M. (2013). Thinking Clearly about Multistakeholder Internet Governance. Paper presented at the Eighth Annual GigaNet Symposium, Bali, Indonesia, 21 October.

36. Gasser, U., Budish, R., & Myers West, S. (2015). *Multistakeholder as Governance Groups: Observations from Case Studies*. Berkman Center Research Publications No. 2015-1. http://ssrn.com/abstract=2549270

37. Scharpf, F. W. (1997). Economic integration, democracy and the welfare state. *Journal of European Public Policy*, 4(1), 18-36.

38. Dingwerth, K. (2007). *The New Transnationalism. Transnational governance and democratic legitimacy.* Houndmills, Basingstoke: Palgrave Macmillan.

form of a structured institution or a fluid initiative.[39] Institutions such as ICANN or IETF are examples of an institutionalized empowered space.[40] NETmundial, which developed a set of governance principles for the Internet, could be said to be a fluid but empowered space. Going back to the issue of accountability in global governance, it is the relationship between multistakeholder deliberation in public and empowered spaces that should get the attention of global Internet governance actors.

The third reason is that after more than a decade since the WSIS I in 2003, it is reasonable for Internet governance actors to move the multistakeholder approach forward into the more robust framework of a deliberative system that would afford both discussion and action.

The contribution of civil society in democratizing global governance

Research has demonstrated that civil society actors have contributed to democratizing global governance arrangements even before the term multistakeholderism came into widespread use.[41] [42] Civil society has made the global empowered space more answerable in regard to their programmes and policies.[43] This has bridged the gap between public (discussion) and empowered (authoritative decision-making) spaces. By disseminating information about the decision-making process and policy of any empowered space to the wider public, the transparency of that empowered space is enhanced.[44]

Despite the contribution from civil society actors, however, their efforts alone are not sufficient in democratizing global governance arrangements. There are internal and external challenges for civil society to enhance accountability in global governance.

Among the internal challenges is the form of the accountability of civil society groups itself. This is no trifling matter because accountability mechanisms have sometimes been used by governments to suppress civil society groups. For example, demanding that all donors be identified can have a chilling effect on donations for the cause. The external challenge could come from acceptance by the governing authority of non-state actors' views and participation.[45] It is thus proposed that there should be proper mechanisms for interaction, where the empowered space could be

39. Dryzek, J. S., & Stevenson, H. (2011). Global democracy and earth system governance. *Ecological Economics*, 70(11), 1865-1874.

40. Ibid.

41. Nanz, P., & Steffek, J. (2004). Global Governance, Participation and the Public Sphere. *Government and Opposition*, 39(2), 314-335.

42. Scholte, J. A. (2004). Civil Society and Democratically Accountable Global Governance. *Government & Opposition*, 39(2), 211-233.

43. Ibid.

44. Nanz, P., & Steffek, J. (2004). Op cit.

45. Scholte, J. A. (2004). Op cit.

held responsive to public views,[46] and that those public views would be taken into consideration and to some extent be decisive in regard to decision making in the empowered space.[47] [48] [49]

The democratization of the deliberative system of global governance

What actually is a deliberative system? It consists of several elements: namely public space, empowered space, transmission, accountability, meta-deliberations and decisiveness. Public and empowered spaces have been explained earlier. Transmission is a mechanism for how public space could influence discussion and decisions in an empowered space. Accountability is where empowered spaces could be held answerable for their decisions and actions to the public space. Meta-deliberation is a feedback mechanism to reflect on the overall deliberation in the public and empowered spaces in order to make improvement when needed. Lastly, decisiveness is how the public views could not just influence but also be included in any shared decisions.[50]

A deliberative system does not position one deliberation site as detachable from the other sites, but sees the influence of the existence of one site on the other site and especially on the overall deliberative system. The deliberative system approach enables us to see the relationship among different multistakeholder initiatives. There are different degrees of linkage between each multistakeholder initiative and the related authoritative decision-making entity.[51] The deliberation quality of each site and the interconnection between different sites could be analyzed to position the understanding in a larger system and context.[52]

A democratic deliberative system consists of a diversity of deliberation sites, views, communication modes and also public decision-making procedures.[53] The first three elements refer to the inclusiveness of deliberative systems by means of listening to diverse views. This implies that all affected parties in the deliberative system should have "right, opportunity and capacity" to be

46. Nanz, P., & Steffek, J. (2004). Op cit.

47. Dryzek, J. S., & Stevenson, H. (2011). Op cit.

48. Nanz, P., & Steffek, J. (2004). Op cit.

49. Parkinson, J. (2012). Democratizing deliberative systems. In J. Parkinson & J. Mansbridge (Eds.), *Deliberative Democracy at the Large Scale* (pp. 151-172). New York: Cambridge University Press.

50. Dryzek, J. S., & Stevenson, H. (2011). Op cit.

51. Hemmati, M. (2002). *Multi-stakeholder Processes for Governance and Sustainability: Beyond Deadlock and Conflict*. New York: Routledge.

52. Mansbridge, J., Bohman, J., Chambers, S., Christiano, T., Fung, A., Parkinson, J., & Warren, M. E. (2012). A systemic approach to deliberative democracy. In J. Parkinson & J. Mansbridge (Eds.), *Deliberative Democracy at the Large Scale* (pp. 1-26). New York: Cambridge University Press.

53. Parkinson, J. (2012). Op cit.

able to voice their views in the deliberation process.[54] The fourth element is about the "responsiveness and determinacy" of a deliberative system that could safeguard whether those diverse views have been treated equally and accommodated into the public decision-making process.[55] [56]

Limits

Even if the above democratic deficits could be fully addressed, there are the conceptual problems of the tension between democracy and globalization, as well as the tension between democracy and national sovereignty. It has been pointed out that countries that want deep economic integration globally can only achieve two out of the three elements in the "trilemma" of globalization, national sovereignty and democracy.[57] Sometimes, it is globalization that gives, with the result that what is achieved is "thin" globalization, one that is fragile and easily "broken". Sometimes it is national sovereignty that is surrendered because to follow global norms is to give up national norms. But more often it is democracy that suffers because the powerful nations have a much larger say in an international platform. The USA's withdrawal from UNESCO and the organization's attempt to woo the country back is an example of how a large country can have a disproportionate influence at the international level.[58] Applied to Internet governance, being able to pick only two out of the three elements in the trilemma suggests that because states will try to hang on to their national sovereignty even as they aim for globalization, it will be democracy that will take a back seat.

It has been further argued that there is a tendency for democracy to conflict with globalization in a free market environment.[59] This is because a free market tends to lead to the concentration of wealth and power. Inevitably, those with the wealth and power will be few in number. These few states will try to hang on to their national sovereignty because they are powerful. In such a setting, democracy in action means that often it will again be democracy that will be neglected. In other words, it is likely that the exercise of power by all participants in the system, including those who have neither wealth nor power and who tend to outnumber the elites, will be brushed aside. The twin phenomena of trilemma and the concentration of power lead to the conclusion that, if democratic deficit is a bug, it is also a feature in global Internet governance.

---

54. Dryzek, J. S., & Niemeyer, S. (2010). Governance Networks. In J. S. Dryzek (Ed.), *Foundations and Frontiers of Deliberative Governance*. Oxford University Press.

55. Ibid.

56. Parkinson, J. (2012). Op. cit.

57. Rodrik, D. (2001). How far will international economic integration go? *Journal of Economic Perspectives*, 14(1), 177-186.

58. Pohle, J. (2015). Interests or ideas? Unmasking early policy discourses on universal access and the Internet's contribution to social justice. Paper presented at the 2015 Annual Conference of the International Association for Media and Communication Research, Montreal, Canada, 12-16 July.

59. Ang, P. H., & Pang, N., (2012). Globalisation of the internet, sovereignty or democracy: The trilemma of the Internet Governance Forum. *Revue Française d'Études Américaines*, 4(134), 114-127.

Looking forward

There are two sets of questions concerning the multistakeholder model in Internet governance. The first concerns the model of democracy that global Internet governance should take. Of all the models of democracy, the deliberative democracy model appears to be best suited to global Internet governance. The model is open-ended in the sense of accepting participants. But here, questions of accountability of the stakeholder group, inclusiveness, and decisiveness arise and answers to them are unclear at best. Much theoretical and perhaps some empirical work may be necessary.

As the IGF reaches 10 years of age, it is reasonable to ask where it is headed. This second question is more difficult to resolve. Should the IGF continue as a public multistakeholder space where discussions are in essence the goal? Or should it attempt to be a form of empowered space where authoritative decisions are made through multistakeholder deliberation? The existence of the IGF in the Internet governance realm actually offers great potential to democratize the global Internet governance arrangement. However, turning the IGF into an empowered space will require much effort from stakeholders in both the public and empowered spaces. Moreover, because of the reluctance of some actors for the IGF to produce any output from its discussions, it appears likely that the IGF as a forum can never be an empowered space. If that is the case, the multistakeholder framework is even more critical as it is needed to continue public discussions. This is especially important for ongoing initiatives in the IGF such as Best Practice Forums and Dynamic Coalitions where the related participants could discuss and produce any recommendations or concluding notes from the discussions. Participants through their own initiatives could forward the results from outputs in those sites to the related empowered space.

THE WGIG AND THE TECHNICAL COMMUNITY

Avri Doria

In this chapter I take a brief and speculative look at the effect of the Working Group on Internet Governance (WGIG) on the relationship between the technical community, particularly the Internet Engineering Task Force (IETF), Internet Society (ISOC), and Internet Corporation for Assigned Names and Numbers (ICANN),[1] and the multilateral machinations of the United Nations (UN) system.

Before the WGIG, the technical community had not yet been recognized as a stakeholder group by most of the states that make decisions within the UN and the UN system. In fact they were not even mentioned in the World Summit on the Information Society (WSIS) Geneva Plan of Action of 2003. It was not until the WGIG that the technical community was recognized as meriting mention for its contributions to the Internet. In the WSIS Tunis Agenda of 2005 the technical community, as well as academics, gained acceptance as a cross-community group made up of members of the three primary stakeholder groups, governments, private sector and civil society. Not quite full acceptance as a stakeholder group, but at least worth calling out in the WSIS official document.

Part of my understanding of the above-mentioned effect relies upon the anecdotal evidence of my own experience with the WGIG and the technical community. Though a participant in the technical community and an academic, I was also involved in civil society and was appointed to the WGIG as coming from civil society. I was attending an IETF meeting when

1. I only include the technical community organization that I have direct experience on in this chapter. Absent is any discussion of the Numbers Resource Organization (NRO) and the Regional Internet Registries (RIRs). These organizations are a critical component of the technical community and are discussed elsewhere in this volume.

the announcement was made. This was perceived by some as a UN move on the Internet and was alarming to some of the IETF leadership. As someone who was not part of the IETF leadership, my appointment to such a dangerous UN group was a matter of concern for some. One of my friends, someone in the leadership, put together a small group of experts to advise me and keep me to the right track. This group was valuable at times as they willingly gave me extensive explanations on technical aspects I had not yet understood as well as I needed to. This was good because I was a routing specialist, not a DNS expert, and as an engineer I did not want to break an engineer's personal "oath" to never give advice I did not understand and believe in. I still trust those people today and have remained a participant in both civil society and the technical community through the intervening decade.

The WGIG in its report noted that "the technical community and its organizations are deeply involved in Internet operation, Internet standard-setting and Internet services development."[2] Further it gave the technical community implicit recognition as a stakeholder group in their own right when it wrote that they "interact extensively with and within all stakeholder groups."[3]

The WGIG spent a fair amount of its time trying to map the international policy concerns to the realities of the Internet architecture and to the activities of groups like the IETF and ICANN. Those discussions removed cobwebs from the vision of many of the policy makers in the group. It showed the organizations to be open to all and multistakeholder in their processes. As someone not involved in ICANN at the time, I went to my first ICANN meeting to try and understand its processes as part of my WGIG activities and reported back how impressed I was by its version of multistakeholder modalities.

The WGIG was a milestone in Internet governance. It represented a coming together of individual stakeholders, including those from the technical community, on an equal footing. The notion that the government would share responsibility for a report with non-governmental participants was a radical change to UN behaviour. Until the WGIG, there was largely a separation between technical and public policy that had not been breached. At the first WSIS meeting in 2003 in Geneva, there were few technical people in the policy meetings. Many of those who were at the meeting were largely involved in the ICT for Development conference that accompanied the WSIS policy conference. By the time the WSIS Tunis meeting was held in 2005, after the WGIG report had been published, the technical community had begun to show significant participation, including an international group of ISOC ambassadors. The Tunis Agenda recognized "the

2. WGIG. (2005). Report of the Working Group on Internet Governance, paragraph 33. Geneva: United Nations. www.wgig.org/docs/WGIGREPORT.pdf

3. Ibid.

valuable contribution by the academic and technical communities within those stakeholder groups mentioned."[4] While it was not the full recognition of its status as a stakeholder group, it was step along the way.

Further progress in the recognition of the technical community as a full partner was further advanced by the Internet Governance Forum (IGF). The WGIG recommended that this forum be created:

> 43. Such a space or forum for dialogue (hereafter referred to as "the forum") should allow for the participation of all stakeholders from developing and developed countries on an equal footing. Gender balance should be considered a fundamental principle with the aim of achieving an equal representation of women and men at all levels. Special care should be taken to ensure diversity of participation as regards, inter alia, language, culture, professional background, involvement of indigenous peoples, people with disabilities and other vulnerable groups.

Some have referred to the IGF as the greatest achievement of the WSIS process, and I agree. It has provided an environment where the technical community has been able to participate with the other stakeholders, on an equal footing. The IGF has enhanced, in fact it has enabled, cooperation among all stakeholders to deal with critical issues in the Internet. It has allowed the technical community participants to better understand the concerns of governments and the other stakeholders. It has allowed the governments to better understand the concerns of other governments. It has allowed the non-technical participants, government and others, to gain necessary knowledge on existing methods for solving the problems they experience. And working together on an equal footing, the stakeholders have been able to describe existing methods for resolving issues that are being used, often referred to in the IGF as best practices and an integral part of IGF 2015's main programme. It also allowed the technical community to better understand the policy issues that contribute to the requirements for their technical efforts.

The technical community has been multistakeholder since before Internet governance adopted the term; from before the term "Internet governance" itself was coined. It never called itself multistakeholder, but it established many of the modalities that are slowly being adapted for Internet public policy work. The multistakeholder forms of the technical community, however, were varied.

The IETF model was never about multistakeholder groups[5] but about individuals. In the IETF the stakeholders are more likely to divide themselves

4. World Summit on the Information Society. (2005). Tunis Agenda for the Information Society, paragraph 36. Geneva: United Nations. www.itu.int/net/wsis/documents/doc_multi.asp?lang=en&id=2267|0

5. Multistakeholdergroupism, the organization of multistakeholder modalities based on predefined groupings as opposed to individual stakeholders and their emergent associations – a term that makes multistakeholderism seem simple.

along the lines of the layers of the architecture of the Internet than they are by the Tunis Agenda categories. ICANN on the other hand has a very structured set of stakeholder groups. While they have the traditional Tunis Agenda stakeholder groups, that is government, private sector, civil society and technical groups, they also divide along the distribution chain of the names industry, with registries of TLDs, registrars who distribute the TLDs, commercial and noncommercial registrants who pay to use the domain names, and the users who depend on these domain names for access to the Internet.

ISOC brings together three kinds of stakeholders: the technical members who design the protocols, build and maintain the functioning Internet; the private sector; and the chapters of Internet users and advocates from around the world. When working with the states in the groups initiated by intergovernmental organizations, such as the UN or the International Telecommunication Union (ITU), the mismatch in stakeholder group organization can sometimes be confusing and distracting. Of course when working with states, in most cases, except for ICANN, all stakeholders must comply with the stakeholder groupings as defined by the states. The environment of intergovernmental organizations has not changed that much in a decade. Learning to deal with alternate models of stakeholder organization is one of the ongoing struggles in Internet governance. It is a process that got going in the WGIG.

The technical community, of course, knew about their critical role in the Internet long before the states began to consider the possibility. As I became involved with Internet governance, after over a decade of IETF participation, I had no doubt that the IETF was central in its responsibility for the Internet. At that time, I found it inconceivable that the states did not understand that. I expect similar thoughts would have been common among the other engineers participating in the IETF, had they given the issue any thought at all. I know of no polls on the question; who would have thought to ask the question? As one of the early members of ISOC, from the founding year onwards, I believed that it was also central to the nontechnical aspects of the Internet's well-being.

In looking at the relationship of the WGIG to the technical community, the evolving participation model in Internet discussions can be traced back to the work done in the WGIG. Certainly the intergovernmental organizations still frequently retreat into their old-style governments-only modalities, but they are beginning to consult more with the non-governmental actors. A subtle shift can be seen in the way the United Nations General Assembly is dealing with the issues involved in the WSIS+10 review.[6] While not yet a multistakeholder process with stakeholders on an equal footing, at least the technical community, as well as other stakeholders, are being invited to consultations on issues related to the Internet. It is a start.

6. UNPAN3.un.org/wsis10

The effects of the WGIG on the technical community may extend beyond participation models in international discussions, though connections are difficult to identify as there have been other contributing factors over the years. One can see changes in regard to organizational behaviour. For example, a decade ago, it would have been inconceivable for there to be translation in ICANN meetings or of its documents. Due to the persistent efforts of a few ICANN members, who had the IGF as an example to point to, ICANN began to translate. During the years when these issues were discussed, references to the international processes were often used. On the other hand, there are no apparent organizational changes in the IETF model that could be attributed to the WGIG or to its follow-on in the IGF. ISOC, involved in Internet governance from the start, has kept up with the processes and provides leadership in many areas.

One technical issue that may have been influenced in both the IETF and ICANN was the development of Internationalized Domain Names (IDNs). While the work had been ongoing long before the WGIG, the urgency with which this was discussed in the first years of the IGF may well have accelerated that work in response to the needs expressed by people of diverse backgrounds. As time goes on, the deployment of IDNs may well be aided by Internet governance activities in the IGF, when the needs of the Sustainable Development Goals (SDGs) will provide an impetus for states and companies to make the changes required to support the universal acceptance of IDNs.

The technical community getting help from the IGF for universal deployment of IDN services in email and on the web would be similar to the ongoing efforts between the technical community and other stakeholder groups to encourage DNSSEC for Internet security, IPv6 for Internet stability, and Internet exchange points (IXPs) for access. This aid to the spread of technology has been an important aspect of enhanced cooperation practised at the IGF, a goal of the WGIG for the forum it recommended. The 2010 UN Commission on Science and Technology for Development (CSTD) report on "Enhanced cooperation on public policy issues pertaining to the Internet"[7] is replete with examples of how the IGF had contributed toward enhancing multistakeholder cooperation.

While still not enamoured with the term Internet governance or the environment it has created, the IETF leadership has learned to deal with it and has remained a solid contributor to many fora. Over the decade since the WGIG, the IETF relationship with the ITU, a UN system organization run by states, has matured and become one of cooperation. I argue that this cooperation was enabled in part by participation in IGF activities.

There have also been changes in the work that the IETF is willing to accept as being in scope in the last decade. Precipitated by the Snowden

7. Commission on Science and Technology for Development. (2010). Enhanced cooperation on public policy issues pertaining to the Internet. unpan1.un.org/intradoc/groups/public/documents/un-dpadm/unpan039046.pdf

revelations, the IETF made a strong commitment to the public interest in regard to making the Internet as safe as possible from surveillance through protocol and architectural refinements. The work, however, had already been going on for years on privacy considerations in protocols. The early work shows up in IETF archives as early as the 1990s. Nevertheless, an instrumental draft came out in 2010 that proposed "to serve as the IETF's privacy policy. This policy applies to data collected in conjunction with IETF activities and on public IETF-related web sites." This draft was put forward by a staff member from a civil society advocacy group and eventually led to Request for Comments (RFC) 6973 Privacy Considerations for Internet Protocols. This RFC has been pivotal in the engineering of the Internet. Was it in any way related to the WGIG? There is certainly no direct line I know of for making such a comment. I do believe, however, that the cooperative environment that was created post-WSIS, based on WGIG recommendations, was an aspect. An environment of enhanced cooperation definitely leads to getting things done, and the WGIG proposed that we enhance our cooperation. Today the Internet Research Task Force (IRTF), sister organization to the IETF, has even gone so far as to host a prospective research group in human rights protocol considerations, focusing on freedom of expression and freedom of association. These activities, in a group of organizations that once sported T-shirts that indicated that the political was out of scope,[8] indicate a profound change resulting from the WGIG output and its ongoing consequences.

The Internet governance environment is very different now from what it was 10 years ago. I think that the conceptual foundation provided by the WGIG is responsible for initiating this change. While it is too speculative to draw a line of causality from the WGIG to human rights consideration in protocols, I can't help but believe that the movement for enhanced cooperation between all the stakeholder groups involved in the Internet was one of the necessary preconditions. The WGIG, with the resulting IGF, was one of the key contributing factors.

8. Some still proudly sport this T-shirt and that sentiment.

BEFORE AND AFTER THE WGIG: TWENTY YEARS OF MULTISTAKEHOLDER INTERNET GOVERNANCE IN BRAZIL

Hartmut R. Glaser and Diego R. Canabarro

The main milestone of the institutional development of Internet governance in Brazil was the creation of the Brazilian Internet Steering Committee (CGI.br) in 1995. The Committee was set up to serve as a focal point for the development and governance of the network in Brazil. That event happened almost a decade before the Working Group on Internet Governance (WGIG) delivered the report requested by the Geneva Plan of Action and proposed a conceptual framework for understanding the meaning and the scope of Internet governance.[1] The endorsement of the WGIG's report by the last phase of the World Summit on the Information Society (WSIS) fed back into the domestic developments of Internet governance in Brazil in the following decade.

Through the leadership of CGI.br, Internet governance in the country has evolved to the point where it has a set of fundamental principles, a Bill of Internet Rights enacted into law in 2014 and a myriad of technical and policy programmes that serve the Internet community in the country and abroad. When the global community convened the NETmundial Multistakeholder Meeting on the Future of Internet Governance (NETmundial) in São Paulo in 2014, the Brazilian experience with CGI.br served as one of the main inspirations for the Principles and the Roadmap that will guide the future of Internet governance worldwide (nationally and internationally) in the decades to come.

1. Working Group on Internet Governance. (2005). Report of the Working Group on Internet Governance. www.wgig.org/docs/WGIGREPORT.pdf

This chapter aims at describing how Internet governance has evolved in institutional and programmatic terms in the last 20 years in Brazil as a way of contrasting that evolution to the normative framework proposed by the WGIG. The case studied here reveals a pre-eminence of the normative and programmatic components of the WGIG's working definition of Internet governance vis-à-vis regulatory and procedural components. Section 2 describes the evolution of CGI.br's institutional framework. Section 3 provides some conceptual reflections on the working definition of Internet governance provided by the WGIG's report. Section 4 delves into the contemporary work of CGI.br in the orchestration of Brazilian stakeholders in the overall Internet governance ecosystem. The concluding section of the text relates the working definition of Internet governance generated by the WGIG to the outcomes of the NETmundial meeting.

A brief history of the institutional development of CGI.br

As soon as the commercial Internet was opened for users in Brazil in the mid 1990s, the Ministry of Science and Technology and the Ministry of Communications issued Interministerial Ordinance no. 147 on 31 May 1995 with the objective of assuring the coordination and integration of Internet services in Brazil, while promoting technical quality, innovation and dissemination of the use of Internet services in the country.[2] For that purpose, the Ordinance created a special entity to serve as a permanent multistakeholder advisory board for Internet-related matters in Brazil.

The Brazilian Internet Steering Committee (CGI.br) was then created to:

- Follow the implementation of Internet services in Brazil.
- Adopt recommendations on: the implementation and interconnection of networks; analysis and selection of technological alternatives for those purposes; the role of companies and academic institutions (education, research and development) in that field.
- Emit opinions on the applicability or not of tariffs applied to telco services on the dedicated Internet connection lines employed by academic institutions.
- Coordinate the distribution of IP addresses and the registration of domain names.
- Recommend operational procedures for network management in the country.
- Collect, organize and disseminate information on Internet services in Brazil.
- Deliberate on any other pertinent question posed to the Committee.

2. Interministerial Ordinance 147 of 31 May 1995. www.cgi.br/portarias/numero/147

The board of CGI.br comprised nine individuals appointed by a joint act of the ministers of science and technology and of communications for terms of two years. Five of them were to be representatives of governmental agencies (the Ministry of Science and Technology, the Ministry of Communications, the Telebras System, the National Council for Technological and Scientific Development, and the National Research Network). Two other individuals should be selected among representatives from the business sector (Internet service providers and the general business community). The technical and scientific community as well as Internet users (mainly through non-profit/non-commercial entities) would be represented by one person each.[3]

Until 2002, that group of stakeholders oversaw the development of the Internet in Brazil in a myriad of fields: the adoption of rules for the attribution of domain names and IP addresses in Brazil; the definition of parameters for the development of Internet exchange points (IXPs) within the Brazilian territory; the full automation of the <.br> registry; and the publication of guidelines for Internet security. They closely followed the privatization of the Telebras system and the full normative separation of telecommunication and Internet services in the country. Representatives of CGI.br engaged in constructive dialogues abroad: in the early 2000s they were involved with the creation of the LAC Regional Internet Registry (LACNIC); started following the ICANN governance track; and participated in WSIS developments.[4]

In 2003, right after President Luiz Inácio "Lula" da Silva took office, CGI.br was reformed through Presidential Decree 4.829 of 3 September 2003.[5] Besides enlarging the mandate of the Committee, President Lula enhanced the level of participation by civil society stakeholders through an increase in the number of seats available for them vis-à-vis the government and the establishment of elections for their selection. By the presidential decree, the Brazilian Internet Steering Committee became responsible for:

- Establishing strategic guidelines related to the use and the development of the Internet in Brazil.

3. A timeline that displays the composition of the board of CGI.br throughout the years is available at www.pt.wikipedia.org/wiki/Comitê_Gestor_da_Internet_no_Brasil

4. CGI.br's website presents a timeline with the full history of the Committee: www.cgi.br/historicos. For more comprehensive accounts of the evolution of Internet governance in Brazil, please consult: Knight, P. (2014). *The Internet in Brazil: Origins, Strategy, Development, and Governance*. Bloomington: AuthorHouse; Sávio, M. (2006). *A trajetória da Internet no Brasil: do surgimento das redes de computadores à instituição dos mecanismos de governança*. Master's degree dissertation, Universidade Federal do Rio de Janeiro; Adachi, T. (2014). *Comitê Gestor da Internet no Brasil (CGI.br): uma evolução do sistema de informação nacional moldada socialmente*. PhD dissertation, Universidade de São Paulo.

5. Presidential Decree 4.829 of 3 September 2003. www.planalto.gov.br/ccivil_03/decreto/2003/d4829.htm

- Establishing guidelines to orient the relations between the government and society in the execution of the DNS registration activities, in the allocation of IP addresses, and in the administration of the .br ccTLD, with focus on the development of the Internet in the country.
- Proposing research and development programmes related to the Internet, that contribute to the maintenance of technical quality and innovation, as well as stimulate its diffusion all over the national territory, seeking opportunities to add value to goods and services related to the network.
- Promoting studies and recommending procedures, norms, technical and operational standards, for the security of network and Internet services, as well as for its growing and adequate use by society.
- Articulating the proposition of norms and procedures and the regulation of Internet activities in Brazil.
- Participating in national and international technical fora related to the Internet.
- Adopting the necessary administrative and operational procedures so that the management of the Internet in Brazil follows international standards accepted by high-level Internet bodies, including the establishment of all sorts of agreements.
- Deliberating on any question posed to the Committee in relation to Internet services in Brazil.
- Adopting its bylaws.

Since 2003, the Committee has been made up of 21 representatives. Nine of them represent governmental agencies in Brazil and 12 represent Brazilian society at large. Within the government constituency, eight people represent the Federal Government and one represents state-level governments. The government also appoints one highly renowned Brazilian expert on Internet issues.

Four individuals represent the business sector (ICT goods and service providers; content and access providers; telecom infrastructure providers; business users). Another four represent non-profit and non-commercial entities. Additionally, three specialists represent the technical and academic communities involved with the Internet in the country.

Non-governmental stakeholders are all elected for three-year terms by the communities they represent in an open and transparent process. For that, CGI.br puts together an electoral college comprised of entities that apply for participation. Each of those entities indicates one and only one candidate. While the business constituency has a segmented voting system (i.e. candidates in one category only compete with candidates of the same category), the same does not apply to non-commercial/non-profit stakeholders and the technical and scientific communities candidates. In each of

those categories, candidates run against their peers – irrespective of specific categories within each group. The electoral process in sum selects eleven effective members of the board plus eleven substitutes for a three-year term. The process is completed by the official nomination of the selected candidates by an interministerial ordinance adopted by the Executive Office of the Presidency, the Ministry of Science, Technology and Innovation, and the Ministry of Communications. The ordinance also nominates the Internet Expert for the specific term and appoints the governmental representatives, who can be replaced as a matter of convenience and/or necessity by the government.

All members of the Committee work on a voluntary basis, under the coordination of the individual who represents the Ministry of Science, Technology and Innovation. CGI.br operates by consensus of its members. Their resolutions do not have a binding character. Nonetheless, as CGI.br brings together a vast array of Internet stakeholders on an equal footing to dialogue on the matters under its mandate, the normative guidance provided by the Committee is duly taken into account as the authoritative path to be followed in the technical and policy arenas surrounding the Internet in Brazil.

The operation of CGI.br and the activities it develops are carried out and funded by the Brazilian Network Information Center – NIC.br. The Brazilian NIC is a private, civil, non-profit organization, that since 2005 has combined in one organization the activities that were once separately conducted in the operation of the Internet in Brazil, namely: the management of the registry and maintenance of domain names under the ccTLD <.br>, and the allocation of Autonomous System Numbers (ASN), IPv4 and IPv6 addresses; the treatment of and the response to security incidents; the development of technological projects to enhance the Brazilian network infrastructure; the performance of specialized research, producing and publishing indicators, statistics and strategic information on the development of the Brazilian Internet; and the provision of technical and operational support to LACNIC. NIC.br has an Executive Secretariat staffed and managed to serve the board of CGI.br both domestically and internationally. It also hosts the Brazilian W3C Office, which performs studies and recommends procedures, norms and technical and operational standards for the Web.[6]

We now turn to the development of a working definition of Internet governance by the WGIG to further understand the Brazilian multistakeholder Internet governance framework as it stands today.

The WGIG's working definition of Internet governance as a conceptual framework for understanding CGI.br

Authors elsewhere provide very rich and detailed accounts of the process that led to the creation of the Working Group and the definition of its

6. www.nic.br/sobre/#composicao

methodology, as well as the implications its report had in the Tunis phase of the WSIS and afterwards.[7]

Something that can be added to that history is the fact that among the group of 40 people put together by the UN Secretary General, CGI.br had two representatives. By the time the WGIG was fully operational, Brazil was going through the transition process that took place in the first half of the 2000s, described in section 2 above. When the WGIG's report became publicly available in 2005, Brazil was setting the scene for a new era of Internet governance in the country. From the work of the WGIG, Brazilians learned a lot about the complexity of balancing the rights, duties and expectations of governments, the private sector and civil society from different parts of the world.

According to the WGIG report, "Internet governance is the development and application by Governments, the private sector and civil society, in their respective roles, of shared principles, norms, rules, decision-making procedures, and programmes that shape the evolution and use of the Internet."[8] Principles, norms, rules and procedures lie at the core of the working definition of Internet governance proposed by the WGIG in its report in 2005. But it is important to highlight that the WGIG's definition added an additional element ("programmes") to the list of things that influence the way the Internet evolves and is used. While the first set of items refer to the more normative and procedural foundations of Internet governance, the word "programmes" refers to the much more operational aspects that enable the Internet to function.[9] The definition is derived from the overall consensus of the WGIG that "neither governmental top-down regulation nor private sector or civil society bottom-up self-regulation alone can manage the totality of Internet issues."[10]

---

7. MacLean, D. (2005). A Brief History of WGIG. In W. J. Drake (Ed.), *Reforming Internet Governance: Perspectives from the UN Working Group on Internet Governance*. New York: United Nations Information and Communication Technologies Taskforce, pp. 9-23; Drake, W. J. (2008). Introduction. In W. J. Drake & E. J. Wilson III (Eds.), *Governing Global Electronic Networks: International Perspective on Policy and Power*. London: The MIT Press, 2008, pp. 1-78; Kleinwächter, W. (2008). Multistakeholderism, Civil Society and Global Diplomacy: The Case of the World Summit on the Informationa Society. In W. J. Drake & E. J. Wilson III (Eds.), *Governing Global Electronic Networks: International Perspective on Policy and Power*. London: The MIT Press, 2008, pp. 535-582.

8. Working Group on Internet Governance. (2005). Report of the Working Group on Internet Governance, p. 4. www.wgig.org/docs/WGIGREPORT.pdf.

9. For further explanation on this point, please see Drake, W. J. (2008). Introduction. In W. J. Drake & E. J. Wilson III (Eds.), *Governing Global Electronic Networks: International Perspective on Policy and Power*. London: The MIT Press, 2008, p. 68; and Working Group on Internet Governance. (2005). Background Report, p. 9. https://www.itu.int/wsis/wgig/docs/wgig-background-report.pdf

10. Kleinwächter, W. (2008). Multistakeholderism, Civil Society and Global Diplomacy: The Case of the World Summit on the Information Society. In W. J. Drake & E. J. Wilson III (Eds.), *Governing Global Electronic Networks: International Perspective on Policy and Power*. London: The MIT Press, 2008, p. 569.

In the decade that followed the WGIG, the Brazilian multistakeholder Internet governance framework has been built based on four main components.

The first of them is the institutional enhancements of CGI.br presented in the section above. The second is a direct result of the work of the board of CGI.br: a decalogue of principles that lay down the basic foundations for all the dimensions of Internet governance in Brazil, aimed at guiding the action of all stakeholders in relation to the governance and use of the network in the country. The decalogue inspired the elaboration of the very recently adopted "Brazilian Bill of Internet Rights" (a.k.a. "Marco Civil" in Brazilian Portuguese), the third component. The fourth component encompasses the large array of activities that have been either performed by or coordinated by CGI.br's apparatus.

The next section delves into the decalogue of principles and some of CGI.br's programmes for the Internet in Brazil. It also describes the adoption of the Brazilian "Marco Civil", providing the context that led to its formal enactment into law by President Dilma Rousseff in 2014. Building on that, the concluding section of the chapter goes back to the WGIG's definition of Internet governance in order to connect it to the NETmundial Statement.

Principles, norms and programmes that have been shaping the evolution and use of the Internet in Brazil

In 2009, CGI.br adopted Resolution CGI.br/RES/2009/003/P.[11] The document puts together ten overarching principles for the governance and use of the Internet in Brazil. Despite its adoption in 2009, discussion and drafting of the decalogue of principles within the board of CGI.br date back to the year 2007. Some blog posts and public presentations in which members of the board of CGI.br sketched lists of "fundamental principles for Internet governance" date back to 2006.

The idea of having Internet governance based on a set of values shared by the different stakeholders derives from the complexity of the Internet working enterprise itself: it involves an immense number of stakeholders inherently different in nature and pursuing conflicting goals, operating transnationally from a multiplicity of jurisdictions. In such a context, it is very difficult to coordinate collective action in a top-down strictly formalized fashion. It is much more appropriate and effective to start building those governance structures once basic agreements and shared understandings are in place to guide the ulterior phases of institutional development.[12]

In the case of Brazil, the decalogue elected as the foundation for the governance and use of the Internet enshrined the following values:

11. The Brazilian Internet Steering Committee. (2009). *Principles for the governance and use of the Internet*. www.cgi.br/resolucoes-2009-003-en

12. Kurbalija, J. (2014). *An Introduction to Internet Governance*. Geneva: DiploFoundation.

- Freedom, privacy and human rights
- Democratic and collaborative governance
- Universality
- Diversity
- Innovation
- Network neutrality
- Non-liability of network intermediaries for actions performed by end-users
- Functionality, security and stability
- Standardization and interoperability
- Proper legal and regulatory environments.

The Brazilian Bill of Internet Rights is closely linked to the multistakeholder process within the board of CGI.br that produced the decalogue, but it is actually a much broader process resulting from the maturity of the Internet governance debate in the country. That process raised the level of formalization of the governance regime with the agreement of all stakeholder groups. It represents the ulterior development enabled by the endorsement of the decalogue by the government, the private sector, civil society, and technical and scientific institutions. That path was undertaken in Brazil as an organized response to some bills of law arising in the legislature as well as to some court rulings that mistargeted the agents of illicit online activities, imposing excessive duties on network intermediaries and disrespecting the fundamental rights of Internet users in the country. In a concerted effort of the Ministry of Justice and the School of Law at the Getúlio Vargas Foundation (FGV), with the support of CGI.br, the first draft of the Bill of Internet Rights was crowdsourced from 2009 to 2011 through the Web and open face-to-face meetings.[13] From 2011 the Bill began a rough passage through both houses of the National Congress until it was finally adopted and then enacted into Federal Law 12.965/2014 by President Dilma Rousseff in April 2014.[14]

The Law basically reiterates and enlarges the content of CGI.br's decalogue. Besides defining a comprehensive list of rights and duties of Internet users and service and application providers, it also provides a set of guidelines for the public sector to observe in the development of the Internet ecosystem in the country. Among those guidelines, one makes it mandatory for the public sector to involve CGI.br in any effort that deals with the

13. Lemos, R. et. al. (2015). *A Bill of Rights for the Brazilian Internet ("Marco Civil") – A Multistakeholder Policymaking Case.* www.publixphere.net/i/noc/page/IG_Case_Study_A_Bill_of_Rights_for_the_Brazilian_Internet

14. Law 12.965 of 23 April 2014. www.planalto.gov.br/ccivil_03/_ato2011-2014/2014/lei/l12965.htm

management, expansion and use of the Internet in Brazil. That directive raises and strengthens the institutional profile of the Committee. But it also recognizes the importance of fostering multistakeholder participation in the public policy cycle at large.

The Brazilian Bill of Internet Rights adopts freedom of expression and the protection of privacy of individuals as the basic foundations for Internet governance. In operational terms, access to personal data and metadata (including by government officials), as well as the content of personal communications, is subject to having the proper judicial order according to the pertinent rules. Content takedown follows the same general rule with some exceptions for the protection of identified individuals in situations that involve nudity and/or sexual content. To strengthen those provisions, the Law limits the liability of intermediaries – holding them responsible for third parties' violations only in cases in which they fail to comply with a court order, and to the extent of the damages caused by their inaction.

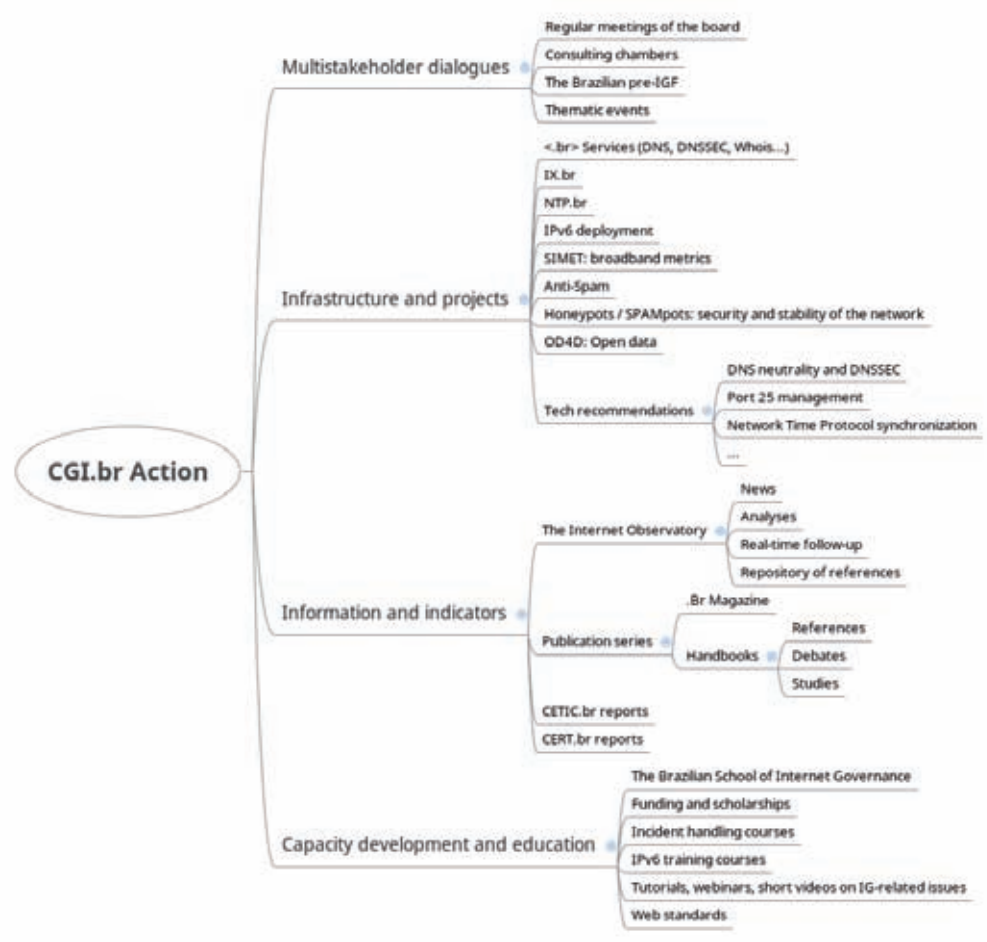
The Law also established a general regime for the protection of network neutrality. Net neutrality – or the non-discrimination of data flows in terms of the origin and destination; the types of services, terminals and applications used; as well as the content of data packets (in this last case also as a matter of privacy protection) – is the general rule. The only acceptable exceptions are the proper operation, security and stability of the network and the prioritization of emergency services deployed through the Internet. As of the time of writing this chapter, Brazilian stakeholders were debating through public consultations with the government the Decree that will detail the implementation of the Law's provisions.

The last item in the WGIG's definition of Internet governance that can be easily identified in Brazil is described with the support of the mind map in Figure 1.

The image provides a summary of some of CGI.br's programmes for the Internet in Brazil. The map is divided into four main categories, namely: multistakeholder dialogues; infrastructure and technical projects; information and indicators curation; and education and capacity development initiatives. These categories are employed merely for illustrative purposes. Of course the list is not exhaustive. A complete survey of all of the initiatives in the four categories developed in Brazil by entities other than CGI.br – currently in place or in historical perspective – would go way beyond the scope of this chapter.

FIGURE 1

CGI.br programmes and activities



First and foremost, CGI.br serves as the focal point for multistakeholder dialogues in Brazil.

The board of CGI.br meets regularly once a month to consider and – if members of the board so decide – to adopt resolutions on pressing issues in the Internet governance agenda domestically and internationally. For instance, very recently the Committee held very intense discussions on Facebook's Internet.org project. They had also produced a technical note explaining the risks to the fragmentation of the Internet in the case of a court ruling that ordered ISPs in Brazil to block WhatsApp in the core of the network due to the company's inertia in providing information on certain people involved with sexual abuse of minors.[15]

For every ordinary meeting of the board, the full agenda and the meeting minutes are made available through the Committee's website. From time to time, those meetings happen in places other than NIC.br's headquarters with the intention of engaging CGI.br with local communities. The Committee also has four Multistakeholder Consulting Chambers (Rights and Security on the Internet; Innovation and Technical Capacity; Content and Cultural Goods; Universalization and Digital Inclusion) formed by specialists who are expected to produce information and knowledge that serve as inputs for the decisions of the board and the actions undertaken by CGI.br's overarching structure.

Those dialogues are also supported by a number of events that are directly organized by the NIC.br staff or sponsored by CGI.br over the year.[16] They range from the general Brazilian pre-IGF Multistakeholder Meeting[17] to thematic events such as the Annual Seminar on Privacy and Data Protection, the Infrastructure Week and the Brazilian W3C Web Conference.

The second action line coordinated by CGI.br revolves around infrastructure and technical projects that aim at enhancing the quality and the security, stability and resiliency of the network in Brazil.

Different departments at NIC.br develop projects that are related to the DNS operation in the country; the sound transition from IPv4 to IPv6 in the whole LAC region; the measurement and follow-up of the quality of broadband provision in Brazil; the combat of spam in Brazil, among others. In the last decade, the Committee has taken the lead in fighting spam in Brazil by orchestrating a full-range anti-spam campaign that reduced the amount of spam sent by Brazilian hosts. As spam cannot be defeated by fiat and involves the coordination of the action of telcos and ISPs, a task force was set up by CGI.br to get all stakeholders to work collaboratively for the study of,

15. CGI.br. (3 Mar 2015). CGI.br manifesta posição sobre a suspensão do WhatsApp no Brasil. www.cgi.br/noticia/releases/cgi-br-manifesta-posicao-sobre-a-suspensao-do-whatsapp-no-brasil

16. NIC.br. (September 2015). Eventos organizados pelo NIC.br/CGI.br. www.nic.br/eventos/agenda/geral

17. V Fórum da Internet no Brasil. www.forumdainternet.cgi.br

the formalized agreement on, and the adoption of harmonized practices for the management of email services in Brazil (e.g. the management of port 25) and the development of awareness-raising materials.[18]

The third category involves the production and diffusion of relevant information inputs to inform the actions of all stakeholders in Brazil and abroad.

For more than five years now, a Brazilian Internet Observatory, in the spirit of multistakeholderism, aggregates news and social network feeds selected from relevant institutions involved with Internet governance.[19] The Observatory also publishes from time to time analyses of specific items of the Internet governance technical and political agenda which are written by CGI.br's advisory team and specialist consultants who work for the Committee. The Observatory is in charge of documenting the history of the Committee and was recently tasked with creating a Reference Center on Internet Governance in Brazil in the years to come. Besides the Observatory, CGI.br maintains a vast list of publications that range from a special magazine to a series of handbooks that document debates, studies and pertinent references on Internet governance. One of the handbooks, for instance, will soon consolidate relevant materials produced within the IGF track in celebration of the 10th anniversary of the Forum.

The Brazilian Center of Studies, Response and Treatment of Cybersecurity Incidents (CERT) keeps an updated dataset and provides periodic reports on security incidents that affect the Brazilian Internet.[20] Additionally, CGI.br hosts under its umbrella a Regional Center for Studies on the Development of the Information Society (CETIC.br).[21] CETIC.br is the focal point for the development of indicators and the production of statistics on the state of information and communication technologies (ICTs) in Brazil. The Center produces periodic reports on the state of ICTs vis-à-vis households, business companies, educational institutions, healthcare institutions, non-profit organizations and ISPs; as well as their use in the provision of e-government services by public agencies, in public access centres and by the youth population in Brazil. An open online dashboard aggregates all of these datasets and offers visualization tools for users to handle them.[22]

Finally, CGI.br is also committed to capacity development and education with special emphasis on Internet users, network operators and, increasingly, policy makers. For a long time CGI.br has fostered and enabled the participation of Brazilian stakeholders in events such as the IGF and the

18. Lemos, R. et. al. (2015). *Fighting Spam the Multistakeholder Way – A Case Study on the Port 25/TCP Management in the Brazilian Internet.* www.publixphere.net/i/noc/page/IG_Case_Study_Fighting_Spam_the_Multistakeholder_Way

19. www.observatoriodainternet.br

20. www.cert.br

21. www.cetic.br

22. www.data.cetic.br/cetic

IETF regular meetings, as well as meetings organized by the Committee in Brazil, through the employment of fellowships and scholarships. The departments of NIC.br provide technical training courses on a regular basis for network operators, Internet services providers, and network security professionals in Brazil. These courses are generally complemented by a vast array of learning materials, such as manuals, videos, tutorials and the like.[23] CGI.br also hosts a School on Internet Governance, that started with short multidimensional introductory courses for the multistakeholder community in the country and is expected to evolve in the future into a full Graduate School of Internet Governance in Brazil, capable of providing higher education degrees for students who work in the field.[24]

All of these activities are funded and made available to the Brazilian community by the investment of the money collected with the operation of the <.br> registry. Part of the initiatives presented above transcend from one category to another, such as the case of the School on Internet Governance. Much more than a mere learning space, the School is a full-blown arena of multistakeholder dialogue among students, lecturers, and the members of CGI.br (some of whom even sit with the class for a whole week).

In sum, it is possible to say that the full scope of the WGIG's definition of Internet governance has been covered by the institutionalization of Internet governance in Brazil. But as shown above, the normative and programmatic components are much more prominent than the more procedural and regulatory ones. The last section of this chapter revisits the outcomes of the NETmundial Meeting hosted by Brazil in 2014, describing how the results of the event relate to the WGIG's definition.

Conclusion

In a response to the Snowden revelations,[25] President Dilma Rousseff used the floor of the opening ceremony of the UN General Assembly in 2013 to invite the international community to restructure the global governance of the Internet. In preparation for her UN speech, she held a meeting with the board of CGI.br, which helped her take to the UN a call for the adoption of a set of fundamental principles (namely the protection of human rights, democratic multilateral and multistakeholder governance, universality, cultural diversity, and network neutrality) to guide Internet governance at the global level.[26] Soon after, the I* organizations – through

23. www.youtube.com/user/NICbrvideos

24. www.egi.nic.br

25. Canabarro, D. R., & Borne, T. (2015). The Brazilian Reactions to the Snowden Affairs: Implications for the Study of International Relations in an Interconnected World. *Conjuntura Austral*, 6, 50-74.

26. Statement by H. E. Dilma Rousseff, President of the Federative Republic of Brazil, at the Opening of the General Debate of the 68th Session of the United Nations General Assembly. www.gadebate.un.org/sites/default/files/gastatements/68/BR_en.pdf

a formal statement issued in Montevideo – called for the globalization of the IANA functions, replacing the historical role of the US government in the supervision of the Internet root zone by a solution that could assure the full involvement of all stakeholders in such a task.[27]

These two lines of proposed work were fully reflected in the final statement adopted by the participants of the Global Multistakeholder Meeting on the Future of Internet Governance (NETmundial) that was convened by Brazil and organized by CGI.br in 2014.[28] It is not the intention of this chapter to provide a full account of that meeting.[29] It is enough to highlight the fact that the event produced overall consensus on a list of Internet governance principles and a roadmap to guide the future evolution of Internet governance.[30]

In São Paulo, it was agreed that: Internet governance shall be oriented to the protection and promotion of human rights and shared values (freedom of expression, freedom of association, privacy, accessibility, freedom of information and access to information, development); it shall ensure the protection of intermediaries; cultural and linguistic diversity shall be respected. Moreover, the preservation of the openness and the distributed architecture of the network, as well as its being a unified and unfragmented space that allows for innovation, creativity and free flow of information shall be the foundation of the security, stability and resilience of the Internet.

Together with these substantial principles, the NETmundial meeting crafted a list of *Internet governance process principles*. Accordingly, the governance of the network shall be multistakeholder; open, participative, consensus driven; transparent; accountable; inclusive and equitable; distributed; collaborative; enabling meaningful participation; with low barriers to access; and based on open standards.

The roadmap provides a list of directives that shall be undertaken on the national, regional and international levels to ensure the meaningful participation of all stakeholders in the governance of the Internet through capacity development, financing and empowerment policies, as well as the deployment of domestic multistakeholder mechanisms. Additionally, the roadmap adopts directives related to the institutional improvement of the entities that comprise Internet governance. They involve the implementation of transparency and accountability mechanisms by all stakeholders; the strengthening of the IGF; the true globalization of ICANN; and the transition of the supervision of the IANA functions. The document also specifies some imperatives regarding the promotion of cybersecurity and

27. ICANN. (2013, 7 October). Montevideo Statement on the Future of Internet Cooperation. *ICANN Announcements* (2013, 7 October). www.icann.org/news/announcement-2013-10-07-en

28. www.netmundial.br

29. Drake, W. J., & Price, M. (Eds.). (2014). *Internet Governance: The NETmundial Roadmap*. Los Angeles: USC Annenberg Press.

30. www.netmundial.br/statement

the prevention of cybercrime, presenting multistakeholderism as the basis for those activities. The roadmap recalls the importance of human rights law as the source of limitations for mass and arbitrary surveillance and yielded further definitions on the matter for subsequent discussions within the Human Rights Council and the IGF.

Issues related to jurisdiction, metrics to assess the application of Internet governance principles, the different roles and responsibilities of stakeholders – including the true meaning of equal footing – and network neutrality were also deferred for future discussions (despite the fact that the document determines that "the Internet should allow data packets/information to flow freely end-to-end regardless of lawful content").

The NETmundial Statement also seems to comprise the normative, procedural and programmatic components envisioned by the WGIG's definition, but again with a clear emphasis on principles and programmes instead of rules and procedures (much more associated with rigid regulatory frameworks that are not always appropriate to the Internet *cosmos*). It now seems clear that those who pushed in 2005 for the addition of those "soft" components to the WGIG's definition got it absolutely right. The study of other cases within the Internet governance ecosystem (including with a comparative perspective) can further reinforce this claim.

Also, the NETmundial meeting brought two very important facts to the attention of the international community. It is indeed possible to go beyond the notion that multistakeholderism can only result in dialogue. The NETmundial meeting revealed it is possible to engage in political deliberation that yields more substantial commitments in a multistakeholder fashion. It is certainly a case to be duly considered by those who are interested in the limits and possibilities of that format of political deliberation. But more important than that is the fact that the meeting happened entirely on an equal footing basis: from its preparation to its operation, which imposes a serious reflection on how to reinterpret the "respective roles and responsibilities" part of the WGIG's declaration in future work.

THE INTERNET GOVERNANCE FORUM: LASTING LEGACY OF THE WGIG

Anriette Esterhuysen and Karen Banks

The WGIG's two most lasting legacies are, on the one hand, a working definition of Internet governance – a definition that remains the one element of Internet governance on which there is more or less universal agreement – and, on the other, the Internet Governance Forum (IGF). The IGF has grown into an annual event and process (including national and regional events) which, whether you love it, attend it out of duty, or hate it, continues to be the largest and most diverse gathering of people and institutions with an interest in Internet governance in the world.

The IGF and the WGIG's "forum function"

As an outcome of its assessment of existing Internet governance institutional arrangements, the WGIG identified the need for a "global multi-stakeholder forum" to address Internet-related public policy issues.[1] In response it recommended the creation of a global forum that would be "a new space for dialogue for all stakeholders on an equal footing on all Internet governance-related issues." A space that could address "emerging issues, that are cross-cutting and multidimensional and that either affect more than one institution, are not dealt with by any institution or are not addressed in a coordinated manner."[2]

1. WGIG. (2005). Report of the Working Group on Internet Governance, para. 40. www.wgig.org/docs/WGIGREPORT.pdf

2. Ibid., para. 36.

The Tunis "truce"

Getting the proposal for such a global forum approved was not easy. Several member states were not in favour of the forum, and for many the priority was for governments to be given some form of oversight role.

The European Union was in favour of a forum, but also proposed a "lightweight" governmental oversight mechanism[3] that would, at the very least, establish the principles by which the root zone and domain names would be managed – a proposal that met with strong opposition from the United States.

Markus Kummer describes the Internet governance sections of the Tunis Agenda (the outcome document of the Tunis phase of WSIS) as a "kind of truce" between "those who wanted governments to run the Internet and those who preferred the organically-grown distributed governance arrangements which build on the underlying technology of the Internet as a network of networks."[4]

Civil society's expectation for Tunis in terms of Internet governance included the forum proposed by the WGIG. Essentially, what they wanted was agreement on "a substantively broad and procedurally inclusive approach to Internet governance, the reform of existing governance mechanisms in accordance with the Geneva principles, and the creation of a new forum to promote multi-stakeholder dialogue, analysis, trend monitoring, and capacity building in the field of Internet governance."[5]

Anecdotal evidence suggests that when government negotiations were more or less in a state of deadlock on whether there should be some kind of UN oversight over ICANN or not, civil society delegates brought the conversation back to the WGIG recommendation for the forum, and "the IGF" became the proverbial (in the UN context) lowest common denominator which allowed negotiators to save face and go home.

Often, lowest common denominator outcomes spell the end of progress. The IGF turned out to be different. We believe this can be attributed at

---

3. The European Union proposal of 30 September 2005 asked for a "new cooperation model" that should include "the development and application of globally applicable public policy principles and provide an international government involvement at the level of principles over the following naming, numbering and addressing-related matters: a) Provision for a global allocation system of IP number blocks, which is equitable and efficient; b) Procedures for changing the root zone file, specifically for the insertion of new top level domains in the root system and changes of ccTLD managers; c) Establishment of contingency plans to ensure the continuity of crucial DNS functions; d) Establishment of an arbitration and dispute resolution mechanism based on international law in case of disputes; e) Rules applicable to DNS system." www.itu.int/net/wsis/docs2/pc3/working/dt21.pdf

4. Kummer, M. (2015, 13 November). WSIS+10 Series: Reflections on the Internet Governance Forum (IGF). *LSE Media Policy Project Blog*. blogs.lse.ac.uk/mediapolicyproject/2015/11/13/wsis10-series-reflections-on-the-Internet-governance-forum-igf

5. From "Much more could have been achieved": Civil Society Statement on the World Summit on the Information Society, 18 December 2005. https://www.itu.int/net/wsis/docs2/tunis/contributions/co13.doc

least in part to the diversity and depth of the debate within the WGIG, which are reflected in its vision and the solutions it proposed.

What ended up in the Tunis Agenda was in some ways a lesser version of what the WGIG proposed. The WGIG's guidelines were more detailed and gave greater consideration to developing country participation and the integration of development issues, and to how the IGF could work in partnership with other institutions. For example, the final report of the WGIG stated that the forum "should support the information and communication technologies for development (ICT4D) agenda emerging from the WSIS and Millennium Development Goals (MDG) processes."[6] These are among the subtle but significant differences between the WGIG's conception of the global forum and the IGF mandate in the Tunis Agenda which have contributed to some of the challenges that the IGF has faced and which were later addressed by the Commission on Science and Technology for Development (CSTD) Working Group on Improvements to the IGF.

An example is the treatment of development. The IGF's mandate in the Tunis Agenda has no mention of ICT for development, or of any kind of development agenda in Internet governance, in spite of the WGIG identifying "two overarching prerequisites to enhance the legitimacy of Internet governance processes":[7]

- The effective and meaningful participation of all stakeholders, especially from developing countries.
- The building of sufficient capacity in developing countries, in terms of knowledge and of human, financial and technical resources.

The result has been that ICT for development issues have been seen as not central or even relevant to the IGF. This has made it more difficult to integrate national public policy into global Internet governance discussions and debates, leading to an overall result of decreased relevance for developing country participants.[8]

Gender is another example. The WGIG report considered the importance of gender balance in the forum and paid greater attention to how the forum could be participatory and inclusive. It also provided more detail on how the forum could function, and form partnerships with other institutions.

Nevertheless, many and probably most of the functions envisioned by the WGIG did find their way into the Tunis Agenda. What probably mattered more over the next five years was the disjuncture between the mandate agreed in Tunis and subsequent implementation – for example, the requirement for

6. WGIG. (2005). Op. cit., para. 45.

7. Ibid., para. 74.

8. It is no coincidence that the one individual involved in organizing the IGF who repeatedly tried to insert a development agenda for internet governance into the IGF's programme is Dr. William (Bill) Drake, who was one of the most active members of the WGIG.

the IGF to "Promote and assess, on an ongoing basis, the embodiment of WSIS principles in Internet governance processes"[9] and to "Identify emerging issues, bring them to the attention of the relevant bodies and the general public, and, where appropriate, make recommendations."[10]

Few would argue that the IGF has not been very successful in fulfilling its core purpose: a space to discuss "public policy issues related to key elements of Internet governance in order to foster the sustainability, robustness, security, stability and development of the Internet."[11] But those aspects of its mandate which required more than this, such as the examples mentioned above, remained neglected for several years.

The first five years, 2006-2010: From hard-hitting headlines to playing it safe

"This time there was no hiding place. Countries accused of turning the internet into a tool of repression – and the companies accused of helping them do it – were confronted with the full force of international condemnation at a special United Nations conference in Athens last week."[12] That is how the first IGF, held in Athens in 2006, hit the headlines after Chinese officials, and large IT companies such as Google, Cisco and Microsoft, were confronted by rights groups during the Openness main session. Debate was vigorous, and a member of China's UN mission in Geneva was met with jeers from the audience when he denied that any restrictions were placed on the Internet in China.

This was not quite how its champions envisaged the launch of this brave new multistakeholder forum.

As Jeanette Hoffman puts it:

> With the memories of the WSIS debates still fresh, the program of the first IGF aimed to avoid controversial issues altogether. At the time of the IGF meetings in 2006 and 2007, the management of critical Internet resources in general and the future of ICANN in particular came close to being a taboo. The same was true for the topic of "enhanced cooperation", which, according to some actors, should not be at all addressed at the IGF on the grounds that the Tunis Agenda defined it as a separate process completely independent of the IGF. Enhanced cooperation, in this view, would become an intergovernmental equivalent to the IGF.[13]

---

9. Tunis Agenda, para. 72 i. www.itu.int/net/wsis/docs2/tunis/off/6rev1.html

10. Tunis Agenda, para. 72 g.

11. Tunis Agenda para. 72 a.

12. Smith, D. (2006, 5 November). China forced to face its critics over internet censorship. *The Guardian*. www.theguardian.com/technology/2006/nov/05/news.newmedia

13. Hofmann, J. (2010). Critical Internet Resources: Coping with the Elephant in the Room. In W. J. Drake (Ed.), *Internet Governance: Creating Opportunities For All*. https://www.intgovforum.org/cms/documents/publications/174-Internet-governance-creating-opportunities-for-all/file

For the next few years, the IGF Multistakeholder Advisory Group (MAG)[14] adopted a risk-averse "do not offend anyone" approach – which, in fact, turned out to be quite offensive to the many institutions and individuals who were not happy with the Internet governance status quo. The Brazil IGF (Rio de Janeiro, 2007) had far greater presence from developing country actors than there had been in Athens, but pressing issues such as online censorship and the role of governments in managing critical Internet resources were either dealt with "lightly" or deliberately avoided for the sake of "multistakeholder peace".[15] A main session on Critical Internet Resources focused primarily on defining what these resources are in different contexts. Partly as a political ploy to defuse tension around the management of names and the root zone, and partly in response to the everyday experiences of Internet users in developing countries, this definition was broadened to include electricity and access to devices.

This provoked the criticism from some of its detractors that "the IGF is just going around and around, avoiding the topics, and becomes sometimes a waste of time," as Hamadoun Touré, then Secretary-General of the International Telecommunication Union (ITU), commented at an ICANN meeting in Cairo on 6 November 2008.[16]

Developing country governments were unhappy because they wanted progress on "enhanced cooperation" – code for intergovernmental involvement in a UN-type arrangement where all governments have equal voice. They wanted to discuss their demand for a space where they can talk to one another, as governments, about Internet-related public policy issues.

Civil society activists were unhappy because they felt that the IGF was becoming nothing more than an annual event; that it was failing to be an effective vehicle for influencing policies and practices from both governments and companies that they believed were undermining the Internet's capacity to be a driver for social justice and development, and an enabler of human rights.

The business and technical communities were relatively satisfied with this state of affairs, and one of the achievements of this approach was increasing buy-in from the technical community, and support from ICANN for the IGF. It was the era of the "if it ain't broke, don't fix it" mantra; one of those platitudes which, depending on your point of view, provokes either agreeing nods or violent irritation.

14. It is important to note that not all members of the MAG supported this risk-averse approach.

15. There is also a "back-end" analysis to all this, which is that some interest groups saw the IGF and its continuation as an effective defence against what they felt was the real threat: regulation of the Internet. The IGF has – not intentionally as far as the WGIG was concerned – unfortunately often been implicated in the "to regulate or not to regulate" divide in Internet governance.

16. cai.icann.org/files/meetings/cairo2008/toure-speech-06nov08.txt

A call by the Internet Governance Project in February 2008[17] "for ICANN and the U.N. Internet Governance Forum (IGF) to forge an agreement to institute a bi-annual review and public consultation concerning ICANN's record and accountability" – made in response to the US Department of Commerce's mid-term review[18] of the Joint Project Agreement (JPA) with ICANN – was not welcomed by the ICANN leadership. It would signify the IGF getting too big for its boots, and be one step too close for comfort to intergovernmental processes because of the IGF's link to the UN.

From the IGP's article of 5 Feburary 2008:

> "We look forward to replacing the JPA with new forms of oversight rooted in the global Internet community," the comments said. "The IGF is an appropriately neutral, nongovernmental platform for discussion and the development of non-binding reports and recommendations." Biennial review by the multi-stakeholder IGF would serve as a kind of "soft oversight," an experimental approach with more international legitimacy than any of the available alternatives.

Hamadoun Touré reiterated his criticism of the IGF in his opening remarks at the next IGF in Hyderabad in 2008, and this, along with the IGF proposal which was presented at a workshop there[19] and an excellent Critical Internet Resources (CIR) main session, indicated that change was in the air. During the CIR main session a speaker from China made an impassioned case for discussion of the topic of governmental oversight, referring also to the climate on controversial issues in the MAG:

> [I]n our MAG Advisory Group, indeed, we have different views as to whether this issue can be put on the agenda of the meeting. … [W]e can see that a successful lively discussion of the issue shows that it is necessary to put this on the agenda. And also it shows that, indeed, IGF as an open and free forum provides a good opportunity for all of us to express our views. ... This is the whole point of our discussion in IGF. ... Should [CIR] be left to one government or, rather, should it be managed by many countries? Or it should be done by intergovernmental organizations. ... This morning when we mentioned enhanced cooperation, we already had some discussion on this issue, which was very lively and active. This kind of opportunity should continue to be available. Let's see if we can reach consensus. If not, then, in the final analysis,

17. Internet Governance Project. (2008, 5 February). Reforming ICANN Oversight: A historic opportunity. www.internetgovernance.org/2008/02/05/reforming-icann-oversight-a-historic-opportunity

18. National Telecommunications and Information Administration. (2007, 29 October). NTIA Seeks Public Comments Regarding Joint Project Agreement with ICANN. www.ntia.doc.gov/ntiahome/domainname/jpamidtermreview.html

19. Internet Governance Project. (2008, 15 December). IGF Workshop Report: "The Future of ICANN: After the JPA, what?" www.internetgovernance.org/2008/12/15/igf-workshop-report-the-future-of-icann-after-the-jpa-what

> the issue will be raised to the General Assembly to consider and make a decision on. Another point, in IGF, we must make full use of this forum to remove misunderstandings. This morning, some panellists, in their statements, also showed this kind of misunderstanding. This intergovernmental mechanism might affect the innovation and development of Internet, the business circles, commercial circle tend to have this kind of misunderstanding concerning this issue. For the present, it's not that we don't have a government that manages the Internet, but, rather, it's one government from a country that manages critical Internet issues. What we're advocating is that this mechanism should be changed. We should have many governments, or multistakeholder to resolve the problem in order to – we should replace the existing mechanism. This is what the business, what the academic circles should work on.[20]

Hofmann, looking back on this session a few years later, sees Hyderabad as the beginning of the end of the cautious phase of the IGF, with the MAG allocating two main sessions to the issues of management of critical Internet resources and enhanced cooperation and also exploring a new open dialogue format.[21] With fewer elephants in the room there was more space for frank discussion and for differences in views to emerge.

But there were still taboo issues, and censorship was one of them. In spite of yet again adopting a cautious approach to building the programme, the 2009 IGF in Sharm El Sheikh, Egypt will be remembered for two dramatic incidents. The first involved the OpenNet Initiative being asked by UN security personnel to take down a banner advertising a publication on Internet censorship in China.[22] The second involved the then "first lady" of Egypt, Madame Mubarak, making an unscheduled appearance, resulting in disruptive adjustments to the schedule and horrendous security measures which included the confiscation of delegates' mobile phones. Many civil society participants stayed away to demonstrate their dissatisfaction with what felt like a "hijacking" of the event.

The 2010 IGF held in Vilnius in Lithuania was characterized by a sense of uncertainty resulting from the pending decision by the UN General Assembly on whether the forum's mandate would be renewed or not. It will also be remembered for Mr. Vytautas Grubliauskas – Kongas, the chairman of the Lithuanian Parliamentary Committee on the Development of the Information Society, playing his trumpet beautifully during the opening ceremony.[23] Nevertheless, at least from the perspective of human rights, it

---

20. From the transcript of Mr. Zicai Tang's input on 5 December 2008 during the Open Dialogue on CIR. https://www.intgovforum.org/cmsold/hyderabad_prog/OD_CIR.html

21. Hofmann, J. (2010). Op. cit.

22. Center for Democracy & Technology. (2009, 19 November). A study in irony: Censorship at the IGF. https://cdt.org/blog/a-study-in-irony-censorship-at-the-igf

23. https://www.facebook.com/IntGovForum/posts/152029908164000

was significant. APC organized[24] a pre-event on human rights that was attended by Frank La Rue, the Human Rights Council Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Internet Rights and Principles Coalition launched version 1.0 of its charter. Advocacy for greater prominence for human rights concerns in the IGF programme was gaining ground.

The IGF's next five years started on 20 December 2010 when the plenary of the General Assembly adopted resolution 65/141, which included a five-year extension for the forum. The process of the chair of the CSTD convening the Working Group on Improvements to the IGF began with a very intense debate in Geneva on the inclusion of non-governmental stakeholders,[25] coinciding with the start of the snowstorms of late December 2010 which eventually brought Europe to a standstill. In fact, several participants in the CSTD meeting were stranded, and one of the authors of this chapter was unable to get back to the Southern hemisphere in time to spend Christmas with her family.

The eventful second five years, 2011-2015: From the IBSA statement to WSIS+10 via mass surveillance

By the time the Nairobi IGF took place in September 2011, the word "freedom" had made its way into the event's overall theme: "Internet as a catalyst for change: Access, development, freedoms and innovation". The revolutions in Tunisia and Egypt and Internet shutdowns by governments there and elsewhere created widespread awareness of the Internet as an enabler of freedom of expression and resistance (if not revolution).

Frank La Rue presented his report[26] on freedom of expression and opinion and the Internet to the Human Rights Council in May 2011 – a report which was informed by consultation with civil society organizations active in the IGF, and presented to HRC member states that included several that participated in the IGF. Worlds which had been very separate – an intergovernmental human rights agency and a multistakeholder Internet forum – were getting closer to one another.

From 2011 onwards Internet governance issues were being discussed everywhere, and avoiding controversial topics was no longer an option for the IGF. The Nairobi IGF will be remembered for the "IBSA statement",

24. APC was the lead organizer for this event but worked closely with co-organizers Human Rights Watch and IT for Change.

25. This debate circled around whether individuals from non-governmental stakeholder groups would be "members", "invitees", "observers" or "participants" and went on until late into the night. It was one of those "intergovernmental moments" that are very demoralizing for dutiful taxpayers like ourselves.

26. La Rue, F. (2011, 16 May). Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Human Rights Council 17th session. www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.27_en.pdf

which while not formally on the agenda, was the hot topic of the day. This statement, in part a follow-up document to the IBSA statement on enhanced cooperation of December 2010,[27] emerged from a seminar held in Rio de Janeiro earlier in 2011, attended by representatives from India, Brazil and South Africa. It recommended that a new UN body be established to provide oversight over Internet governance institutions and processes. The response from the IGF community was somewhat overstated outrage, and a representative from the government of India who happened to be on a panel during the CIR main session had to put up with very harsh and not particularly fair criticism.

What is significant is that aside from many participants disagreeing with the content of the IBSA statement, almost all of those present appeared to feel that proposals of that nature should have been presented in draft form to the IGF at an earlier stage. In other words, the IGF had achieved recognition as the primary and most legitimate place where any new ideas or approaches to Internet governance should be presented for feedback.

The 2012 IGF took place in Azerbaijan, a country known for its human rights violations, but local journalists and bloggers were happy for the opportunity to raise their concerns on a global stage. Once again, UN security became involved and confiscated research on the state of Internet rights in Azerbaijan from the IGF's exhibition area, proving that the IGF's openness still had limitations. For the first time a "round table" on human rights was convened, bringing together all workshops that had a human rights theme, and presenting a synthesis of their outcomes to the Taking Stock main session.

But the policy issue that dominated the Baku IGF was not freedom of expression; it was the proposed revision of the International Telecommunication Regulations (ITR) at the upcoming World Conference on International Telecommunications (WCIT) to be held in Dubai in December. The "enhanced cooperation" debate had gone up a notch in intensity and many felt that the WCIT could result in an ITU takeover and the end of the "Internet world" as they knew it.

The IGF responded well, providing space for discussion of the proposals for the ITR revision and for informal consultations within and among stakeholder groups.[28] APC, ISOC, ICC Basis and the governments of Brazil and India convened a pre-event: "Enhanced Cooperation on Internet Governance: From deadlock to dialogue", which provided the first ever opportunity for extensive discussion on what the term means, what progress or lack of it there has been, and why some countries continue to demand a space where governments can come together to discuss Internet-related public policy.

27. unpan1.un.org/intradoc/groups/public/documents/un-dpadm/unpan043559.pdf

28. The first Best Bits civil society meeting took place in Baku prior to the IGF.

The WCIT happened and while it had its own dramatic narrative and climactic conclusion, it did not result in the ITU taking over the Internet.[29] What it did achieve was to remind those involved that the internationalization of ICANN and the IANA transition needed to happen sooner rather than later.

But the IGF's greatest test was still to come. Revelations of mass surveillance of online communications by the US National Security Agency (NSA) as well as by other governments, with the cooperation of some of the world's largest Internet and telecommunications companies, had a profound effect on the eighth annual IGF, held in Bali, Indonesia in October 2013. Mass surveillance was not only addressed in workshops and in main sessions; it permeated the entire event.

Corridors were buzzing from the intense parallel dynamic resulting from the initiative of the Brazilian government and ICANN to convene a global meeting to discuss the future of Internet governance – NETmundial – in early 2014. Discussions in Bali reactivated debates on the multistakeholder approach to Internet governance versus a multilateral-intergovernmental model. The multistakeholder model was still preferred by most actors, but in order to be legitimate and effective, it needs to be strengthened and built on common principles and frameworks, with a clarification of roles and accountabilities.

Google, other companies, and the US government were grilled at a main session on Surveillance, and issues of privacy and rights featured prominently. Once again the IGF succeeded as an open space for addressing challenging and controversial Internet governance issues with the participation of multiple stakeholders. Against the backdrop of the Snowden revelations, human rights issues had a high profile throughout the event. For the first time there was a main session on Human Rights, and human rights issues, particularly rights to privacy, were constantly brought up in other main sessions and workshops.

From NETmundial[30] emerged a statement of principles for Internet governance which puts human rights front and centre, and which recognizes that the Internet is a global resource which should be managed in the public interest. It affirms that states have specific responsibilities with regard to the Internet, in particular with regard to upholding rights. Not all those present supported the statement in full, but the vast majority did. A multistakeholder internet governance gathering went beyond dialogue and debate. It produced a substantial output that included principles for internet governance. NETmundial achieved what the IGF had failed to:

29. In the authors' view this was never really a threat. Some ITU member states might have had this desire, but they were a minority.

30. NETmundial took place in April 2014 in Sao Paulo, Brazil. The event was preceded by extensive online consultation including written comment on draft outcome documents. netmundial.br

"the development of globally-applicable principles on public policy issues associated with the coordination and management of critical Internet resources".[31] However, we believe that it was only able to do so as a result of the "preparatory work" done by the preceding eight years of global, regional and national IGFs.

One would have thought that the April 2014 NETmundial statement and roadmap (an action-oriented outcome document) would provide the IGF with the impetus to pick up the challenge and identify ways in which this inclusive and rights-oriented approach to Internet governance principles could be consolidated.

But this did not happen. While the 2014 IGF, held in Istanbul in September, did have a pre-event to reflect on NETmundial, there was no main session dedicated to it. Once again the IGF felt hampered by the caution of the early years. The fact that the host country, immediately prior to the IGF, increased Internet content control in response to political protest probably contributed to this. Some Turkish civil society activists convened a parallel event, the Ungovernance Forum, in part in response to most of the many workshop proposals on Internet rights issues in Turkey not being accepted by the MAG.

Then again, the sense of ennui that permeated this IGF can also be attributed to the uncertainty over the IGF's future, with the WSIS 10-year review pending.

Yet the work continued, and so, slowly but surely, did innovation. In response to the recommendations of the CSTD Working Group on Improvements to the IGF[32] a new element was introduced in 2014: Best Practice Forums (BPFs). In a round-about way (via the CSTD Working Group, the MAG, and the organizers of the BPFs), the IGF was picking up on elements of its mandate that had been underemphasized, and on the more comprehensive vision of the WGIG: being more outcome oriented.[33]

The IGF website site has the following to say about the BPFs:

> BPFs, more specifically, offer substantive ways for the IGF to produce more concrete outcomes. While BPF outcome documents have already been useful in informing policy debates, they are also viewed as iterative materials that are not only flexible but also 'living' in the sense that they

31. Tunis Agenda, para. 70.

32. The final report of the CSTD Working Group is available at: unctad.org/meetings/en/SessionalDocuments/a67d65_en.pdf

33. The CSTD Working Group on Improvements to the IGF called for the development of more tangible outputs to "enhance the impact of the IGF on global Internet governance and policy." In response, the MAG developed an intersessional programme intended to complement other IGF activities, such as national and regional IGF initiatives, Dynamic Coalitions, and Best Practice Forums (BPFs). The outputs from this programme are intended to become robust resources, to serve as inputs into other pertinent forums, and to evolve and grow over time.

can be updated at any time to accommodate the pace of technological change faced by Internet policymakers. BPFs have the freedom to define their own methodologies; tailored to each theme's specific needs and requirements. As decided in a general feedback session during IGF 2014, the term 'best' in BPF should be interpreted lightly because the topics of BPFs often relate to themes that need to be addressed in a flexible manner in order to accommodate the pace of technological change.

The BPF findings presented at the Istanbul IGF in 2014 were useful, but perhaps somewhat lacklustre and "forced". But this changed in 2015 on the occasion of the 10th IGF, held in Joao Pessoa, Brazil. IGF intersessional work was taking root and producing results. The BPFs were very successful, developed with much wider stakeholder input, and tackled difficult topics including gender-based violence.

What also changed in 2015 was the sense of ennui.

The Joao Pessoa IGF will be remembered as one of the great IGFs. Brazilian protesters were, unnecessarily, removed with – yet again – UN rules cited as the reason. The WSIS 10-year review process was present, in the form of a main session and through the participation of the co-facilitators working in the General Assembly on the resolution that will determine the IGF's future. Sexual rights and LGBTI concerns in relation to the Internet and Internet governance were prominent on the programme and discussed extensively in several sessions. Another taboo had been broken.

But what made the 2015 IGF great was the sense of community, commitment and ownership; belief in the value of the event and the way of working that it represents. This was clearly the position of the host country government, and of the lead organizer of the event, the Brazilian Internet Steering Committee, which invested heart and soul and substantial resources. But it was shared by the many people who worked to help shape the event which has become so much more than an event. And for newcomers – and there were many, including a group of more than 100 young people from all over Latin America – it might have felt confusing, but it was filled with learning and inspiration.

Conclusions

In spite of the IGF often being held hostage by those who have the power to renew it or kill it (UN member states) in their quest for "enhanced cooperation",[34] it has remained relevant, and a community of individuals and institutions have grown around it, and have a stake in it.

34. Enhanced cooperation is a term from the Tunis Agenda. It can be defined as the demand by governments to have a greater voice and influence in internet governance – and in the case of developing country governments, to have a voice and influence more equal with those of developed country governments.

The need for the "forum function" identified by the WGIG in 2005 has only been enhanced by the immense change and growth in the Internet governance landscape since Tunis. As the integration of the Internet into daily and future life expands, the tentacles of Internet governance reach into the nooks and crannies of more and more policy-making processes. This makes the need for a common space for debate and analysis even greater than it was in 2005.

There is another legacy of the WGIG which we hope will not be forgotten, because it is also important, if less tangible. It lies in the memory and experience of the members who, despite coming from different sectors and having divergent and even conflicting world views, were willing to move out of their comfort zones to collaborate, and even bond, in order to produce a result. They are still around. One finds them at the IGF.

Going forward we recommend that the modalities of the WGIG be revisited and reused. It was more than just "multistakeholder" – language which has become quite crude and unhelpful shorthand for "inclusive, diverse and participatory". It had the leadership and rules of procedure which allowed people to feel safe (the Chatham House Rule meant people could not be quoted in reports) and to find ways of dealing with intractable problems which included, when consensus could not be established, presenting different models or options. Based on the current draft of the resolution to be discussed by the plenary of the UN General Assembly on 15 and 16 December, there will again be a working group to address enhanced cooperation. We recommend that this group adopt the WGIG approach.

Both the WGIG definition and the IGF continue to play a unifying role in an Internet governance environment that is increasingly distributed and frequently divided.

The IGF emerged from the WGIG as a space for dialogue between stakeholder groups. But over time it has also created its own set of stakeholders. People and institutions that value the IGF and that have a stake in its continuation and evolution and that are active in Internet governance in their capacities as activists, policy makers, engineers, businesses, academics, to mention a few. They do not always agree with one another, and nor should they; otherwise there would be no accountability in Internet governance. But they do understand one another, have a space where they can challenge one another, and mostly, respect one another, and when necessary find ways to collaborate – if not as institutions then at least as individuals. This is the legacy of the WGIG.

FROM OVERSIGHT TO STEWARDSHIP

HOW THE WGIG CONSIDERED THE POLITICIZATION OF INTERNET GOVERNANCE

Juan Alfonso Fernández González

One of the challenges faced by the WGIG was the mandate "to investigate and make proposals for action, as appropriate" on an issue on which the debate was highly politicized. And the task seemed even more insurmountable considering that the diversity of the membership of the WGIG implied that all opposing views would be present during the discussions. With these omens, the fact that the WGIG managed to fulfil its mandate in a brief time period is almost a miracle. This was achieved, mostly, due to the intellectual and human qualities of the members of the WGIG and the wise leadership of its chair and secretary. However, there are some little-known details of the method that was used by one of the WGIG's drafting groups during the debate of one of the most controversial topics.

But before referring to it, it is important to describe how the issue of Internet governance was introduced in the international political agenda. In this article this will be done from the point of view of a government official who participated in the preparatory process for both phases of the WSIS and in other United Nations mechanisms, like the UNCTAD E-commerce Programme, the ITU Electronic Commerce for Developing Countries (EC-DC) programme and the UN ICT Task Force. To do this I will refer to official documents of those years prior to the summit, and include quotations from these. The selection of these reference texts was made meticulously, trying to include those that most influenced the delegates who participated in the negotiation of the WSIS outcome documents. Also, with the aim of providing a wider and more diverse vision of the WGIG, I include references to articles that some of its members have written.

In the beginning there was electronic commerce

The World Summit on the Information Society (WSIS) of 2003 was not the first time that international Internet regulation of some kind was discussed in intergovernmental organizations. During the 1990s this topic was debated in relation with the expanding global electronic commerce. For example, in May 1998 the World Trade Organization (WTO), at its second ministerial conference, established a work programme related to e-commerce "to discuss and deliberate on the various multilateral trade issues raised by (WTO) Members."[1] Likewise, in the late 1990s, the United Nations Conference on Trade and Development (UNCTAD) organized a series of workshops, regional seminars and expert group meetings on the topic of e-commerce. In the first of a series of excellent reports on e-commerce and development it stated: "Global by nature, e-commerce has emerged as a significant force driving trade in the absence of international rules. Some might even argue – because of their absence. The question is whether this is the right framework for its further expansion and growth. … The main driving force for national Governments to seek some international coordination of efforts is the fear of unilateral action, which may lead to imposition of trade barriers and recourse to uncompetitive practices. What might be the minimum international rules that would be adequate to prevent such negative practices and be compatible with the overall development objectives of developing countries?"[2]

In that decade there were also some other issues about the Internet besides the legal and trade aspects that were intensely debated. One was the issue of "International Internet Connectivity" (IIC): the "perception that non U.S. Internet Service Providers (ISPs) invest more in order to receive the same benefit as U.S. ISPs in global Internet connectivity."[3] In 1998 the International Telecommunication Union (ITU) began deliberating on this subject. A report on the e-commerce survey conducted in the framework of World Telecommunication Day 1999 has among its findings that: "All ITU representatives responding to the survey concur that 'international interconnection and pricing policies need to be reviewed to seek more equitable pricing and service arrangements' for international connections to the Internet backbone. This view is supported by, among others, Australia, Canada, France, and the United Kingdom. Note that the United States, which is home to the overwhelming bulk of backbone capacity and service providers, did not respond to the survey."[4] Later, in October 2000 the ITU World

1. WTO. (1998). Brief note on electronic commerce in WTO. commerce.nic.in/wtoec.htm

2. UNCTAD. (2000). *Building Confidence. Electronic Commerce and Development*. Geneva: United Nations unctad.org/en/docs/posdtem11.en.pdf

3. Van Beelen, J. (26 May, 2000). The International Internet Interconnection Issue. *e-OTI*. www.isoc.org/oti/articles/1000/vanbeelen.html

4. ITU. (1999). Report on the e-commerce survey conducted in the framework of World Telecommunication Day 1999. www.itu.int/newsarchive/wtd/1999/report.html

Telecommunication Standardization Assembly approved the non-binding ITU-T Recommendation D.50 regarding arrangements between ISPs and Internet backbone providers.[5] This topic was especially sensitive in Africa,[6] where it was discussed in the Conference of African Ministers of Finance, Planning and Economic Development in 2002.

The developing countries' awareness on these issues also increased in that decade. For example, a working paper for the G77 South Summit held in Havana in 2000 highlighted that: "The question of who controls the Internet is relevant for the world as a whole and developing countries in particular." [7] And after mentioning the recent setting of the Internet Corporation for Assigned Names and Numbers (ICANN) it concluded that: "Unfortunately there is no developing country representation in ICANN and the matter demands redressal."[8]

The road towards WSIS

At the end of 1999, the General Assembly of the United Nations, in resolution 54/231, expressed "its grave concern over the generally widening technological gap between the developed and developing countries, particularly in the area of information and communication technology, which is shaping the contours of globalization."[9] Among the operative clauses, the resolution "Calls for increased international cooperation to address the challenges of globalization through the enhanced participation of developing countries in the international economic policy decision-making process; integrated consideration of trade, finance, technology transfer and development issues by the relevant international institutions;"[10] and asked the UN Secretary General to convene a "high-level panel of experts on information and communication technology" to prepare a report "containing recommendations on the role of the United Nations in enhancing the integration of developing countries in the emerging global information network."[11]

Later, in July 2000, the United Nations Economic and Social Council (ECOSOC) conducted a high-level segment under the title: "Development and international cooperation in the twenty-first century: the role of information technology in the context of a knowledge-based global economy". In

5. ITU-T (2000). Recommendation D.50. International Internet connection. www.itu.int/rec/T-REC-D.50-200010-S/en

6. BBC News. (2002, 15 April). The Great African Internet Robbery. *BBC*. news.bbc.co.uk/2/hi/africa/1931120.stm

7. Didar Singh, A. (1999). Electronic commerce: issues for the south. *The South Centre*. ctrc.sice.oas.org/geograph/E-Comm/Singh.pdf

8. Ibid.

9. UNGA. (2000). Role of the United Nations in promoting development in the context of globalization and interdependence. A/RES/54/231. undocs.org/A/RES/54/231

10. Ibid.

11. Ibid.

this event, the term "Internet governance" was introduced in three official documents. In a report to the Council, the UN Secretary-General proposed, as a role of the United Nations system, to "Develop policy guidelines and globally accepted norms and standards on regulatory issues and strengthen required institutions to address such issues as Internet governance, access, cost, privacy, security, info-ethics, cultural diversity, intellectual property and cyber crime."[12] Also the contribution of the Economic Commission for Africa called for "Enhanced African participation in Internet governance at the regional and international levels".[13] Finally, a contribution from the United Nations Development Programme (UNDP) mentioned their efforts in capacity building and training of government and civil society representatives in Internet governance.

Also another important concept was introduced, that would be picked up later on by the WSIS process. In the ministerial declaration it was stated that: "Market forces are fundamental but they alone will not suffice to put ICT in the service of development. Effective and meaningful collaborative efforts are required, involving Governments, multilateral development institutions, bilateral donors, the private sector, civil society and other relevant stakeholders, to enhance the developmental impact of ICT."[14] This declaration also endorsed the proposal contained in the report of the high-level panel of experts[15] that the United Nations create an ICT task force.

Another important topic raised at this event by the Economic and Social Commission for Western Asia was that "it is considered timely to convene, under the auspices of the United Nations, an international conference devoted to deliberating current trends in the emerging global knowledge-based economy..."[16] This call positively reinforced the ongoing consideration inside the United Nations system of the proposal for a UN summit made in 1998 by the ITU Plenipotentiary Conference.[17]

All this activity of the 2000 ECOSOC high-level segment was reported[18] to the 55th session of the United Nations General Assembly. This, combined

12. ECOSOC. (2000). Report of the Secretary-General. E/2000/52. www.un.org/documents/ecosoc/docs/e2000-52.pdf

13. ECOSOC. (2000). Contribution of the Economic Commission for Africa. E/2000/70. www.un.org/documents/ecosoc/docs/e2000-70.pdf

14. ECOSOC. (2000). Ministerial Declaration. E/2000/L.9. www.un.org/documents/ecosoc/docs/e2000-l9.pdf

15. ECOSOC. (2000). Report of the high-level panel of experts on information and communication technology. E/2000/55. www.un.org/documents/ecosoc/docs/e2000-55.pdf

16. ECOSOC. (2000). Contribution of the Economic and Social Commission for Western Asia. E/2000/71. www.un.org/documents/ecosoc/docs/e2000-71.pdf

17. ITU Council. (1998). World Summit on the Information Society. Res. 73. www.itu.int/wsis/docs/background/resolutions/73.html

18. ECOSOC. (2000). Report of the Economic and Social Council for 2000. A/55/3/Rev.1. undocs.org/A/55/3/Rev.1

with the endorsement of the ITU Council[19] to the proposed approach of holding a World Summit on the Information Society in two phases, paved the way for the adoption by the United Nations General Assembly, in its 56th session in 2001, of a resolution that welcomed the organization of the summit and recommended "that the preparations for the Summit take place through an open-ended intergovernmental preparatory committee, which would define the agenda of the Summit, finalize both the draft declaration and the draft plan of action, and decide on the modalities of the participation of other stakeholders in the Summit."[20]

Preparatory process of the first phase of WSIS

The definition of the agenda began at the first Preparatory Committee meeting (PrepCom) held in July, 2002 in Geneva. Immediately, two themes were brought to the fore, which eventually proved to be the most contentious in the first phase of WSIS. First the issue of financing the ICTs for developing countries, and its link with the transfer of technology and foreign direct investment (FDI) was introduced by the statement of the government of Brunei Darussalam made on behalf of the G77 and China.[21] The other disputed subject was introduced by Daniel Pimienta, president of FUNREDES, in his statement made in the opening session slot for civil society. When referring to global governance and co-regulation, he said, "Decisions that are to all appearances technical but that can have a major impact on how our societies function are taken by global governance bodies that sometimes act like members-only clubs. Transparency is not enough: governments, both national and global, must shoulder their responsibilities as regulators between social requirements and the private sector and actively associate civil society in co-regulatory frameworks. … A great deal of creativity is required to invent new democratic models or methods for dealing with affairs of global governance."[22]

But an even clearer sign of the inevitable politicization of the discussions ahead was given in the statement by the government of Brazil: when referring to the technology-based revolution it stated, "Developed countries, as usual, get a head start in the formulation of new policies and regulations that take into account the big changes to come. They do this before many developing countries have fully grasped the extent to which this new world of networking and technological convergence will change their

19. ITU Council. (2001). ITU Preparation Activities for the World Summit on the Information Society. Res. 1179 www.itu.int/wsis/docs/background/resolutions/1179.html

20. UNGA. (2002). World Summit on the Information Society. A/RES/56/183 undocs.org/A/RES/56/183

21. Government of Brunei Darussalam. (2002). Statement for the Group of G77 and China, PrepCom-1, 1-5 July, Geneva, Switzerland. www.itu.int/wsis/docs/pc1/statements_general/brunei.doc

22. Pimienta, D. (2002). Opening statement, PrepCom-1, 1-5 July, Geneva, Switzerland. www.itu.int/wsis/docs/pc1/statements_opening/pimienta.doc

development perspectives and terms of integration into the international economy."[23] Further on in this statement there are six paragraphs that because of their conceptual clarity deserve to be quoted in full:

> Information Technology has emerged as an issue for international debate fairly recently. Many still deal with it under a purely technical approach, limiting discussions to matters of bandwidth, accessibility, communication infrastructure and so on. This is not the approach favoured by Brazil in the preparatory process leading to the World Summit.
>
> Developed countries have been supporting these discussions within the G-8, UN ICT Task Force and in the World Economic Forum, among other organizations. There seems to be an implication by the developed world that this would be a non polarized North-South issue, in which both the "technology haves" and the technology "have nots" would have to gain from a joint effort to promote the global expansion of ICTs and its related infrastructure.
>
> However, the theory that ICTs and the unregulated expansion of ICT infrastructure will promote development leapfrogging in the countries of the South is a key issue requiring solid analysis. Developing countries cannot accept this claim at face value and will need to assess the real and effective impact digital revolution will have for development, and what policy and regulatory options would best protect and promote their development interests in the modern world economy.
>
> ICTs have also brought about some new thinking in terms of non-government and private sector participation in intergovernmental forums. The fact that these technologies are seen as the new railroads or highways of the knowledge-based economy means that their expansion and absorption by countries will have deep structural impacts in all sectors of society. Access to Internet by low income communities in the developing world means new forms of political expression will be at the disposal of populations until now barred from participatory engagement in public life because of limited access to information and communications. On the other hand, concentration of power by developed countries at the vanguard of ICTs and in a small number of global corporations – mostly from those countries – can also mean new forms of centralized controls through technology to the detriment of democracy.
>
> Democratic and representative Governments should not be replaced by arbitrary groupings of private business and non-governmental institutions in decisions regarding the economic space brewing within powerful digital networks, such as the Internet. Organizing this new environment to the satisfaction of all, and ensuring the beneficial participation of developing countries and their societies is central to our work.

---

23. Government of Brazil. (2002). Statement, PrepCom-1, 1-5 July, Geneva, Switzerland. www.itu.int/wsis/docs/pc1/statements_general/brazil.doc

> It is clear that all participants must be heard and must contribute to the debate in an open and democratic fashion. Innovative forms of NGO and private sector participation in the preparatory process leading to the World Information Society Summit should no doubt be sought.[24]

This statement caused a great impact on all the delegates, and it resonated in the subsequent PrepComs.

A few months later, in January 2003, the countries represented at the Regional Preparatory Ministerial Conference of Latin America and the Caribbean for WSIS, held in the Dominican Republic, adopted, as a priority issue, the following: "Establishing appropriate national legislative frameworks that safeguard the public and general interest and intellectual property and that foster electronic communications and transactions. Protection from civil and criminal offences ('cybercrime'), settlement and clearance issues, network security and assurance of the confidentiality of personal information are essential in order to build trust in information networks. Multilateral, transparent and democratic Internet governance should form part of this effort, taking into account the needs of the public and private sectors, as well as those of civil society."[25]

So after the Bávaro Declaration, Internet governance was part of the WSIS agenda. Consequently it was a matter of (very little) time before it became politicized. But what aspects of Internet governance could be singled out by government representatives, mainly from developing countries, to be the contested ones? Out of the issues referenced in this article, the one most liable to be politicized was the issue of international Internet connection costs.[26] Paradoxically, this issue did not gather much traction in the WSIS preparatory process and the attention was given to another sensitive but rather more arcane subject: the privileged position of the United States vis-à-vis Internet critical resources (domain names and IP addresses) through its oversight capacity of ICANN. As one report of the deliberations of the United Nations ICT Task Force on this subject noted: "From the start, there has been some confusion about the scope of ICANN's responsibilities. Even though much of what ICANN does can be characterized as 'technical co-ordination', this technical work is nonetheless often inextricably intertwined with global policymaking of precisely the sort that requires participation by both developed and developing nations to provide for legitimacy. Several of the most important decisions that ICANN has

24. Ibid.

25. Bávaro Declaration (2003). Report of the Latin America and Caribbean Regional Conference for WSIS. www.itu.int/dms_pub/itu-s/md/03/wsispc2/doc/S03-WSISPC2-DOC-0007!!PDF-E.pdf

26. Esmat, B., & Fernández, J. (2005). International Internet Connections Costs. In W. Drake (Ed.), *Reforming Internet Governance – Perspectives from the Working Group on Internet Governance*. New York: ICT Task Force. www.wgig.org/docs/book/WGIG_book.pdf

made since its founding are exercises of discretion of the kind often associated with global public agencies."[27]

The political nature of this issue was clearly highlighted in an article published at the end of 2002 in the influential magazine *Foreign Affairs*: "In the early years of Internet development, the prevailing view was that government should stay out of Internet governance; market forces and self-regulation would suffice to create order and enforce standards of behavior. But this view has proven inadequate as the Internet has become mainstream. A reliance on markets and self-policing has failed to address adequately the important interests of Internet users such as privacy protection, security, and access to diverse content."[28] The article then proposes "a new model of governance": "The reality is that government participation in regulating the Internet is necessary. Given the new economic and geopolitical environment, finding the right balance between an open, networked system and the security of a more closed environment requires significant participation by government. Although governments do not all share the same values, they are the only institutions that can provide stability and a place for debate over what public values need to be protected. These issues are significant policy questions that require democratic resolution, not just technical matters that can be left to experts."[29] And then it goes on to characterize this new model: "International institutions engaged in Internet governance will have to confront three significant challenges if they are to achieve legitimacy: increasing participation by developing countries, providing access to non-profit organizations, and ensuring democratic accountability."[30]

From WSIS to WGIG

The first phase of WSIS[31] was held in Geneva, Switzerland on 10-12 December 2003. It adopted two documents: a "Declaration of Principles" and a "Plan of Action".[32] It is not the purpose of this article to analyze these documents. I will only characterize them as progressive and positive because they underline the social inclusion aspect that the development of the global information society must have. Still, there were two important

27. Markle Foundation. (2003). Enhancing participation by developing nations' stakeholders in ICANN. In A. Haqqani (Ed.), *Role of information and communication technologies in global development: analyses and policy recommendations*. New York: UN ICT Task Force. Available at: books.google.com/books?isbn=921104532o

28. Baird, Z. (2002). Governing the Internet: Engaging Government, Business, and Nonprofits. *Foreign Affairs*, 81(6), 14-20. www.markle.org/sites/default/files/06_baird_15_20_0.pdf

29. Ibid.

30. Ibid.

31. WSIS was a Summit, that is, a meeting of heads of state. The output documents were therefore declarations by heads of state.

32. WSIS Executive Secretariat. (2004). Report of the Geneva Phase of the World Summit on the Information Society. Document WSIS-03/GENEVA/9(Rev.1)-E. www.itu.int/dms_pub/itu-s/md/03/wsis/doc/S03-WSIS-DOC-0009!R1!PDF-E.pdf

topics where no consensus was reached: financing ICT for development and Internet governance. The Swiss designated Secretary of State for the WSIS described the final stage of the negotiation of the documents:

> At a late hour on the night of Saturday, December 6, after long discussions in the negotiation group led by Markus Kummer, we also reached agreement on the wording with regard to Internet governance. The perseverance of the Chairman, possibly combined with exhaustion on the part of the delegates, finally led to a result: We were realistic enough to know that during the Geneva phase of the WSIS – when this new and controversial subject was globally discussed for the first time – it would not be possible to find a solution on all outstanding issues concerning governance of the Internet, the exact role ICANN should play in future, etc. However, what we were able to agree upon – and this was far from easy – was the foundation of a process for dealing with this issue which for many countries was the key issue of the WSIS. The compromise that overcame the impasse was the idea to set up a working group under the auspices of the United Nations Secretary-General, including all relevant organizations of the business sector and civil society, which would analyse the relevant issues related to Internet governance and make recommendations to the Tunis phase of the WSIS. This result of the Geneva negotiations may not appear overly spectacular, but in fact it represents a breakthrough on this issue since it is the start of an international dialogue involving all stakeholders about something that some delegations had for a very long time declared as a topic not up for discussion at all.[33]

Markus Kummer, the chair of the negotiation group on Internet governance described very accurately the substance of the disagreement:

> The first phase of the World Summit on the Information Society (WSIS) in Geneva saw a clash of visions in the debate on Internet governance. There were two clearly distinct perspectives. The first school of thought argued that the present system worked well and if there were any perceived problems it would first be necessary to define them before trying to find solutions. Delegations holding this view insisted on the primacy of the private sector. They argued that the current, private sector-driven governance mechanisms were well-adapted to the particular character of the Internet. In particular, they highly valued the multi-stakeholder character of present arrangements. They emphasized that the Internet functioned well, and their message was "if it ain't broke, don't fix it". The second school of thought, however, questioned the legitimacy of the present arrangements. Its proponents held a more traditional view as far as Government involvement is concerned. In general, they wanted

33. Furrer, M. (2005). Last Minute Diplomacy: The WSIS in Geneva 2003. In D. Stauffacher & W. Kleinwächter (Eds.), *The World Summit on the Information Society: Moving from the Past into the Future*. New York: UN ICT Task Force. ict4peace.org/un-ict-task-force-series-8-the-world-summit-on-the-information-society-moving-from-the-past-into-the-future

to give Governments more say and wanted the international governance mechanisms to be more in line with traditional forms of intergovernmental cooperation. While at a national level Governments played a role and had a platform for dialogue with the various stakeholders, they regretted that at an international level there was no such forum for interaction. Consequently, they stressed the need for establishing a multilateral mechanism, preferably with the legitimacy of the United Nations system, which would not replace any current arrangement, nor infringe on the work of any existing organization, but would be complementary and deal with policy issues. Ultimately, these delegations felt that Internet governance related to national sovereignty.[34]

The Working Group on Internet Governance (WGIG)

So the WGIG was created as a way to cope with this disagreement. Many articles, with diverse points of view, have been written about the mandate, the creation and the deliberations of the WGIG.[35] [36] [37] [38] [39] [40] Therefore I will concentrate on recounting how the WGIG faced the challenge of issuing a recommendation on the dispute that caused the failure of the negotiation of the final document of the Geneva phase of the summit. This was deferred until the fourth and final WGIG meeting, which took place at the Château de Bossey in the countryside near Geneva. Until then, the task of the WGIG on this issue was primarily to identify and accurately formulate the different positions that existed. The compendium occupies paragraphs 55 to 219 of the WGIG Background Report.[41] In the first session in the Château de Bossey, after being informed that during this meeting the WGIG should finalize the drafting of the report, I said to the group that our task was like that of a cinema editor who must assemble the movie from the "rushes", the already filmed material. And that in our case, the "rushes" was the Background Report. This casual comment was not unnoticed by the chairman because two days later he appointed me as one of the moderators of the session of the working group responsible for drafting the recommendations related to Internet governance mechanisms. The other moderator designated for this session was David Hendon, the representative of the UK

34. Kummer, M. (2005). Agree to Disagree: The Birth of the Working Group on Internet Governance (WGIG). In D. Stauffacher & W. Kleinwächter (Eds.), op. cit.

35. Kummer, M. (2005). Introduction. In W. Drake (Ed.), op. cit.

36. MacLean, D. (2005). A Brief History of WGIG. In W. Drake (Ed.), op. cit.

37. March, F. (2005). A Reflection from the WGIG Frontline. In W. Drake (Ed.), op. cit.

38. Cheniti, T. (2005). The WGIG Process: Lessons Learned and Thoughts for the Future. In W. Drake (Ed.), op. cit.

39. Jensen, W. (2005). Internet Governance: Striking the Appropriate Balance Between all Stakeholders. In W. Drake (Ed.), op. cit.

40. Doria, A. (2005). WSIS, WGIG, Technology and Technologists. In W. Drake (Ed.), op. cit.

41. WGIG. (2005a). Background Report. Geneva: United Nations. www.wgig.org/docs/BackgroundReport.pdf

government. Our chairman had no doubt deliberately chosen the two of us to co-moderate the session because we had radically different opinions and this in itself was probably quite an important tactic because if both of us could accept a compromise text that we advocated, it was likely that the rest of the WGIG would accept it too.

After a brief consultation between us on how to undertake this difficult task we agreed, as a working method, to advance as quickly as possible in the least contentious issues where consensus already existed or could be achieved with ease, and to leave to the end the most controversial topics. After this method was presented to the drafting group and accepted, two paragraphs were swiftly drafted: one each for the "Institutional coordination" and the "Regional and national coordination". Work was also done without too many problems in the definition of the "Forum function", an aspiration of the non-governmental sectors to create a space for dialogue among all stakeholders.[42]

With three quarters of the work already done, the drafting group faced the greatest challenge: to reach agreement on a recommendation on "Global public policy and oversight". Here we decided to proceed step by step, establishing first the premises and principles on which the proposals of institutional mechanisms should be based.

After a moderate discussion the premises were limited to two:

- The WGIG agreed that the continued internationalization of the Internet and the principle of universality reinforce the need for a review of existing governance mechanisms, hence the WGIG undertook such a review and the results are presented here.
- There is a wide range of governance functions that could include audit, arbitration, coordination, policy-setting and regulation, among others, but not including involvement in day-to-day operational management of the Internet that does not impact on public policy issues.[43]

The agreed principles were only three; the WGIG recognized that any organizational form for the governance function/oversight function should adhere to the following principles:

- No single Government should have a pre-eminent role in relation to international Internet governance.
- The organizational form for the governance function will be multilateral, transparent and democratic, with the full involvement of Governments, the private sector, civil society and international organizations.

42. WGIG. (2005b). Report of the Working Group on Internet Governance. Geneva: United Nations. www.wgig.org/docs/WGIGREPORT.pdf

43. Ibid.

- The organizational form for the governance function will involve all stakeholders and relevant intergovernmental and international organizations within their respective roles.[44]

It is important to note that of these three principles only the first was new, since the other two had already been agreed in the first phase of WSIS and appear in paragraphs 48 and 49 of the Geneva Declaration of Principles.

With all this accomplished, the last task of the drafting group was to agree on the recommendation on the institutional mechanism that should comply with these premises and principles. It was known that the WGIG members had opposing views on this matter, so the prognosis was that it would be very difficult to achieve consensus. For this reason I suggested to David Hendon, the co-moderator, the use of an iterative approach that would avoid the confrontation of positions. The method consisted in the realization of several rounds in which, in the first part, WGIG members proposed the organizational model of their choice, and in the second part, the proponents of similar models met to try to merge their proposals. This method, which recognized the fact that the WGIG was not a negotiating body, was accepted and it was decided to try it to see where it would take us. The process respected all opinions and all the proposals were accepted without distinction. After several rounds it was impossible to continue reducing the number of proposals, so in the end four different organizational models remained.[45]

Nitin Desai, the WGIG Chairman wrote about this process:

> The most difficult issue was that about institutional arrangements for global public policy oversight. It soon became clear that a single view would not emerge and would in fact be misleading, as it would not reflect the diversity of opinions within the group and in the wider community outside. We correctly decided that we were not a substitute for the political process in the WSIS PrepCom and that our duty was to spell out options clearly rather than to find a compromise. Had we presented just a single option, then all those outside who disagreed with that option might have rejected the rest of the report, which contained valuable suggestions.
>
> In the end the WGIG produced a unanimous report. There was no note of dissent. It was not a report that replaced the need for a broader political process. But it was a report that made it possible for such a process to start further down the road to the ultimate compromise.[46]

I stop here. In another chapter of this book my co-moderator David Hendon recalls what happened to these issues in Tunis.

---

44. Ibid.

45. Ibid.

46. Desai, N. (2005). Preface. In W. Drake (Ed.), op. cit.

Conclusion: What is the legacy of the WGIG?

First of all, the WGIG itself. The way its members were selected and how it planned and carried out its mandate show that no matter how difficult an issue or how diverse the opinions, if they are discussed with inclusion and respect, it is always possible to find solutions.

Second is the report. It is a remarkable document: it is concise, precise and presents complex issues with clarity so it was well received by the delegates to the second phase of WSIS.[47]

The contribution of the report can be divided into two: a conceptual part comprising chapters II, III and IV, and "proposals for action" in chapter V.[48]

The report establishes very important concepts. For example, noting that Internet governance includes more than Internet names and addresses, and that it also includes other significant public policy issues,[49] it states that the management of these critical Internet resources goes beyond the merely technical and administrative and constitutes a public policy. To establish this not only opens the way to the identification of all public policy issues that are relevant, but also clearly states that Internet governance is a political subject.

Regarding the WGIG recommendations related to Internet governance mechanisms, the forum function was endorsed at WSIS and has been successfully implemented, while the proposals on global public policy and oversight were deferred in Tunis for a later process, which has not yet been carried out.

Ten years later nothing has changed: the issues are still exactly the same, and the positions are still exactly the same.

But the work of the WGIG is not lost, on the contrary, it still has much to contribute.

For example, the premises and principles for global public policy and oversight of the Internet proposed by the WGIG and endorsed in the second phase of WSIS remain fully valid and should be the basis of any international Internet governance arrangement.

One possible way is to adapt the most tangible achievement of the WGIG: the Internet Governance Forum (IGF).

Shortly after the WGIG issued its report, one of its members wrote an article proposing 14 points to ensure that the forum would be implemented as a universal mechanism for Internet governance. The 14 points are:

---

47. ITU. (2005). Compilation of Comments received on the Report of the WGIG. www.itu.int/wsis/documents/doc_multi.asp?lang=en&id=1818|2008

48. WGIG. (2005b). Op. cit.

49. Ibid.

- The forum should be a global space for coordination and discussion of all governance issues, as well as to support development of global policies for the Internet.
- The forum should coordinate a broad spectrum of governance themes.
- The forum should be pluralist (multistakeholder).
- The forum should include an intergovernmental mechanism through which governments exert their responsibilities regarding Internet-related aspects of public policy.
- The forum, and any global governance instance, should not be under the jurisdiction of any specific country.
- The forum should work for the global public interest.
- The forum should abide by the criteria of transparency, democracy and multilateralism.
- Each one of the representatives of the four interest groups (governments, business associations, non-profit non-business organizations, and academic/technical associations) ought to establish clear accountability rules regarding their constituencies.
- Regarding existing global organizations dealing with specific, Internet-related issues, the forum function should be of coordinating these organizations instead of replacing them.
- The forum should operate with efficacy and practicity to ensure rapid decision-making processes, in keeping with the dynamics of Internet expansion and evolution.
- The forum should be flexible and adaptable to adjust its agenda and processes to the rapid evolution of the Internet.
- The forum should be able to act as an efficient clearing house collecting needs from the several interest groups and dispatching them (or the resulting resolutions) to the relevant organizations.
- The forum should be authoritative in its capacity to resolve conflicts and coordinate the work of different organizations.
- The forum should be self-sustained.[50]

As a proud member of the WGIG, I hope that its most illustrious offspring, the Internet Governance Forum, will be able to evolve so that, without losing its attributes of diversity, inclusiveness and legitimacy, it can become the most appropriate mechanism for global Internet governance.

If this is achieved it would be the ultimate accomplishment of the WGIG.

---

50. Afonso, C. (2005). A Global Internet Governance Forum. The View from Brazil. In Bervejillo, S. (Ed.), *Vision or hallucination? Briefing papers towards the World Summit on the Information Society.* Montevideo: Instituto del Tercer Mundo (ITeM). www.choike.org/nuevo_eng/informes/3592.html

FROM OVERSIGHT TO ENHANCED COOPERATION

David Hendon

This short article describes from a personal perspective how some of the key issues explored in the WGIG were finally incorporated into the Tunis Agenda the night before the Summit commenced.

Background

In 2005 I was a senior civil servant in the UK Department of Trade & Industry, being the director responsible for all aspects of government policy regarding electronic communications. I had joined the WGIG partway through, replacing a colleague from the Netherlands, Mark Esseboom. This was because from late in 2003, inside the European Union (EU), senior policy officials from the EU member states used to meet every month or so under the chairmanship of Peter Zangl, then Deputy Director General for the Information Society in the European Commission, to develop the EU's emerging position on what was to most of us a new and esoteric subject: Internet governance.

It was clear from the first that it was hard to find a common EU position and in some ways the debate within the EU was a microcosm of the debate we later had at the world level in the run-up to the WSIS Tunis phase. When we became aware of the establishment of the WGIG, we decided to propose that the EU participation in the process should include a representative of the current and next EU presidencies (each of which lasted for six months) and a representative of the European Commission. When the WGIG first met, the Netherlands held the presidency of the EU and Luxembourg was next, followed by the UK. So quite by chance, amongst the many senior officials from EU governments who were engaged in the Internet governance debate, it fell to Peter Zangl from the European Commission, Jean-

Paul Zens from the Luxembourg government and myself to participate in the later work of the WGIG and the crucial process of drafting the final WGIG report.

PrepCom-3

On 1 July 2005 the United Kingdom assumed the Presidency of the EU. At the time it was the practice that the Presidency spoke for the EU in settings where the European Commission did not have legal competence. By common agreement, WSIS in general and Internet governance in particular was such a setting and so for the September PrepCom-3 in Geneva, and the resumed PrepCom-3 in Tunis, I found myself as the lead negotiator for the EU, engaged particularly in the still unresolved issues of Internet governance, informed by a wide range of different opinions from my European colleagues.

Prior to the September meeting of PrepCom-3, the EU Council of Ministers had adopted a position on the questions raised about Internet governance and it fell to me to present these to the meeting of PrepCom-3.[1] The key part of the EU position was that we wanted to see "a new cooperation model … based on bottom-up public-private partnership building on existing structures of Internet Governance, with special emphasis on the complementarity between all the actors involved in this process, including governments, the private sector, civil society and international organisations." This proposal already moved substantially away from oversight towards something which it was hoped might find favour amongst all UN member states. I presented this proposal to the PrepCom meeting. It was not well received by our US colleagues in particular and there was a certain amount of diplomatic activity in the ensuing weeks and a fair amount of press comment,[2] [3] [4] [5] both for and against the EU position. Some of the comment suggests that the EU was "shocked" by the letter that US Secretary of State Condoleezza Rice sent to UK Home Secretary Jack Straw complaining about the EU's intervention, but in practice it had no impact at all at the level of those of us doing the negotiating and no UK minister or senior official ever mentioned the letter to me. The change of EU opinion between PrepCom-2 and 3 reflected the development of the EU position by officials from the EU member states rather than a response to lobbying from one or another country outside the EU.

---

1. Initial comments by the European Union and the acceding countries Romania and Bulgaria, on the report of the Working Group on Internet Governance, 1 August 2005. www.itu.int/wsis/docs2/pc3/contributions/c019.pdf

2. McCarthy, K. (2005, 6 October). Breaking America's grip on the net. *The Guardian*. www.theguardian.com/technology/2005/oct/06/guardianweeklytechnologysection.insideit

3. Wright, T. (2005, 30 September). EU Tries to Unblock Internet Impasse. *The New York Times*. www.nytimes.com/iht/2005/09/30/business/IHT-30net.html

4. McCarthy, K. (2005, 16 November). Internet battle ends in stalemate. *ExecReview*. www.execreview.com/2005/11/internet-battle-ends-in-stalemate

5. McCarthy, K. (2005, 2 December). Read the letter that won the internet governance battle. *The Register.* www.theregister.co.uk/2005/12/02/rice_eu_letter/

Tunis and the resumed PrepCom-3

The EU had still by no means a single view of the way forward, but by the time we all arrived in Tunis, the centre of gravity of the EU position was to prefer to leave the Internet to be run by commercial organizations not under government control, but to see good progress towards a means by which governments could pursue and protect their legitimate policy interests with those who were running key parts of the Internet, especially the Domain Name System (DNS). This was helpfully enshrined in conclusions of COREPER, the Committee of Permanent Representations of EU Member States which left the EU delegation to the final PrepCom with some latitude to find a good outcome to the deadlock. Some more idealistic members of the EU delegation held on to the desire to see the new cooperation model made real, preferably through an intergovernmental structure of some sort. There was also concern in the EU delegation that we needed to properly protect the means by which industry on the one hand and more especially civil society on the other could participate in discussions that might lead to changes in the way the Internet was governed. Both topics had been discussed extensively in the WGIG, but the PrepCom had yet to find a way to include them in the draft Tunis Agenda. As we took our seats in the vast, noisy and very hot resumed Sub-Committee A (Internet Governance) meeting in the temporary conference centre just outside Tunis, world opinion was still split between those who wanted to maintain a version of the status quo and those who saw an important opportunity for change and were not about to let it go.

The resumed PrepCom-3 met first on Sunday, 13 November 2005. The Summit was not due to commence until Wednesday and so the conference centre was still under construction, lending a somewhat surreal and distracting ambience to our discussions. Under Ambassador Masood Khan's excellent and patient chairmanship, the 500 or so members of Sub-Committee A grappled with reconciling the apparently irreconcilable, and although some progress was made, the essential issue remained of whether oversight of the IANA and the wider DNS should be left as it was or changed to be the responsibility of some sort of body of international governments. I held regular coordination meetings between EU delegates and during the lunch break on Monday I chaired a further and somewhat despairing EU coordination meeting. It was well attended but after half an hour or so of discussion, as chair of the meeting I concluded that we could see no way forward and we would need to start thinking harder about a fall-back plan. I was not looking forward to explaining to my minister, the Right Honourable Alun Michael MP, why I had asked him to fly to Tunis for a Summit that still had such a large hole in what he would be asked to sign. The meeting broke up and a few people gathered around me at the front of the room.

Then it suddenly occurred to me that the only chance to get agreement was to use language that no country currently owned and that was capable of being interpreted flexibly by different people. And perhaps if the Summit

were to signal a real start to a process of change which addressed the central issue of how all governments could influence the way that the DNS was run, the desire for formal oversight could be set aside for the time being. So I asked the people still in the room whether they would support me exploring this idea and there was general if not uniformly enthusiastic agreement – no doubt some of my colleagues were also thinking of what they would otherwise have to say to their ministers in a few hours' time.

I asked my UK colleague Martin Boyle to draft a short contribution containing three essential points. Firstly we needed to declare the importance of governments being able to influence matters that were their proper policy interest; then we needed to call upon the organizations responsible for running essential parts of the Internet to create the means for this to happen; and thirdly we could bring in the WGIG idea of the Internet Governance Forum as a multistakeholder environment which would allow private industry and civil society to debate the important issues as they arose with governments and those running the Internet. Quickly dictating ideas to Martin for him to draft properly, I devised the term "enhanced cooperation", which I did not remember anyone using in PrepCom recently and so it had the advantage of carrying no hidden baggage or favouring one or another previously expressed position.

Over the next hour Martin drafted half a page or so and cleared it with a few EU people who represented the different shades of opinion in the EU delegation. One or two clung onto the need for the "new cooperation model" to be delivered, but had no suggestions as to how that might now be achieved. Then Martin took it to the US delegation and they indicated that they could possibly agree to our approach. I needed to check with a country from the group who advocated bringing the Internet under control of an intergovernmental organization and I sought out Raúl Echeberría from Uruguay, whom I knew from the WGIG, and asked him to have a word with the Brazilian delegation who were acting as informal spokesman for the group of countries taking the opposite position to the US. He came back with the message that they also could possibly agree to such an approach. So I immediately sought out Ambassador Khan, and told him that the EU had a new text which both the US and Brazil had indicated they could possibly accept. He immediately asked me to present the text to the Sub-Committee A meeting after the coffee break.

Last minute negotiations, leading to agreement

Before presenting the text, a copy of which unfortunately eludes me now, I was waiting for it to be displayed on the large screen at the front of the room but the technicians were having some problems, so I said to the meeting that before I read out the text I wanted to warn them that it was a compromise and they should remember that the mark of a good compromise is that no one likes it. I said, "You are not going to like this compromise. I don't like this compromise. Even the computer doesn't like the compromise!" The

technicians gave up and I read the paper out twice, trying not to go too quickly, so the interpreters could keep up with me. Ambassador Khan immediately referred the text to an ad-hoc drafting group in an adjacent room.

Frederic Riehl of Switzerland chaired this drafting group, which was well attended by all the interested countries and for a couple of hours we debated the proposal. Many changes were made, not all of them fully supported and in the process the proposal became rather longer and clouded in complexity. When Ambassador Khan saw the result, he declared, "This is like a Christmas tree. Everyone has hung their favourite decoration on it!" By now it was well into Monday evening.

At the start of the next day, Tuesday, Ambassador Khan tabled a chairman's compromise[6] which was substantially the EU proposal but with some improvements from the drafting group and some from himself. It was discussed at length several times during the day, each time leading to a further revision of the document.[7] These discussions gradually showed that there was now a real willingness to move and to try to come to a common agreement, and it became clearer that we were very likely now to be able to conclude an agreement on Internet governance, acceptable to all those UN member states present at the Summit. Finally, late on Tuesday evening, the agreement was made. My memory is that the last country to withdraw their reservation was Iran. The ministers were already flying into Tunis for the Summit which started the next day and we now had something for them to adopt. It was a good moment and both sides of the debate predictably claimed they had won.[8]

Conclusion

Reflecting on this later it is clear that the WGIG exerted huge influence, because the debate which led to the WGIG report and discussion in capitals before, during and after the WGIG's work all laid the foundations for the WSIS PrepCom to come to a final agreement, just in time. The elements of legitimate government interests in Internet policy, enhanced cooperation (by whatever name) and the IGF all had their roots in the WGIG, and without the WGIG, it is hard to imagine that the Summit would have been judged a success. As it was we had created the mandate and the means for players besides governments to influence the future development of the Internet and to contribute to its future governance. Of course the discussion of what "enhanced cooperation" actually means in practice still goes on today, but that is another story.

6. www.itu.int/wsis/docs2/pc3/working/dt10.doc

7. www.itu.int/wsis/docs2/pc3/working/dt10rev2.doc, www.itu.int/wsis/docs2/pc3/working/dt10rev3.doc, www.itu.int/wsis/docs2/pc3/working/dt10rev4.doc, www.itu.int/wsis/docs2/pc3/working/dt10rev5.doc

8. Shannon, V. (2005, 16 November). A Compromise of Sorts on Internet Control. *The New York Times*. www.nytimes.com/2005/11/16/technology/a-compromise-of-sorts-on-internet-control.html

THE VEXING PROBLEMS OF OVERSIGHT AND STEWARDSHIP IN INTERNET GOVERNANCE

Alejandro Pisanty

This chapter deals with the problem of "oversight" in multistakeholder Internet governance. The roots of the problem are described. The vexing aspect of the problem is that a multistakeholder mechanism is either self-contained and thus includes its own oversight, or has external oversight and that can only be done through an imbalance among stakeholders. A risk-management framework is presented in order for organizations to better deal with "attacks" of imposed, undue oversight, with numerous real examples. Connections to the World Summit on the Information Society and the Working Group on Internet Governance are drawn. The future of oversight is being defined in the IANA transition. The state of that debate is assessed in consideration of its future impact.

Introduction

The Working Group on Internet Governance (WGIG) was created by the World Summit on the Information Society (WSIS). One of the most contentious issues it faced was the operation, design and future of arrangements for Internet governance such as ICANN. One of the key issues in contention was whether Internet governance should continue to take place in decentralized mechanisms, adapted for each issue and bringing together relevant expert stakeholders, or whether a single mechanism for Internet governance should be created. In either case further contention arose about the nature of the authority the mechanism should have. This was condensed around the category of "oversight".

The purpose of this chapter is to discuss the issue of oversight over organizations or processes in which multiple, diverse stakeholders make decisions, and its relationship to the concept of stewardship in Internet governance. These processes are called "multistakeholder", meaning that they

involve the stakeholders of the decisions to be made. The issue has lingered over Internet governance for a long time. At the time the WGIG operated it was a rather silent issue but it was interwoven with the emerging categories related to multistakeholder Internet governance.

It should be noted that I generally avoid the word "multistakeholderism", even for shorthand purposes. For some critics, the "ism" at the end rings echoes of a dogma, or a belief, stirs emotions, and can cloud rational analysis. I hold that multistakeholder processes lead to optimal (or least bad) decisions in the cases studied and therefore constrain myself to this empirically supported use.[1] "Optimal", of course, is used in a mathematical sense and involves some constraints for each process. Governance broadly understood is the (unbounded) set of ways in which a group makes decisions and reaches agreements. For the Internet the WGIG definition is understood broadly as there is no single coordination of the Internet, so decisions and coordination take place in many different layers, points and ways.

Multistakeholder governance refers to situations in which governance is exerted over a resource or system by many groups, all of which have something at stake in the result. Stakeholder analysis followed theories of the firm when it was perceived that not only shareholders have life, honour, reputation and other values and interests at play in the firm, and it was extended later to systems beyond the firm.

Multistakeholder governance takes place in many spaces, not only on the Internet. Salient cases can be found in the governance of the environment. Authors like Gasser[2] and Hemmati[3] have made systematic lists and classifications of multistakeholder processes, encompassing the environment, finance, sport, fisheries, forests, and many other cases. In most cases the stakeholders include the government and are subsidiary to a government or intergovernmental organizations. In the exceptional case of ICANN, for the governance of the Internet's Domain Name System (DNS) and other parameters which must have mathematically unique values, the roles of all stakeholders are nearly equal.

Oversight for the purposes of our study refers to the activity of vigilance "from the top" of the organization or process, and to the set of conditions that allow decisions to be made transparent, accountable, and subject to review, reversal and redress. Typically "oversight" is exerted by an auditing

1. Pisanty, A. (2014). Empowerment of non-governmental actors from outside the United States in multistakeholder Internet governance. Presentation before The Hague Institute for Global Justice. https://es.scribd.com/doc/280563813/Empowerment-of-non-governmental-actors-from-outside-the-United-States-in-multistakeholder-Internet-governance

2. Gasser, U., Budish, R., & West, S. M. (2015). *Multistakeholder as Governance Groups: Observations from Case Studies*. Berkman Center Research Publication No. 2015-1. Available at SSRN: ssrn.com/abstract=2549270 or dx.doi.org/10.2139/ssrn.2549270

3. Hemmati, M. et al. (2002). *Multi-stakeholder Processes for Governance and Sustainability: Beyond Deadlock and Conflict*. London: Earthscan.

board or a government or intergovernmental mechanism and is based on authority defined previously and outside the process itself, i.e. it is heteronomic. The dictionary definitions of oversight make it synonymous with supervision, or extend to authority, "the act or job of directing work that is being done." Oversight may thus be defined in a spectrum from command to *ex-post* verification of compliance.

The progressive expansion of multistakeholder mechanisms in many fields, and in particular in Internet governance with the particular case of ICANN, has empowered stakeholders, made their groupings more representative, and created conditions of increasing equality among them. When governments are part of the decision chain, special considerations may apply. Governments, simply put, may have a claim on legitimacy, representation and duty that other groups would have to justify for themselves. And, in a well-known definition, governments are granted the monopoly of legitimate force.

Multistakeholder governance may take place among non-governmental stakeholders independent of government and thus be self-contained, if these stakeholders have enough recognized authority within a limited domain. The role of governments in this case is as a "backstop", a role that is only triggered if the group exceeds the limits of the law. If this happens within a national space, the national government can or must intervene to correct violations of the law.

Some governance problems have become significant enough to have impact on the whole of society and to cross borders – but evolve at speeds that governmental procedures and legislation cannot reach. Further, governmental intervention may create liabilities for governments that these may not be prepared to handle or not be set up for at all.

The question then is whether some of these multistakeholder mechanisms and organizations can remove themselves from the umbrella of heteronomically determined oversight. The matter is pressing because as of this writing ICANN is defining one such mechanism for one of its functions, the IANA function.

Stewardship is a related concept and sometimes at odds with oversight. We will understand stewardship as a function and duty of care for a resource, exerted by a community or an accepted proxy which may be an individual or an organization. Stewardship, for the purposes of this chapter, is based on a shared view of a common good and the community's broader and long-term interest. Stewardship entails guiding the community in a direction that maximizes collective benefit although it may cause some members of the community to obtain lesser gains than they would if they went all-out in their efforts to obtain such gains. This is well described by Ostrom-like game-theoretical approaches; stewardship guides the community towards community gain.

Internet governance can be guided by stewardship over the broad, common resource of the Internet – its openness, interoperability, the end-to-end principle, decentralization, ability to serve increasing numbers of users and increasingly robust and resilient response to challenges. This stewardship has to deal with opposing forces such as fragmentation, authority over partial domains, markets, property rights, national borders, greed and many others. Achieving and maintaining a stewardship- and vision-based Internet governance is likely the greatest challenge.

In the rest of this chapter I will make a quick summary of WSIS, WGIG, Internet governance and multistakeholder governance; I will study briefly the views about oversight in this field and some generalizations; present and explain a risk-analysis based method to understand the imposition or removal of oversight; and formulate criteria to follow ongoing developments such as changes in the oversight of the IANA function.

Multistakeholder governance

Multistakeholder governance has many roots; among these are the management of the commons or common-pool resources, the theory of the firm and of corporate responsibility, the emergence of private authority, "soft law", regulatory regimes and the sheer pragmatics of its successful application in hugely diverse fields.

Multistakeholder governance has been analyzed by some authors in contraposition to democracy, and the category "democratic deficit" has been coined to signal the gap between both. This in turn assumes a definition and concrete view of democracy, of which there are many and I will stay with the most general view of it. This author's view is that multistakeholder governance can be built within a democratic framework and the rule of law.

Elinor Ostrom is the best known author on the management of the commons or common-pool resources.[4] Her theories, based as much on experience, field work and sensitivity as on mathematically sound game theory, explain how different stakeholders of a resource reach agreements on the resource's management. In her book *Understanding Institutional Diversity*[5] she shows how some optimal results may accrue from good self-governance of a group of stakeholders combined with sound heteronomic rules that enhance incentives for self-governance.

Of course the Internet has long ceased to be managed as a common-pool resource, if it ever was. Property rights have been instituted in all layers of the architecture and thus demand a framework that takes them into account. Yet the utopia of the Internet commons continues to inspire many

4. Ostrom, E. (1990). *Governing the Commons*. Cambridge: Cambridge University Press.

5. Ostrom, E. (2005). *Understanding Institutional Diversity*. Princeton, NJ: Princeton University Press.

collaborations and to shape some views. In particular, the concept of stewardship of the Internet or some of its resources continues to be a reference model. Among other fields, expectations that ICANN will retain a core sense of stewardship continue to inspire participants in the design of its future and to set constraints on its evolution. The behaviour of many service providers (access, search, content storage and distribution) is also expected to be guided by stewardship even in for-profit corporations.

Multistakeholder governance also indicates the emergence of private authority over resources and processes; this authority may substitute or complement governmental authority and oversight. Hall and Biersteker[6] have compiled numerous instances of the emergence of private authority in global governance, many of which have an opening towards the participation of diverse stakeholders. This does not mean that private authority always excludes governmental authority; many of the cases compiled by Hall and Biersteker lie on a spectrum between pure private authority, cooperation with government, and government authority aided or complemented by private mechanisms.

Some of the examples they compile, such as markets and organized crime, are not really open to all stakeholders. Other than these, Hall and Biersteker (p. 5) say their "conception of 'private authority' is intended to allow for the possibility that private sector markets, private actors, non-governmental organizations, transnational actors and other institutions can exercise forms of legitimate authority." They "find it telling that at the beginning of the twenty-first century there are so many examples of sites or locations of authority that are neither states, state-based, nor state-created." When several of these sectors collaborate in decision making we have multistakeholder governance.

Hemmati's book covers multistakeholder governance's ins and outs, and goes into great detail regarding how to make it work better. She concentrates on organizations active in the field of sustainable development, mostly within the United Nations Organization's framework. She generally assumes this type of collaboration will not be self-standing but instead is only a feed into governmental and intergovernmental decisions. This structural limitation hampers her contribution for our study – the oversight issue is taken as resolved by design, and oversight is assigned to governments and IGOs.

Vallejo and Hauselmann[7] cover a number of organizations in the sustainable development field too; most of them are fully non-governmental, one has a government representative on its board, and all have private author-

6. Hall, R. B., & Biersteker, T. J. (Eds.). (2002). *The Emergence of Private Authority in Global Governance*. Cambridge: Cambridge University Press.

7. Vallejo, N., & Hauselmann, P. (2004). *Governance and Multi-Stakeholder Processes*. International Institute for Sustainable Development. https://www.iisd.org/pdf/2004/sci_governance.pdf

ity for actions like certifications but do not make decisions that are turned into law or public policy. Their oversight is internal.

In this context we can also identify multistakeholder governance as part of the "new" or "complex" multilateralism identified by O'Brien *et al.* in their book *Contesting Global Governance*.[8] Global social movements that oppose multilateral economic institutions were recognized by these authors in 2000 as contributors, in some cases, to a more participatory, bottom-up and transparent multilateral governance. This is the embryo of multistakeholder governance. It should be noted from the title of O'Brien's book that multistakeholder governance is also contested.

Drezner[9] classifies a number of international regulatory regimes and finds that Internet technical standards development, as performed by the IETF, and the functions of ICANN are deliberately designed to exclude the primacy of government or intergovernmental organizations. This institutional design has been applied and promoted by the United States in order to keep the decisions not subject to states, leaving room instead for the higher weight of the technologists and the markets; for rapid technical evolution; and to avoid or counter attempts to control the open system of the Internet by authority. This policy choice has been well described and narrated in historical perspective by Cowhey and Aronson.[10]

Drezner as well as Cowhey and Aronson also underlines that this "hands-off" stance is the policy preference of the United States. Further, until now the US has retained an asymmetric position in many of the fields covered by Internet governance, such as its "backstop" function in the oversight of the IANA function within ICANN. As mentioned this is being removed as we write. For many this association is problematic but less so than the alternatives of moving these resources' governance (and other, similar ones) to intergovernmental regimes, which they (we) find intolerably detrimental.

Drezner is among the authors who recognize that multistakeholder, open participation has been a boon for people and organizations from the developing world, NGOs and businesses from all over, and academia. It is only in this kind of process that they have been able to contribute to shape the global agendas and translate them back to their national ambits. Being forced to depend only on their governments and to communicate only through governmental channels would have isolated and blocked them totally. Instead, these stakeholders were able to participate directly and on the front line, acquiring useful knowledge beyond the purely technical realm, conveying indispensable developing-country perspectives into

8. O'Brien, R. et al. (2000). *Contesting Global Governance*. Cambridge: Cambridge University Press.

9. Drezner, D. W. (2007). *All Politics is Global: Explaining International Regulatory Regimes*. Princeton, NJ: Princeton University Press.

10. Cowhey, P., & Aronson, J. (2009). *Transforming Global Information and Communication Markets: The Political Economy of Innovation*. Cambridge, MA: MIT Press.

the processes, and embedding themselves in powerful, resilient, trust-based networks. The countries themselves have gained in Internet development thanks to this direct participation and the two-way flow of information and capacities it entails.

Coicaud and Heiskanen's compilation on the legitimacy of international organizations[11] includes several contributions on regimes not dominated exclusively by states. For the environment and climate change, Joyeeta Gupta (p. 482) studies the increasing weight carried by the technical community and NGOs. In this field final global decisions remain in the hands of states, through entities such as the aptly named Intergovernmental Panel on Climate Change (IPCC). Yet this very IPCC is an example of a very high level of involvement and influence of non-state actors.

Brown and Marsden[12] go into greater depth in the analysis of multistakeholder governance for the Internet in general and for specific cases, *viz.* privacy, copyright, censorship, social networking and network neutrality. Dutton and Peltu[13] delve deeper in the dynamics and representativity of multistakeholder governance and in particular the representation of civil society in WSIS and ICANN.

More recently, Belli[14] has analyzed some of these processes. From his analysis he sees the need to ask whether the best metric of participation is not only the inclusion of all stakeholder sectors but also that participation be sufficiently diverse within each.

Gasser *et al.* (see above) have reviewed a large number of multistakeholder organizations. One of their focusing questions refers to oversight in the sense meant in this chapter. Interestingly, they find two cases in which governmental oversight appears. One is in Germany (EIDG) and the other is located in Brazil. It refers to the decision of the Brazilian multistakeholder Internet Steering Committee, CGI, and other actors to close port 25 against open email relays as an anti-spam measure. This took place in Brazil 10 years after it was enacted in almost every other country and necessitated oversight in the form of laws enacted by the legislative branch of government, which were not needed in many other jurisdictions.

---

11. Coicaud, J-M., & Heiskanen, V. (Eds.). (2001). *The Legitimacy of International Organizations*. Tokyo, New York, Paris: United Nations University Press.

12. Brown, I., & Marsden, C. T. (2013). *Regulating Code*. Cambridge, MA: MIT Press.

13. Dutton, W. H., & Peltu, M. (2009). The new politics of the internet: Multi-stakeholder policymaking and the internet technocracy. In A. Chadwick & P.N. Howard (Eds.), *The Routledge Handbook of Internet Politics*. New York: Routledge.

14. Belli, L. (2015). A heterostakeholder cooperation for sustainable internet policymaking. *Internet Policy Review,* 4(2). policyreview.info/articles/analysis/heterostakeholder-cooperation-sustainable-internet-policymaking

WSIS, WGIG, multistakeholder governance and the problem of oversight

WSIS was a one-off international meeting in many ways. The first UN Summit to be distributed in two phases and in two countries, one of them a developing one; a positive in a sea of negatives (looking at technologies as the one positive emerging from two millennia into the next, whereas all other Millennium Summits looked at age-old, wicked problems and scourges like hunger and illness); and the one to integrate non-governmental stakeholders to the highest degree yet. It was still fundamentally a multilateral, intergovernmental conference, for example in that in the main sessions only governmental representatives could speak and vote.

On the other hand, WSIS was not unusual in being part of a tug-of-war between two major UN agencies, UNESCO and the ITU, and a space for the enactment of numerous turf wars among countries and country groups which were ongoing in other fora. Numerous country groupings, business interests, and ideologies were at odds with each other and sought to gain traction for their causes as they reflected in the Information Society decision space, often trying to leverage "wins" in the WSIS space in order to be able to translate them to their natural spheres of action.

Thus, for example, campaigners for freedom of speech and freedom of the press sought to shape the WSIS agenda towards a more open and universal view of free speech whereas governments of a restrictive stance took the line of not allowing WSIS to create any new rights, which expanded, of course, to stopping any initiative to extend the application of existing rights as well. This pattern continues and in fact expands every year in the Internet Governance Forum too.

The most remarkable event, for the purposes of this chapter, was the reaction of many governments to the fact that Internet governance was developing actively, mostly in a healthy way, without their active participation even in-country. In many countries, not the least many developing ones, the Internet developed away from governmental attention, thanks to the drive of academic institutions, civil society and businesses. In WSIS, Internet governance became a symbol, and thus the axis of disputes that have proved to be long-lasting. Most of the debate centred, as it still does, explicitly or implicitly, around ICANN.

By the time WSIS was conceived and took place, multistakeholder governance had developed well for Internet standards development, DNS and IP address governance, and a few other fields; in fact so much so that no one had perceived the need to give the collaboration among stakeholders any name. It was the preferred *modus operandi*, optimized through testing, and very much the embodiment of the IETF's mantra "rough consensus and running code" for many problems beyond the IETF's own community of practice. The little theory for these processes that existed had been developed heuristically, as can be seen in Kahin and Keller.[15]

15. Brian Kahin, B., & Keller, J.H. (Eds.) (1997). *Coordinating the Internet*. Cambridge, MA: MIT Press.

Citizen organizations and many in the technical community had been fruitlessly knocking on the door of intergovernmental organizations for decades, trying to influence their decisions and taking issues to them, even during the preparatory work for the Summit, nay, even in its main events. NGOs found themselves locked out of deliberations, or facing auditoriums filled preemptively by government-favoured organizations, and harassed by them.

The Internet technical community had long abandoned the attempt to have protocol standardization undertaken in the ITU and created the very robust IETF with its original processes and culture. By the time of WSIS the Internet technical community and many in society had totally embraced the paradigm of private-sector led, bottom-up Internet governance that was the policy preference of the US, Japan, the UK and, somewhat reluctantly, the European Union. Businesses found their way into intergovernmental processes by influencing their governments and even becoming part of national delegations.

In consequence, many multistakeholder processes were taking place for the governance of the Internet. The IETF, CAUCE (acting against spam; now succeeded by M3AAWG), ICANN and others were especially active by the time of the Summit. Surprisingly, even despite the existence and active role of ICANN's Governmental Advisory Committee (GAC), governments in WSIS suddenly started claiming a seat at the multistakeholder table – a rather bizarre development. This claim became the push for text in the conference's resolutions demanding the involvement of all stakeholders. This could hardly be expressed in a more stark manner.

The tension expressed at that time is still alive today: to what extent should multistakeholder processes take place with full autonomy, based on their stakeholders alone; which of them should be auxiliary but subordinate to intergovernmental authority; and which should actually be substituted for with fully authoritative multilateral organizations? Many governments and some civil society organizations from developing countries demanded a more decisive role for governments and for intergovernmental authority over Internet governance then, and still do now.

Words like post-Westphalian are hurled around while action beyond and across borders is radically disrupting the landscapes of commerce and society. In response, governments try different approaches, from a degree of *laissez-faire* to total control within and across their borders; from an experiment in the full autonomy of ICANN to strict control over all decisions related to the Internet.

A nexus of intractable problems

The key question of this essay is: can multistakeholder processes and organizations be autonomous or do they need to be placed under the oversight of an authority recognized from outside the organizations? If they need to be under oversight, who exerts this and how?

The dilemma is quite stark: since governments cannot be placed under any other stakeholders' authority, the oversight in question can only be exerted by governments or IGOs, or by multistakeholder organizations designated for the purpose of oversight, or internally only and as part of the organizations themselves. The second case leads essentially to a multistakeholder organization wrapped around another, a shell game, a matryoshka of oversight processes that could literally become an "eternal golden braid". For example, if the WTO was to oversee a process, then those suspicious of the WTO would call on the Red Cross to oversee this oversight board, then this would be overseen by the World Meteorological Association or the International Labour Office, and so on.

So for all practical purposes we are left with the choice that oversight of multistakeholder organizations either be exerted by themselves or by governments directly or through IGOs – and this breaks a fundamental premise of the multistakeholder principle: the equality of all stakeholders, unless they all agree to have a *primum inter pares*. It is this that I will analyze in more depth.

Is oversight-less multistakeholder governance possible? Authors like Drezner, the realists Wu and others, the resignation of Hemmati, and the political realities of most of the world would lead us to think not; governments always have asymmetric power, the monopoly of legitimate violence, on their side. They have the law, the police, and the army; the border patrol, the customs and the excise agency; a monopoly on international representation; and 450 years of Westphalia ingrained in every rule and code.

It is very likely that even the most robust autonomous multistakeholder governance mechanism or organization can be captured, have the lights turned off, be astroturfed, face insurmountable lawsuits or detentions, and thus be disappeared, cancelled, emasculated or rendered redundant. It is very likely that true oversight-less multistakeholder governance is a Utopia, a fiction. For many it remains a goal and all energy must be applied to support it with a ratchet mechanism, one in which progress may be halted but not undone.

As is well known, the question of Internet governance was left as one of the major outstanding problems at the end of the first phase of WSIS in 2003. To make progress on this issue towards the second phase, the conference decided to create the WGIG, the Working Group on Internet Governance, of which this author was selected as a member.

Nominally, the WGIG had two years for its work, between the phases of the Summit; in practice this time was reduced to barely a half year between the date it was finally established and the long lead time it had for delivering its report and seeing it processed into translations, advance delivery and other strictures of the UN. Delivering on its charge, it presented a working definition of Internet governance, mapped the problem space, and analyzed some possible solutions.[16]

16. Working Group on Internet Governance. (2005). Report of the Working Group on Internet Governance. www.wgig.org/docs/WGIGREPORT.pdf

The WGIG did its work of mapping the problem space in a reasonable time. An especially difficult task was explaining to all members the structure and mechanisms of ICANN, particularly the balance among stakeholders, its openness, and the multiple safeguards against capture as well as complex checks and balances. This would become the basis for the acceptance that multistakeholder governance did gain within the WGIG.

Harder to achieve was the exploration of solutions to some of the many outstanding problems. The group decided not to touch basic issues like spam, security, intellectual property, trade and many others and spent long hours on the governance of the DNS, IP addresses and protocol parameters, which were labelled unfortunately as Critical Internet Resources.

The process towards a final document regarding options to change ICANN's governance scheme was accelerated and turned towards closure by a proposal made by this author in the last few weeks of work (the last workable session): since there were disagreements over all kinds of points about how Internet governance should be conducted, we decided to make a list of proposals and principles on which there were different levels of agreement, and to shape them into models that would at least condense the consensus and dissent within the group.

This gave rise to the four "models" of the WGIG, which went from a mild evolution of the multistakeholder system that was already in operation for ICANN to a model under full intergovernmental authority. These models include the possible formation of a permanent, full-authority Global Internet Council, a temporary but similarly constituted organization, a combination of a high-level policy consultative council with authority over and modifications to ICANN, and the recognition that there is no need for a centralized Internet governance organization. Fortunately this last result was embraced by WSIS. It has proven to be productive and robust and thus the project for intergovernmental oversight over ICANN, as well as projects for global oversight over Internet governance, did not become Summit resolutions.

The WGIG used the word "oversight" in the report but did not define it formally. At the time, and more so in retrospective, the usage of "oversight" refers in a mixed way to "supervision" and to direct authority. Some participants of WSIS and the WGIG proposing tighter, top-down, governmental oversight realized that direct operational authority could disrupt operations, send government-mandated officials into terrain for which they were not competent, and especially create litigious liabilities for the authorities that got involved. In consequence, even the proponents of the more interventionist oversight models accepted to demand authority at the policy and direction level and not in day-to-day operations, or "operational concerns". In the report and in WSIS resolutions some of this terminology also gave rise to the use of "public policy" as a proxy for "political considerations".

It should be clear that in these models oversight is understood as heteronomic and therefore breaks the balance between stakeholders. The multistakeholder mechanisms envisioned by the WGIG would be given only operational responsibility but, in different modalities, would shift the power away from the community. Only in the model that emerged from WSIS do the true multistakeholder structure and decision making continue and they are allowed to evolve further as appropriate for every issue.

What are the problems at the nexus of oversight and governance? Oversight and its removal are at least linked to legitimacy, authority, legality, credibility, trust and governability; also to a large degree to predictability, security, stability, robustness, resilience, adaptability and scalability. Depending on the concept of legitimacy one adopts, other linked categories may be process, transparency and accountability. We explored this nexus in the Strategy Panel on ICANN's Role in the Internet Governance Ecosystem led by Vinton Cerf, of which this author was a participant.[17]

Actors may perceive a need to impose heteronomic oversight over a multistakeholder process if they lose trust in it, that is, if there is a perceived legitimacy deficit. Discussions invoking oversight may also invoke accountability as a proxy for oversight, with the intent that the organization be accountable to the actors – i.e., to avoid the *petitio principii* implicit in this use of "accountability", to report to the actors in conditions that allow the actors to force change in the organization if they deem its processes or results unsatisfactory.

The change they may force may be in the processes, the operations or the actual persons in command and control positions such as a Board of Directors. Removal of directors seems to be one of the strongest ways the actors can impose their views on the organization. This is clear in a principal-agent model, in which the actors mentioned – the stakeholders – are principals and the organization is the agent.

This description of the process shows clearly that claims for accountability are thinly veiled claims for ownership over the organization, and that changes in accountability are nothing but shifts in the power balance between stakeholders and the organization, and among stakeholders themselves.

Now to quote van Ham,[18] "Legitimacy assumes tacit or explicit agreement with the rules-of-the-game, and… hinges upon cooperation and consent." Van Ham continues: "Legitimacy becomes more strained as the sense of community weakens and the physical distance between those in authority and the general public grows." "Legitimacy and accountability are problematic in international politics… Accountability ultimately depends on

17. Cerf, V. G. et al. (2014). Report of the Strategy Panel on ICANN's Role in the Internet Governance Ecosystem. https://www.icann.org/en/system/files/files/report-23feb14-en.pdf

18. Van Ham, P. (2010). *Social Power in International Politics*. London, New York: Routledge, p. 14 and *passim*.

some sort of mechanism to 'kick the bastards out', i.e. to translate public displeasure into a regime change." Van Ham goes on to discuss the sources of legitimacy and uses ICANN as an example that "non-hierarchical and network-like international institutions provide the structural conditions that allow discursive and argumentative processes to be successful."[19]

At the time the Panel did its work and published its report, we made recommendations for ICANN that would be applicable to other Internet governance organizations and processes, with a view towards increased autonomy. We proposed that the evolution of these organizations should be led by a spirit of stewardship, and directed to increased robustness and resiliency of the organizations and the resources placed under their stewardship. Transparency and accountability are recommended as means of maintaining a well-justified legitimacy.

We also recommended in favour of adaptability and scalability. While civil society, business and governmental stakeholders are generally concerned about the values of transparency and accountability, the technical community assumes these should be achieved but is more concerned about the efficacy of the organizations – suitability to purpose and ability to fulfill their mission – and therefore also to their capacity to change if circumstances change, and to scale up or down as needed.

We generally think of scalability as the response to increased values of design parameters, such as an increase in the number of domain names registered worldwide, in the number of TLDs, in the number of IP addresses, number of users, number of servers, gateways, bandwidth, attacks, contract violations, etc. We must also think of systems that may have to scale down, for example as could happen if contention over domain names were to diminish over time, or the automation of certain functions streamlined the operations of an organization. For ICANN, we have explored some sets of Internet users and producers and we find that they care little about transparency, accountability and representation, and instead live or die by the efficacy of ICANN in coordinating the Domain Name System and the central part of the allocation of IP addresses (these are results of informal canvassings).

Little could we know that a short time after the Panel finished its report the United States government's National Technology and Information Agency (NTIA, a unit of the Department of Commerce) would challenge the ICANN community to enable the end of the NTIA's limited but persistent functionality in the oversight of IANA. Many members of the ICANN community are – as of this writing – making progress towards a new institutional design for full multistakeholder governance of this function.

---

19. Quote from Risse, T. (2003). "Let's Argue!" Communicative Action in World Politics. *International Organization,* 54, 1-39.

It is almost needless to say that the process of attaining autonomy for the IANA function is a fulfillment of the WSIS and WGIG programme of a decade ago.

I am less sanguine about the more general question of oversight over Internet governance in general. The illusions of top-down control and of a central governance body have not gone away. One can see traces of the first in many national policies which create highly intrusive control over content and user behaviour, in countries in which measures such as previous registration, constant surveillance, and aggressive takedown and blocking measures are being instituted, sometimes by law. Traces of the second, akin to the delusion of a single world government, appear in proposals before the United Nations General Assembly for the WSIS+10 review as well as in the one-off NETmundial meeting, documents, and follow-up mechanism.

Members of the WGIG will surely be watching this year's IGF under the lens of the decentralized model, the tension between IGF and NETMundial, and the proposals for the IGF to produce concrete outputs. Some of these may not be compatible with the premises the WGIG proposed for the IGF in a fundamental way and thus foreclose its utility in the future.

Oversight as risk

For many multistakeholder Internet governance processes the imposition or strengthening of new oversight mechanisms is a risk, especially if they strengthen governmental powers over otherwise well-functioning coordination. This may be the case for anything among ccTLDs, anti-phishing coordination, the maintenance and growth of a commons (such as Open Access publications), and many others.

Risk is also present in the form of oversight that does not go away when a multistakeholder process proves its benefits, stability and legitimacy. In such cases, oversight may be analyzed in a risk-management framework. We have successfully applied this framework to other Internet governance issues like network neutrality.[20]

More severe forms of risk from oversight can be seen in content and conduct regulation, especially in some national and subnational levels. From subtle, generally accepted rules impeding illegal behavior to outright censorship and repression, the spectrum is too broad to deal with in detail here. The framework is useful in these cases but I will not introduce them in the analysis that follows; the reader can extend the risk analysis and management to them.

We may start our analysis with the case in which the imposition, growth or non-removal of oversight is considered detrimental. The desired goal of the organization is autonomy. Therefore it needs to manage the threat of oversight as follows:

20. Pisanty, A. (2013). Network Neutrality under the Lens of Risk Management. In L. Belli & P. de Filippi (Eds.), *The Value of Network Neutrality for the Internet of Tomorrow: Report of the Dynamic Coalition on Network Neutrality,* pp. 61-70. nebula.wsimg.com/a0d2191d5788b817791 5108786bfba7a?AccessKeyId=B45063449B96D27B 8F85&disposition=0

Identification and quantification

The organization must identify the impact and likelihood of oversight (as said above: imposition of oversight on an autonomous process, non-removal of oversight, increase in strictures of oversight that already exists.)

The impact of oversight by authorities will most likely be a loss of flexibility and with it a loss of robustness and resilience. The asymmetry among stakeholders that may be induced by oversight will probably polarize the organization. The parties associated with the authority will become "winners" and will be more able to impose their views and proposed solutions. The authority on the other hand must consider whether this in turn introduces the risk of lost legitimacy, abandonment of the process, and in consequence loss of legitimacy and of a marketplace for ideas which will dramatically reduce the nurturing of the decisions the organization is making. This flight can actually kill a process.

The likelihood of this risk cannot be estimated in general. In favour of increased likelihood are a shift to authoritarian rule, success and increased visibility of the organization, problems in the organization or in its relations to authority, and a few more. ICANN has suffered this risk repeatedly, not least during WSIS.

Avoidance

As is well known, risk avoidance is a primary step in managing risk. Just not getting there is one of the easiest ways to avoid hurt. In Internet governance, many organizations and processes have managed risk avoidance for the risk of oversight by remaining largely invisible to powers that would be interested in imposing oversight. ccTLD managers, for example, have kept low profiles, low prices for domain-name registrations, flexible policies that adapt well to conflicts such as with trademarks or the names of powerful people, etc.

Transfer

The discipline of risk transfer is traditionally exemplified by insurance and by outsourcing. These are hard to extend to governance processes mechanically but good analogues exist.

Governance processes may transfer risks by obtaining coverage – often sectoral – by larger, more powerful organizations less likely to become targets for single-stakeholder capture attacks. Thus civil society participants may seek support from broader coalitions and well-established NGOs; industry participants may seek support from national or cross-industry trade associations and chambers; and governmental actors facing private-sector capture attempts may invoke international organizations.

Response and mitigation

Once a capture attack is started, multistakeholder organizations need to mitigate its effects. They may need to enhance their performance, isolate

core functions from litigation, start public-relations and press campaigns or online petitions and even physical-space demonstrations of support that will deter or soften the attackers' stance.

Further steps may need negotiation in which zero-sum games should be avoided. This does not imply a bland call for win-win situations but does involve focusing on all actors' real problems, desired outcomes and incentives.

As an example, ccTLD managers have – often preemptively – equipped themselves with institutional structures such as advisory councils, which allow for a variety of stakeholders' views to be considered in policy development. These measures strengthen the organization's legitimacy, create champions for its cause in all sectors, and establish a two-way communication channel with broader communities. The importance of the two-way nature of the channels cannot be underestimated: it means that members of an advisory council, for example, may dissuade other parties from promoting legislation that would impose an unnecessary degree of control in an unfounded aspiration of oversight.

Another example is provided by the strategies of the Anti-Phishing Working Group (APWG). This is a very lightweight, effective organization which brings together technologists, cybersecurity specialists, affected parties such as banks and e-commerce sites, and law-enforcement authorities. The APWG has split its work into three streams: actively preventing and fighting phishing, creating an information asset that helps all parties against phishing, and starting an international campaign for prevention-class user awareness called "Stop-Think-Connect" in alliance with governments and IGOs such as the Organization of American States (OAS.)

These components of the APWG's strategy satisfy all parties and for governments in particular they provide a space for effective anti-criminal action, an asset whose stewardship engages all stakeholders, and a face towards the general users who feel desperately unprotected. The APWG thus becomes almost ironclad against ill-considered government intervention.

Recovery

Once an "oversight attack" has taken place and been repelled or mitigated, the multistakeholder organization or mechanism must recover its functionality and strengthen its defenses.

A case in point is provided by the .cl ccTLD (Chile), which was going to be subject to legislation that would damage its ability to serve the community. The organization was able to fend off this change and afterwards strengthened its operational excellence and social legitimacy. It remains a strong organization which serves the community well and whose principles gain professional and social recognition continuously, both within and outside the country. There is a similar case concerning .co (Colombia) in 2001.

Continuity

As an extension of the examples in the previous section, it can be seen that organizations must provide continuity of service, even if at reduced capabilities, during and after an attack. Massive resources are distracted for lobbying, campaigning, retaining personnel, etc., yet the core operation must be kept running and in fact improving even during the hardest of times.

The future

The future promises an expansion of multistakeholder participation and actual, final decision making, both globally and at national and local levels. The speed of technological and social innovation and its ability to cross borders, as well as the intrinsic global nature of entities such as the oceans, the atmosphere, the water cycle, finance, the Internet, human migration, etc. mandate creative, cross-jurisdictional multisector and therefore multistakeholder governance.

The challenge is all the more exciting as this type of governance must grow in ways consistent with democracy in at least some very broadly shared concept of democracy; democracy as one-government-one-vote is not fine-grained enough for the present and upcoming challenges. Now of course, the concepts of democracy vary widely and are given different levels of action – from denial through lip service to best practices – so acknowledging the democratic deficit of multistakeholder governance requires in turn concrete analysis of concrete situations and detailed institutional design.

Much of the future of oversight-less multistakeholder decision making hangs on the results of the IANA-oversight transition of ICANN. If this is successful it will provide both an example and a rich depth of analysis that will be applicable to other cases.

Cross-border collaborations of many different scales are only bound to increase as long as there is an open Internet. All organizations will need to discover ways to work better together, becoming both more participative and more effective. They will have to learn how to make decisions that are increasingly complex, face increasing uncertainty, and need to act in an increasingly decisive way.

"Talk shops" will want to evolve into decision-making mechanisms. Their participants will tend to build more autonomy over time. They will have to decide whether they structurally adopt an oversight umbrella and stay under it forever, whether they start under a ceiling and move away from it, or start from scratch in an autonomous space.

Conclusions and recommendations

Multistakeholder governance of the Internet provides numerous examples of stakeholders coming together to solve problems they have in common.

It is a laboratory for many other fields of endeavour. The complexity of the organizations varies enormously according to, among other factors, the "bindingness" of the agreements. Organizations such as ICANN, which intermediate numerous complex relationships among players who have a whole industry at stake, and whose resolutions may be binding for the parties in the form of policies and signed contracts, require complex rule-making procedures, mechanisms for review and potentially reversal and redress of decisions, as well as dealing with their own processes. More open, less binding processes, like the Internet Governance Forum, or smaller, focused organizations like APWG may operate with simpler rule books.

The need for oversight of process and decisions may be satisfied internally and may or may not appear sufficient to third parties. The more organizations learn to manage the risk of undue oversight the less energy they will have to devote to self-defence and the more they will have available for their core function.

Stronger, more trustworthy and more scalable than any oversight or top-down authority is stewardship. Vision-driven, generous leadership which looks primarily after the common good should be, more and more, the guiding paradigm.

The WGIG experience may illuminate the path for discussions to build or review such organizations. Good will and an open lens will make travel over that path lighter. As the Spanish poet Leon Felipe wrote, "It is not important to arrive first, what matters is for all to arrive together and on time."

Acknowledgments

Support from Facultad de Química, UNAM is gratefully acknowledged.

INTERNET GOVERNANCE FOR DEVELOPMENT

INTERNET GOVERNANCE FOR DEVELOPMENT: FROM DIGITAL DIVIDE TO DIGITAL ECONOMY

Baher Esmat

Ten years after the World Summit on the Information Society (WSIS Tunis, 2005), the WSIS+10 review is underway as stakeholders are taking stock of progress made, what has been achieved and what has yet to be achieved beyond 2015. This year also marks the 10th anniversary of the Internet Governance Forum (IGF), a key outcome of WSIS aiming to address broader Internet governance issues which, in large part, are directly linked to economic and social development. Moreover, before the end of this year, the UN General Assembly (UNGA) will decide on the renewal of the IGF mandate, and will review both the implementation of the WSIS outcomes and the Millennium Development Goals (MDGs).

The beginning

The development agenda had been right in the centre of the debate throughout the two WSIS phases in Geneva and Tunis. The Geneva Declaration of Principles was prefaced with a commitment by member states to enable "individuals, communities and peoples to achieve their full potential in promoting their sustainable development and improving their quality of life."[1] The same document emphasized that information and communication technologies (ICTs) "can be a powerful instrument, increasing productivity, generating economic growth, job creation and employability, and improving the quality of life of all."

The objectives of the Geneva Plan of Action were to "build an inclusive Information Society; to put the potential of knowledge and ICTs at the service

1. World Summit on the Information Society. (2003). Declaration of Principles. https://www.itu.int/wsis/docs/geneva/official/dop.html

of development; to promote the use of information and knowledge for the achievement of internationally agreed development goals, including those contained in the Millennium Declaration; and to address new challenges of the Information Society, at the national, regional and international levels."[2]

In Tunis, member states reiterated their commitment to the Geneva Declaration of Principles and Plan of Action, underlined the importance of removing barriers to bridging the digital divide and turning it into digital opportunity, and recognized that "access to information and sharing and creation of knowledge contributes significantly to strengthening economic, social and cultural development."[3]

Internet governance and development

Linkages between Internet governance and development were strongly present during WSIS with much emphasis on ensuring that developing and least developed countries have access to technical, financial and qualified human resources, and on promoting the effective participation of stakeholders of those countries in Internet governance processes.

The Working Group on Internet Governance (WGIG) was one of the very early international multistakeholder experiments that allowed participants from both developed and developing countries to engage in an open debate on Internet governance. Although the focus of the WGIG was primarily on the basics of what Internet governance is and what the public policy issues pertaining to Internet governance are, as well as the roles and responsibilities of the various stakeholders in Internet governance, the developmental aspects were addressed in many of the issues discussed by the WGIG and reflected in its final report. Moreover, the WGIG was an unprecedented opportunity for participants from developing countries to take part in in-depth and open Internet policy discussions in a way they had not experienced at a national level before. At that time, it was quite unusual in most developing countries that the making of any Internet policy or regulatory framework would involve non-government stakeholders and community members who have a stake in the Internet, which at the time was still emerging in these countries.

One of the key recommendations of the WGIG was the creation of a forum for discussion, which was adopted by member states in Tunis and called the Internet Governance Forum (IGF).

Since its inception, the IGF has been instrumental in addressing the issue of stakeholder participation from developing and least developed countries in its workshops and main sessions. Additionally, it has worked on strengthening

2. World Summit on the Information Society. (2003). Plan of Action. https://www.itu.int/wsis/docs/geneva/official/poa.html

3. World Summit on the Information Society. (2005). Tunis Commitment. https://www.itu.int/wsis/docs2/tunis/off/7.html

this participation over time by giving priority for workshops organized by stakeholders from developing countries. And more importantly, the IGF has provided an open space for knowledge sharing and networking across all stakeholder groups, and acted as an inspirational platform for ideas and initiatives in support of the developmental agenda. It has also successfully spawned a large number of national and regional IGFs around the world, many of which are in developing countries, to foster and encourage participation in these forums from within the local communities.

The developmental aspects of Internet governance, and perhaps ICT in general, have been an integral part of the IGF programme since the early beginning.[4] Internet Governance for Development (IG4D) was the overarching theme of the first two IGF meetings of 2006 and 2007. The overarching theme of the IGF meetings of 2011, 2012 and 2013 contained the word development. Main sessions on IG4D were part of the programme of IGF 2010, 2011 and 2012. IG4D has been a crosscutting theme in almost all IGF meetings, being addressed in the various sessions on access, diversity, openness, cyber security and others. The majority of national and regional IGFs have been established in developing regions where the issue of IG4D has been substantial in their discussions.

It is worth noting that during WSIS, the management of the critical Internet resources, namely domain names and Internet addresses, was the main controversial issue throughout the negotiation process in Geneva and Tunis. Nonetheless, quite a number of developing countries were equally concerned with the issue of bridging the digital divide, realizing that getting their people online was the main challenge they had to deal with. At that time, many developing countries were embarking on initiatives with the aim to increase access to ICT and Internet. Governments were the main impetus behind these initiatives through partnerships with the private sector and non-governmental stakeholders. In some cases, such initiatives were implemented as part of an overall ICT strategy that encompassed other tracks besides access such as e-government services, development of local content, and capacity building. Over time, national ICT strategies evolved to address more sophisticated issues like e-commerce, cyber security, cyber crimes, etc. The results of these strategies were positive in terms of number of Internet users, number of computers and mobile devices sold, Internet traffic volumes and so on. But to what extent have they actually contributed to bridging the digital divide?

There is no single answer to this question. One argument here is that the digital gap between those who have access and those who do not has shrunk, evidenced by the fact that the vast majority of users who have come online over the past 10 years are from Asia and Africa. The counter argument to that is that Internet access is only one facet of the digital divide and the extent to which societies can embrace ICTs in their day-to-day lives is what actually matters in making the transformation towards digital societies.

4. https://www.intgovforum.org

The transition to digital economy

The Internet and ICT in general open doors to numerous opportunities for those who can master them. This leaves those who cannot at risk of exclusion from high-quality education, employment and almost any chance for achieving better lives. Therefore one could argue that while developing countries have been working hard on making access more affordable to their citizens, the digital divide has continued to widen because the developed countries have been ahead of the game in grasping the benefits of the Internet and today their focus has shifted far beyond Internet access to Internet economy.

Today, 10 years after WSIS, the digital divide, small or big, still exists, but that in itself is not the challenge for developing countries. The real challenge they are facing lies in their ability to transform into digital societies that are capable of adapting technologies to achieve social and economic welfare. To that end, developing countries should make a strategic shift from vertical ICT national plans to more horizontal digital economy strategies that accelerate the adoption of ICT in almost every sector of the economy from commerce to healthcare, education, agriculture and public services, among others.

In 2014, Boston Consulting Group (BCG) conducted a study on frictions in the Internet economy.[5] BCG examined 65 different economies that cover more than 80% of the world's population and more than 90% of the world's economic activity. The study indicated that elements related to infrastructure, access to online services, and ability to conduct business online, together with the necessary supportive regulatory frameworks are crucial to creating vibrant Internet economies.

The transition towards digital economies emerged in the developed world a decade or so ago, and only recently are developing countries starting to follow suit.

National digital economy strategies normally comprise three main elements:

- Infrastructure and access
- Digital services
- Capacity development.

However, a fourth element is the enabling environment of business and regulatory frameworks that cut across the three elements as each one involves the policy frameworks.

The following sections will look into each of the areas of infrastructure, services and capacity development in more detail, attempting to highlight some of the developments made and challenges faced.

---

5. Boston Consulting Group. (2014). *Greasing the Wheels of the Internet Economy*. https://www.bcgperspectives.com/content/articles/digital_economy_telecommunications_greasing_wheels_internet_economy

Infrastructure and access

Over the past few years many developing countries have witnessed significant progress in this area. According to the 2014 Submarine Cable Market Industry Report,[6] investments in global submarine cables between 2008 and 2014 amounted to approximately USD 11.8 billion. More than half of this investment (USD 6.7 billion) was in China, India, Brazil and South Africa, and about 25% of it was made in Africa as new cable systems worth USD 2.9 billion were deployed in Sub-Saharan Africa, as well as along its east and west coasts.

At the national level, major investments have been made in developing countries to increase broadband penetration by installing optical fibre networks as well as expanding wireless broadband and mobile data services nationwide. The evolution of mobile technologies along with the advent of low-cost smartphones have been instrumental in the growth of Internet use in developing countries to the extent that in some countries the number of mobile Internet users has surpassed the number of fixed line users.

Investments in infrastructure and evolution in mobile technologies have significant impact on Internet penetration rates. Over the past decade two billion users have come online, of which almost 50% have come from Africa, China and India alone.[7] Growth will continue to come from developing countries with the expectation that the next billion Internet users will mostly be from China, India and Indonesia and will primarily connect via mobile devices.[8]

Yet, despite all the expansions in infrastructure, both nationally and internationally, Internet access remains a key challenge in many parts of the world. Penetration rates in developing countries are still low. Statistics estimate that only 31% of the population of the developing world is online.[9] This figure falls even further to 10% in least developed economies. Cost of access seems to be the main barrier. Recent data shows that while the average cost of broadband Internet is between 1% and 2% of monthly per capita income in developed countries, a basic broadband subscription in developing countries costs over 27% of average earnings.[10] Other barriers to access in developing countries include lack of infrastructure in rural areas, high illiteracy rates, and lack of local content and services.

---

6. Terabit Consulting. (2014). *Submarine Telecom Industry Report*. www.terabitconsulting.com/downloads/2014-submarine-cable-market-industry-report.pdf

7. www.internetworldstats.com

8. Casti, T. (2013, 30 August). Who Will the Next Billion Internet Users Be? *Mashable*. www.mashable.com/2013/08/30/next-billion-internet-users

9. International Telecommunication Union. (2013). *Measuring the Information Society*. https://www.itu.int/en/ITU-D/Statistics/Documents/publications/mis2013/MIS2013_without_Annex_4.pdf

10. Alliance for Affordable Internet. (2013). *The Affordability Report*. www.a4ai.org/wp-content/uploads/2014/01/Affordability-Report-2013_Final-2.pdf

To overcome the barriers of access, governments in developing countries have adopted national policies and regulatory frameworks in particular with respect to affordability. Examples of such policies include opening the market for competition, stimulating private investments, promoting public-private partnerships in major infrastructure projects, allowing the sharing of network resources and creating universal service funds. Of course, the impact of such policies varies widely from one country to the other as many factors that are not necessarily related to infrastructure, such as high illiteracy rates, lack of skills and lack of local content, hold back the growth in the number of users in some of those countries.

Consequently, a holistic approach towards developing the entire ecosystem is necessary, where investments in innovative services and human capacities go along with investments in infrastructure and access.

Digital services

Social media barely existed when Internet governance spurred a hot debate among stakeholders during the time of WSIS. When WSIS concluded in 2005, Facebook was not open for public registrations, YouTube was just born and neither Twitter nor Instagram existed. At that time terms like digital marketing and apps did not exist, nor did jobs like social media manager and app developer. Today there are one billion users logging into Facebook in a single day, there are nearly four million apps available through online stores,[11] and there are numerous successful businesses that are built entirely around social media.

What does that mean? It simply means that the Internet today is not the Internet of 10 years ago, and that the innovation in applications and services is one of the things that are making a difference.

Developing countries have capitalized on this innovation and made certain progress in leveraging digital technologies to aid social and economic development. Numerous initiatives have been implemented in various sectors, from education and healthcare to agriculture and trade. Some of those initiatives have been serving rural and disadvantaged communities by providing them access to quality information to help them improve their living standards. An OECD report highlights examples of mobile and online tools launched in developing countries in the four areas of agriculture and fishing, healthcare, education and mobile banking.[12] The applications are meant to serve different communities from marginalized groups and underserved regions with limited access to education and low income rates. From services that provide information about local fish markets and crop advisories, and others that aim to improve rural healthcare services

11. www.statista.com/statistics/276623/number-of-apps-available-in-leading-app-stores/

12. OECD. (2013). *Ensuring the Global Participation in the Internet Economy for Development.* Digital Economy Papers No. 227. www.oecd-ilibrary.org/docserver/download/5k437p2rp4bq.pdf

and reduce infant and maternal mortality, to those that provide educational multimedia materials, as well as mobile money transfer services, the report reviews multiple experiences from countries like India, Sri Lanka, Philippines, Pakistan, Kenya, South African and others and examines their impact on end users and the community at large.

According to the OECD report, some applications in agriculture have allowed farmers and fishermen to increase their incomes. Tele-centres and mobile applications in healthcare and education seem to have had positive effects on communities that use them.

However, despite the positive impact of many of these initiatives, key challenges remain, namely scalability and sustainability. The exception here is Kenya's mobile banking system (M-PESA), launched in 2007 and successfully expanding to several countries over the course of a few years. M-PESA now serves more than 70% of the adult population in Kenya and is the most successful mobile banking system in the developing world.

Evidence shows that there are not many success stories from developing countries with the size of M-PESA. Only a few initiatives seem to be sustainable with the majority operating at a small scale with limited resources and not able to grow or expand beyond their geographical boundaries. Some services cannot even expand largely at national level, whether due to lack of funding or lack of diversification and good management of funds, as the OECD report identifies. The report suggests that diversification of public and private funds along with innovative business models (e.g. flexible pricing schemes) may help with the long term sustainability and scalability.

Another key area that may hold back the growth of digital services in developing countries is the lack of local content. Many of the applications that serve local communities depend on local content that is relevant to the users' needs and in a language suitable to them. Professional development of digital content is lagging behind in many developing countries due to lack of the ecosystem of individual skills, business models and legal frameworks that can drive the content industry forward. To address this, some governments in developing countries took the lead by providing mobile and online public services at a large scale, which yielded positive results, encouraging more investments in this industry.

Capacity development

In fostering digital economies of the 21st century investing in human capacities is as essential as investing in infrastructures and services. Users require advanced skills to make full use of digital services, beyond the basic skills of using applications and devices, for developing such tools.

Over the past two decades, enormous resources have been spent in ICT capacity-building programmes in developing and least developed countries.

The programmes vary from basic ICT literacy to more specialized courses in areas such as computer networks, software development and security. The target audience varies accordingly from those with minimal to no ICT skills to school children as well as tech-savvy university graduates and young engineers. Other programmes are designed for policy makers to help them understand the technical side of the policy issues they deal with.

The majority of these programmes have been implemented through partnerships involving different stakeholders from governments, the private sector, civil society, academia and the technical community, with a long term objective of fostering economic and social development by helping those enrolled in the programmes develop their skills, get better jobs, and thus enhance their living standards. One example of technical forums where numerous training activities have been taking place is the Internet network operators' groups (NOGs).[13]

Yet despite the positive effect of these programmes in developing qualified and skilled people, their impact is nevertheless limited within the ICT sector and has not thus far extended to other sectors and industries. Major challenges still remain in the talent pool in sectors such as education, healthcare, manufacturing and small and medium enterprises (SMEs).

This shortage in skills cannot disappear overnight despite the amount of resources spent on capacity building. This is because the challenge is much larger than building capacities. The issue is deeply rooted in the education system at all levels from primary school to university, including the curricula and teachers, making it extremely difficult to have a quick fix. Ongoing efforts to reform the education system in developing countries and link it with the job market should go hand in hand with ICT capacity-building efforts. Both tracks are necessary and complementary to one another.

Over and above that, entrepreneurship is key to advancing economic growth and in supporting the transformation of the digital economy from consumption to production. Developing entrepreneurship skills is important to meet the pressing needs of the economies in developing and emerging countries, particularly in regards to creating job opportunities. Over the past decade, developing countries have witnessed an increasing number of entrepreneurs and technology startups. However, more work is needed to further develop the entrepreneurship ecosystem in developing countries. Governments have to provide the enabling business and regulatory environments, as well as work with other stakeholders from the private sector, academia and non-governmental organizations (NGOs) to foster an ecosystem in which entrepreneurs can thrive.

13. https://en.wikipedia.org/wiki/Internet_Network_Operators%27_Groups

Looking ahead

The next billion Internet users will come from developing countries and will be mobile users. Developing countries have no choice but to expand mobile Internet access to all citizens; otherwise they, both the citizens and their countries, will miss the opportunity to become part of the future.

Investments in infrastructures should continue to be a priority for developing countries, particularly in rural areas. Smart policies are necessary to encourage private sector partnerships, promote the sharing of network resources and innovative spectrum management solutions and ensure affordability of access to bandwidth as well as computer and mobile devices. In this context, smart policies mean agile and flexible policies able to adapt to technology advancements and market needs. Although governments have a prime responsibility in setting policies and regulatory frameworks, cooperation with other stakeholders from industry and NGOs is of paramount importance to foster healthy business and regulatory environments, to ensure the smooth implementation of projects and initiatives.

Legislators in developing countries should review and update the existing laws, to enable the dissemination of digital services in both the public and private sectors, making them more suitable for the digital environment. This together with other policies, including ongoing capacity-building efforts, can stimulate industry to further capitalize on digital technologies and create new opportunities for entrepreneurs and a high-talented workforce.

The transition to a digital economy is a long journey that requires a paradigm shift on several levels. A holistic approach is necessary in forging national digital strategies to ensure positive and considerable impact. While developing countries are still at the beginning of the journey, other more developed countries have already come a long way and are leading the way in making progress, adopting the tools of the 21st century's economy and perhaps becoming success stories for others to follow.

THE WGIG LEGACY AND THE REENGINEERING OF DECISION-MAKING PROCESSES IN AFRICA

Olivier Nana Nzépa

The advent of the Internet has created immeasurable expectations in Africa. The rapidity and extent of changes driven by technology have revived the leapfrogging theory, developed in the 1940s by the American economist, Joseph Schumpeter. Some Africanists, impatient and in a hurry, have tried to replace the leapfrogging theory by the "cheetah haul".[1] An expression of the desire and urgency to catch up! If such a theory is realized, the Internet could enable Africa to jump over all other phases of development (agricultural, industrial, nuclear) to propel itself directly into the knowledge economy, considered in Rostow's[2] theory as the most advanced stage of human development. More than a decade after the adoption of the Internet by almost all African countries, increasingly sophisticated statistics do allow these predictions to be tested.

The anticipated radical transformation has yet to materialize. However, major advances are noticeable. And most importantly, the decision-making process advocated and experienced during WGIG proceedings has impregnated the very fabric of most of the dealings related to Internet issues in Africa. Participatory and collaborative efforts have led to the results described by The Internet Society in its 2015 report: Internet levels are at about 20%; mobile subscriptions are at around 70%; mobile broadband access accounts for more than 90% of Internet subscriptions. "In the past five years, submarine cables have brought a twenty-fold increase in international bandwidth. In the same period, the terrestrial infrastructure also

1. Ekow, G. (2005). Expression used during presentation at ICANN, Johannesburg.

2. Rostow, W. W. (1962). *Les Étapes de la croissance économique*. Paris: Editions du Seuil.

doubled."[3] What could then explain the high cost of access and usage and the unbearable cost of broadband that are greatly affecting the poverty alleviation efforts on the continent? African users are paying up to 30 or 40 times more for Internet access than their peers in developed countries. A research study pioneered by Research ICT Africa (RIA) reveals that African users spend between 12 to 50% of their income on social communication. The percentage is around 2% in the developed world, including leisure (cinema, theatre, books).

This chapter is a tentative response to a question at the heart of Internet development in Africa. The velocity of technological changes will make Africa's race towards the knowledge economy look like the torture of Sisyphus as long as all the human brains on the continent are not put together. In less than 10 years, computer systems have gone from mainframes to wearable; from server to cloud computing and from Internet to Internet of Things (IoT). Each stage represents tremendous knowledge management challenges and burdens for countries with limited resources. 2015 marks the end of the Millennium Development Goals, now replaced by Sustainable Development Goals. The African Union is launching its Agenda 2063. The agenda spells out development aspirations for the next 50 years. Observers are convinced that in order to effectively reach the set targets, fundamental changes should be brought about in target-setting mechanisms, implementation strategies and assessment of results.

This brief account sets the stage for the structural changes, political transformations and the innovative way the multistakeholder approach has brought to the handling of very complex issues. It defines the conditions under which heavy constraints such as those hampering development goals could be alleviated. This contribution has three parts:

- Apprehension of the concept and the institutions in charge in Africa
- The level and conditions of appropriation of the Internet in Africa
- The challenges facing multistakeholder approaches to development projects and recommendations in the light of these two pressing agendas.

Concepts and institutions in charge

Concepts

Entrenching the multistakeholder approach in African decision-making processes was not an easy ride. The reason Internet governance as a concept carries many deafening fantasies and paralyzing fears in Africa is due to the traumatic circumstances in which the governance concept was introduced by the Bretton Woods institutions following the economic crisis

3. Nyirenda-Jere, T., & Biru, T. (May 2015). *Internet development and Internet governance in Africa*. Internet Society. www.internetsociety.org/sites/default/files/Internet%20development%20and%20Internet%20governance%20in%20Africa.pdf

of the late 1990s. The World Bank introduced the concept as a supplement to the structural adjustment imposed upon most African countries in these years. The World Bank defines governance as "the manner in which power is exercised in the management of a country's economic and social resources for development." Therefore the governance of a country is good when it reforms its political and social institutions, so as to ensure economic growth and sustainable development. This is precisely the case when governance is sound and transparent and when the state guarantees to the market the economic conditions for its development.

This normative and prescriptive approach aims at liberalizing politics and especially the economy, through the democratization of the political scene, development of competition, decentralization and privatization of public enterprises, in addition to the reform of the civil service and the development of tax and legal standards conducive to private investment.

For the Organisation for Economic Co-operation and Development (OECD), governance is a means to achieve the highest sustainable economic growth and employment and raise the standard of living in member countries, while maintaining financial stability, and thus contribute to the development of the world economy.

For UNDP, governance comprises the mechanisms, processes and institutions through which citizens and groups articulate their interests, exercise their legal rights, meet their obligations and manage their differences. Good governance is, among other things, participatory, transparent and accountable.

The pillars of good governance are:

- Democracy: it is essential to create and maintain an environment conducive to equitable development. Hence, the importance of parliament, the electorate and the institutions that support the Constitution and protect citizens.
- Decentralization: facilitating local governance that enables grassroots communities to manage their own affairs by easing contact between the central authorities and local authorities, so as to better respond to people's concerns.

Achieving these objectives requires the political restructuring of the states. This has been accompanied by the withdrawal of states from the economic sphere, the development of active citizenship by taking into account, on the political scene, the views of other actors, namely the opinion leaders (leaders of opposition parties and the various representatives of civil society).

As such, governance carries administrative technology, ideology and ethical dimensions. As administrative technology, the concept is instrumental in mobilizing projects which politically and economically make sense and in streamlining organizations to make them successful. The technological

aspect refers to a set of regulatory principles, or sometimes a set of indicators useful to prevent or correct power crises.

As an ideology, governance derives from the neoliberal paradigm which promotes the free market economy and standards of a given mode of production. Marie Claire Smouts says: "The concept of governance is what the major funding agencies have made of it: an ideological tool for a policy of minimum state."[4]

Its ethical dimension is reflected in the fact that it appears as a mode of political and economical production of human sense, therefore it is likely to correct the crisis that may occur between the exercise of power and aspirations of citizens to welfare and happiness.

Governance is a political rationality governed by five major principles, namely:

- The principle of transparency under which government decisions must be submitted for consideration by civil society or parliament.
- The principle of efficiency according to which governments should provide citizens with good quality services.
- The principle of responsiveness by which the public authorities must be flexible in the rational management of human resources, taking into account, for example, the expectations of civil society in the definition and implementation of projects of general interest.
- The principle of foresight which means that public authorities are able to anticipate potential problems on the basis of demographic, economic and political data observed and well analyzed so that the current management does not hurt the citizen, nor the future generations.
- The principle of the rule of law, meaning that public authorities should ensure the implementation of public standards according to the requirements of the economy.

The promotion of such a mode of regulation without sufficient justification made the African countries feel governance has been imposed upon them, that they have been reduced to the role of guardians of the global economic market.

This is the context in which the Internet governance concept surfaced. The soft WGIG approach expanded the concept and rendered it not understandable, as Jovan Kurbalija and Eduardo Gelbstein write,[5] "with a simple digital-binary logic." In fact, the Internet governance concept was used for the first time in Africa in 1998, for a workshop themed "Internet Governance in Africa" that followed the setting up of ICANN. The purpose was to launch institutions that could support the growth of the Internet in Africa.

4. Smouts, M. C. (1999). Cited in *Gouvernance*. Paris: Centre de Documentation de l'Urbanisme, p. 24. www.cdu.urbanisme.equipement.gouv.fr/IMG/pdf/gouvernancemiseajour_cle798d41.pdf

5. Report of the Working Group on Internet Governance. www.wgig.org/docs/WGIGREPORT.pdf

The WGIG provided in 2005 the following working definition: "Internet governance is the development and application by Governments, the private sector and civil society, in their respective roles, of shared principles, norms, rules, decision-making procedures, and programmes that shape the evolution and use of the Internet."[6]

The emphasis on "their respective roles" and "shared principles" alleviate in some way the hurdles of governance outlined above, even in the presence of other constraints such as the need to build infrastructures and adopt norms, revive the judicial system, build a knowledge economy, make the Internet an enabler to development and pay attention to social and cultural issues. This soft stance has encouraged African heads of state and government to commit and reaffirm their commitments to Internet governance and its model in various circumstances, notably through their African Union Declaration, which states:

> Re-affirming the commitments made during the Geneva and Tunis World Summits on the Information Society of a shared vision of Internet Governance (IG) culminating in the adoption of a Declaration of Principles and a working definition of IG; Acknowledging that Africa's voice in global Internet Governance is critical to the stable development of the global economy that is intertwined with Africa's economy and needs to be significantly elevated… Noting with concern that less than 20% of Africans are online, that the majority of those not connected are women and the rural poor, and that the average cost of fixed line and mobile internet exceeds 50% of average per capita income… Mindful that Internet Governance principles should exemplify and uphold the basic tenets of an open, neutral, resilient, inter-operable Internet which have led to its remarkable success today, and that they should also form the foundation for any future engagements of all stakeholders in national, regional and international Internet-related policy making efforts.[7]

On Internet governance principles

The Declaration reaffirms that Internet governance is a means for making the Internet accessible to all in a secure and stable manner and promoting cultural and linguistic diversity through content that is accessible to all. Therefore, it invites all stakeholders to harness the potential of ICTs to help in achieving the internationally agreed development goals, including the Sustainable Development Goals.

The second legacy of the cross fertilization of WSIS and WGIG encounters is the excitement about the Internet, translated through the multiplication of organizations in charge of taking Africa into the knowledge economy, using a

6. Ibid.

7. African Union Declaration on Internet Governance (2015). dotconnectafrica.org/wp-content/uploads/2015/06/AU-Declaration-on-Internet-Governance-draft-0-for-Public-Comments-May-2015.pdf

multistakeholder approach. Dozens of organizations have emerged in less than 15 years, making one of the most lively Internet ecosystems. The heads of state and government have strongly recommended to the regional economic communities, regional organizations and regional offices of the UN Economic Commission for Africa (ECA) to play a leading role in and facilitate national and regional IGFs in their respective regions; and to the AU Commission, the NEPAD Agency and ECA to develop a framework for coordination and participation of member states, specialized institutions and regional economic communities in Internet governance discussions and related public policy processes, including but not limited to those taking place at the UN, AU, ITU, ICANN, IETF, HRC, AfriNIC, ISOC, AfTLD, IGF, Africa IGF, regional and national IGFs.

The African Internet ecosystem using the multistakeholder approach

An increasing number of African organizations are striving to make Internet governance a reality. They all share the principles of multistakeholder cooperation as advocated by the WGIG. They are presented below with their respective roles.

The African Network Information Center (AfriNIC)

Established in 2005, as a non-government, non-profit membership-based organization with headquarters in Mauritius, AfriNIC is a Regional Internet Registry (RIR) responsible for distributing and managing Internet number resources, such as IP addresses and Autonomous System Numbers for Africa. The network provides stakeholders the opportunity to discuss Internet policies that affect the region twice yearly. It also offers training opportunities, workshops, tutorials, and peer exchanges. In 2010 AfriNIC set up an AfriNIC Government Working Group (AfGWG) aiming to work with African governments and regulators in addressing general Internet governance and the challenges of building an effective Internet economy in Africa.

African Network Operators' Group (AfNOG)

AfNOG is a forum established in 2000. It brings together operators of Internet-connected networks to share technical information and exchange on issues requiring cooperation for the development of Africa's network and Internet infrastructure.

Africa Research and Education Networks (AfREN)

AfREN was established in 2007. It is a grouping of research and education networks (RENs) that holds annual meetings, providing RENs a platform to discuss and coordinate activities, and share best practices on implementing networks for the research and education community in Africa.

African Top-Level Domain Association (AfTLD)

The AfTLD was established in 2002. Its purpose is to bring together managers of country-code top-level domains (ccTLDs) in order to coordinate and collaborate on issues pertaining to Africa's Domain Name System (DNS) and ccTLD management. The secretariat of AfTLD is in Nairobi.

The Internet Society (ISOC)

ISOC has a bureau and chapters in Africa. They actively participate in Africa's Internet development.

The African Peering and Interconnection Forum (AfPIF)

The AfPIF started in 2012 as an annual multistakeholder forum. Its goal is to improve the efficiency and cost effectiveness of cross-border Internet infrastructure and services in Africa. AfPIF serves also as a forum where opportunities and challenges affecting interconnection are discussed.

The Africa Computer Emergency Response Team (AfricaCERT)

AfricaCERT is Africa's response to threats to the health of Africa's Internet systems. It is an umbrella body for CERTs or CSIRTs (Computer Security Incidence Response Teams) aiming to promote establishment of CERTs in various African countries. The network was launched in 2012.

The Africa ICANN Community (AfrICANN)

AfrICANN brings together stakeholders involved or interested in ICANN processes to discuss issues of common interest. It also provides the space to engage more actively with ICANN in developing and implementing ICANN's strategy for Africa, which was launched in 2012.

The Africa Internet Summit (AIS)

The AIS was launched in 2012. It is a multistakeholder yearly event, combining workshops, conferences and networking dedicated to the Internet industry. The various African organizations convene to discuss and exchange ideas and information on the Internet and ICT industry in Africa, giving priority to users' needs.

The Africa DNS Forum

The Africa DNS Forum was launched in 2012. The initiative is a joint collaboration between the Internet Society, AfTLD and ICANN. The purpose is to provide a platform for the advancement of the DNS industry in Africa. The yearly Forum promotes better collaboration between African key stakeholders – registries, registrars, registrants, DNS experts, government representatives, and policy makers – aimed at finding ways to grow and sustain Africa's ccTLDs and explore new opportunities in the DNS industry.

The African IXP Operators Association (Af-IX)

Af-IX is the outcome of a DFID funding initiative to maximize the collective benefits of interconnectivity for IXPs in Africa. Af-IX provides a platform for capacity building, peer learning and exchange of best practices.

The Africa IGF and regional IGFs

The Internet Governance Forum (IGF) arose from the World Summit on the Information Society (WSIS), held in Geneva in 2003 and in Tunis in 2005. In addition to the annual global IGF, the Tunis Agenda had advocated the establishment of national and regional IGFs. The Dakar Ministerial

Roundtable held in 2011 during the ICANN 42 proceedings welcomed the Launch of the African Internet Governance Forum (AfIGF).

The AU ICT Ministers meeting in Khartoum in 2012 requested member states to promote the organization of national IGFs aimed at facilitating dialogue between all ICT stakeholders on development issues and the participation of their respective countries in regional and African IGF (AfIGF) activities as well as in the global IGF. As of 2015, there are five regional IGFs, for each of the geographic regions in Africa, and a continental IGF:

The East African IGF (EAIGF), launched in 2008 as part of a joint project between the Association for Progressive Communications (APC) and the Kenya ICT Action Network (KICTANet).

The West African IGF (WAIGF), launched in 2008 and strengthened in 2009 through a joint project managed by APC. The WAIGF covers 15 ECOWAS member states.

The Southern Africa IGF (SAIGF), launched in 2012 in Johannesburg, South Africa and co-convened by the NEPAD Agency, APC, and the Southern Africa NGO Network (SANGONeT).

The Central African IGF (CAIGF), launched in 2012 in the Democratic Republic of Congo.

The North African IGF (NAIGF), launched in 2012. NAIGF was replaced in 2013 by the wider Arab IGF that covers all the Arabic speaking countries in North Africa and the Middle East.

The African Internet Governance Forum (AfIGF), launched at the global IGF in 2011, held its inaugural meeting in Cairo, Egypt in September 2012. The AfIGF's secretariat is hosted by the African Union Commission, with the support of the UN Economic Commission for Africa (UNECA).

The New Partnership for Africa's Development (NEPAD)

The New Partnership for Africa's Development (NEPAD), an African Union strategic framework for pan-African socio-economic development, is a vision and a policy framework for Africa in the 21st century. NEPAD is a new intervention spearheaded by African leaders to address critical challenges facing the continent: poverty, development and Africa's marginalization internationally.[8] NEPAD has an e-Africa programme which aims "to pursue cross-sector initiatives so that ICT is entrenched in all social sectors, e-services are developed and Africa is digitally competitive."[9]

8. www.nepad.org/regionalintegrationandinfrastructure/infrastructure/ict

9. Ibid.

Other regional and international institutions

At the regional and international levels, there are organizations playing a critical role in Internet activities in Africa, such as:

ICANN

The Internet Corporation for Assigned Names and Numbers (ICANN) is a non-governmental organization established in 1998. ICANN is responsible for the management and administration of the DNS and coordinating registries for the Internet's unique identifiers: IP addresses (and related resources), protocol-parameters, and top-level domains. ICANN organizes public policy meetings three times each year. The meetings are held on a rotational basis in different regions of the world. Each encounter features a bottom-up approach, favouring multistakeholderism and consensus-based process, dealing with policies and processes related to the Internet's naming and numbers system. Africa has been host to eight of the more than 50 meetings held so far. It will again be host for ICANN 55 scheduled in 2016. Pierre Dandjinou has been appointed ICANN's Vice President for Stakeholder Engagement for Africa in 2012. The move followed the ICANN announcement of the launch of an ICANN Africa Strategy and could be interpreted as a clear answer to the ministerial round-table call in 2011, for a greater presence of ICANN in Africa and support for increased participation of Africans in ICANN and the DNS industry.

Internet Society

The Internet Society is dedicated to the promotion of openness and transparency in the development, evolution and use of the Internet. The network of more than 70,000 members in 100 chapters spread across 80 countries and 145 member organizations has been instrumental in African initiatives, such as the implementation of the African Internet Exchange System (AXIS) project or the support to the African Union for its Internet interconnection initiative.

IETF

African engineers are participating in the Internet Engineering Task Force (IETF), in charge of producing standards and technical documents that are used for the design, use and management of the Internet since 1986. The IETF is an open organization, fuelled by volunteers around the world, who work in their individual capacity. The IETF is working to shape the future of Internet.

ITU

The International Telecommunication Union (ITU), founded in 1865 as the International Telegraph Union, became a specialized body of the United Nations in 1947. Members of the ITU are primarily governments. There are 193 member states in ITU. It also accommodates members from the private sector and academia and associate members from

non-governmental and civil society organizations. The ITU is in charge of allocating global radio spectrum and satellite orbital slots. Developing the technical standards that ensure networks and telecommunication technologies seamlessly interconnect, and improving access to telecommunications and information and communication technologies (ICTs) for underserved communities worldwide also fall under its responsibilities. The ITU has been instrumental in the organization of the WSIS process and accompanied African states in the development of their telecommunication sectors through its Telecommunication Development Sector branch (ITU-D).

The African Union

The African Union (AU) is composed by 54 countries in Africa. Established on 26 May 2001 in Addis Ababa and launched on 9 July 2002 in South Africa, the AU replaced the Organisation of African Unity (OAU). Under the leadership of its former Commission President, Alpha Oumar Konaré, the African Union started to get involved in Internet governance issues, notably by encouraging the development of IXPs through the AXIS project, establishing the Convention on Cybersecurity and Personal Data Protection, and spearheading the application for the .africa TLD.

The Internet Governance Forum (IGF)

The IGF was created after the second leg of the World Summit on the Information Society (WSIS) in November 2005 in Tunis to serve as a "neutral, non-duplicative and non-binding process", with "multi-lateral, multi-stakeholder, democratic and transparent" operations and with no involvement in the technical aspects of the Internet. The IGF mandate focuses on discussing and awareness-raising (about Internet public policy issues), facilitating engagement between stakeholders, identifying emergent issues, and building capacity. After two terms of five years each, the IGF is under discussions to renew its mandate beyond 2015. After being host of two IGFs – 2009 in Sharm el-Sheikh and 2011 in Nairobi – African stakeholder contributions have set up a Multistakeholder Advisory Group (MAG), to take IGF messages and proceedings to the grassroots, and feed the IGF with African concerns and issues.

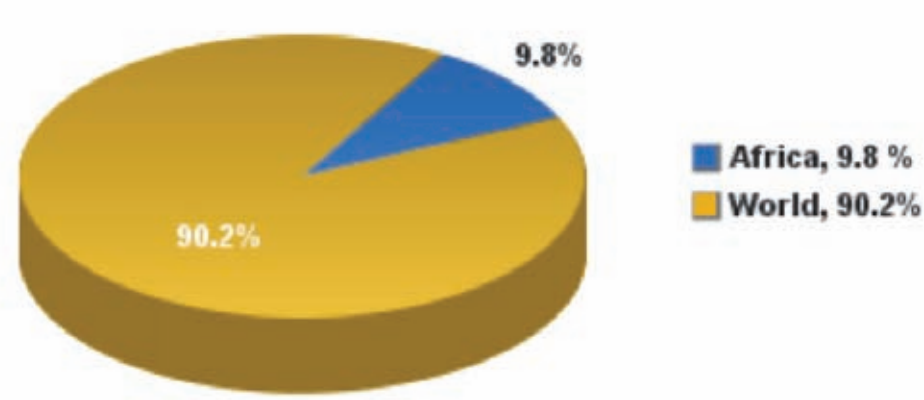
The accumulated efforts of these various institutions, combined with the contribution of dedicated technologists, businesses, policy makers, civil society and individuals, are bearing fruit as shown by the state of Internet access and usage, described below.

State of internet access and usage

The value added in tackling Internet issues with a multistakeholder approach is reflected by the staggering increase of Internet usage in Africa as a proportion of worldwide usage. It has grown from less than 1% in 2000 to 9.8% in 2014.

FIGURE 1

Internet users in Africa

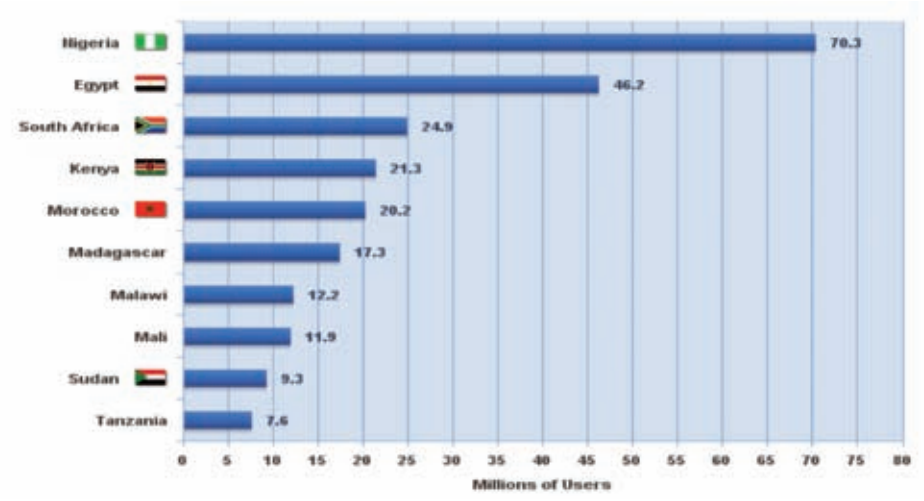


Source: Internet World Stats-www.internetworldstats.com

Fifteen years ago, it was common to say that New York City alone had more phone users than the whole of Africa. In 2014, Nigeria had close to four-fold more Internet users (70.3 million) than New York City (16,091,772). Nigeria is followed by Egypt, then South Africa and Kenya.

FIGURE 2

Top African countries in Internet use

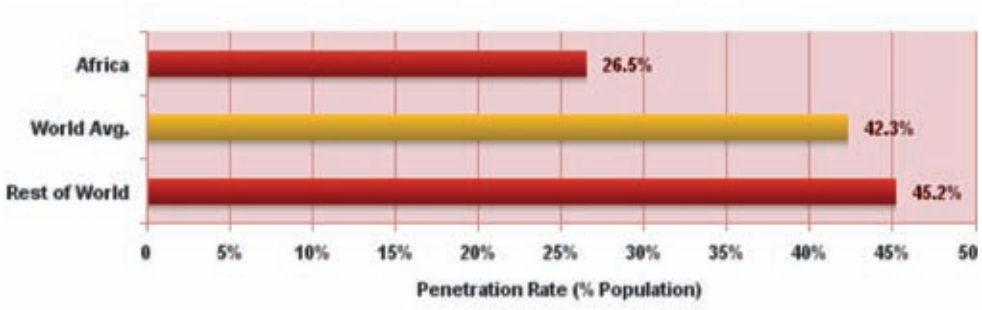


Source: Internet World Stats-www.internetworldstats.com/stats1.htm

The penetration rate is much more laudable than the usage rate. The penetration rate gap is increasingly bridged. Africa is no longer lagging behind Europe by 19.6-fold as was the case in 2000, but by 3.9-fold in 2014, according to Internet World Stats data.

FIGURE 3

Internet penetration rate

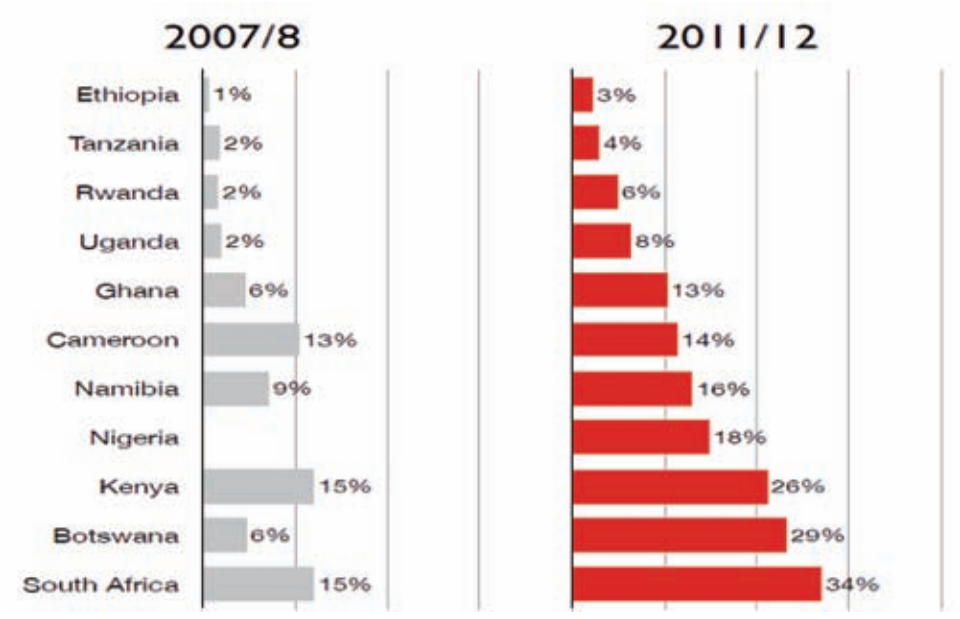


Source: Internet World Stats-www.internetworldstats.com/stats1.htm

The aggregate indicators of usage shade glaring disparities. Research carried out in 2012 showed that South Africa was leading the pack with 34% Internet use, followed by Botswana (29%), then Nigeria. The increase between 2008 and 2012 was compelling. Most of the countries scored a usage rate below the 20% threshold, found to be critical for countries to reap the economic benefits of broadband investment. Africa is therefore yet to reap the benefits of the knowledge economy.

FIGURE 4

Internet use among people aged 15+

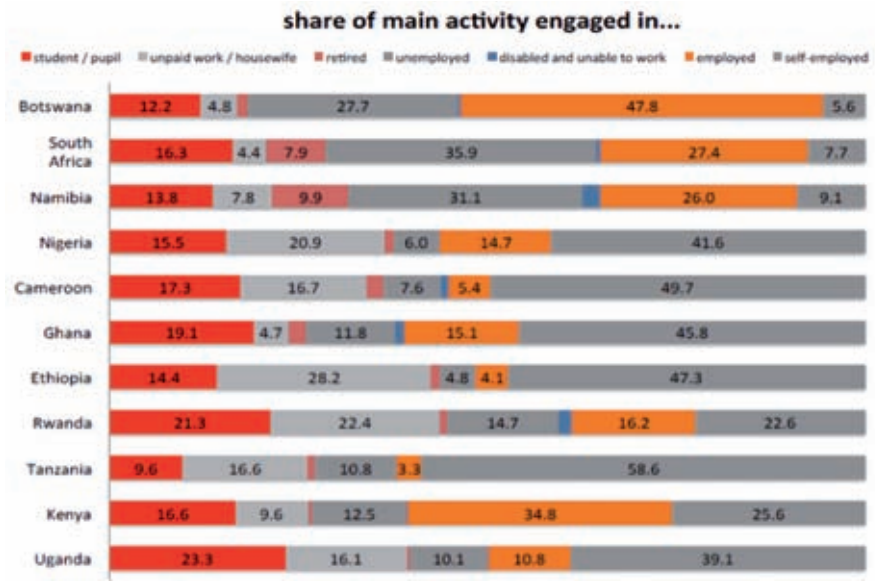


Source: Alison Gillwald. Towards an understanding of ICT access and use in Africa, 2013.

Buying power is a factor as shown by Figure 5. The self-employed are the main users of Internet in almost all the countries surveyed, with the exception of Botswana. Students are third in usage, behind the employed.

FIGURE 5

Socio-professional segmentation

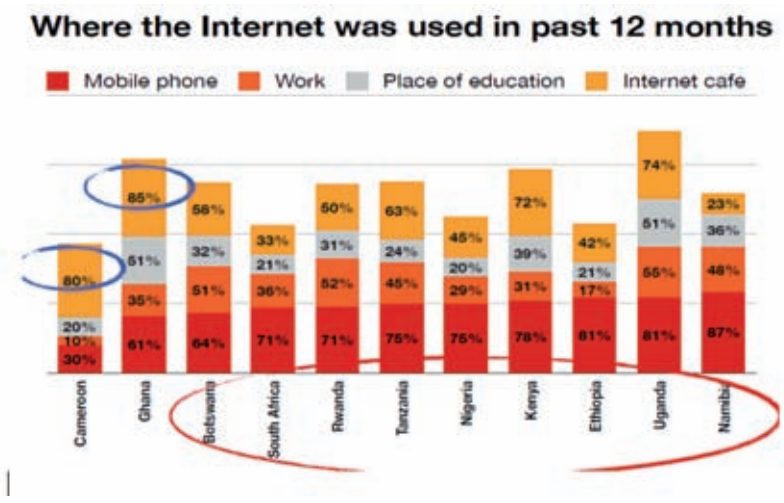


Source: Alison Gillwald. Towards an understanding of ICT access and use in Africa, 2013.

The place of access is an indicator of the level of appropriation of Internet. Mobile phones are the most used tools. For those using computers, cyber cafes are the most favoured place, followed by the work place and then the place of education.

FIGURE 6

Place of access

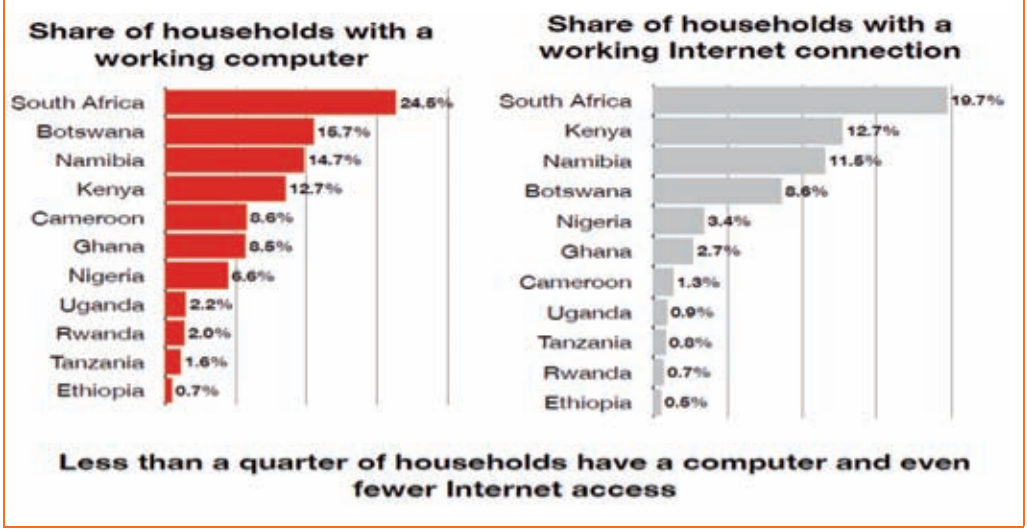


Source: Alison Gillwald. Towards an understanding of ICT access and use in Africa, 2013.

Having a computer at home does not mean the owner is connected to the Internet, as shown in Figure 7. The gap may be explained by the cost of Internet connection, the near extinction of fixed phones and the fact that smartphones are the most used tool to connect among youngsters.

FIGURE 7

Share of households with computer and Internet connection

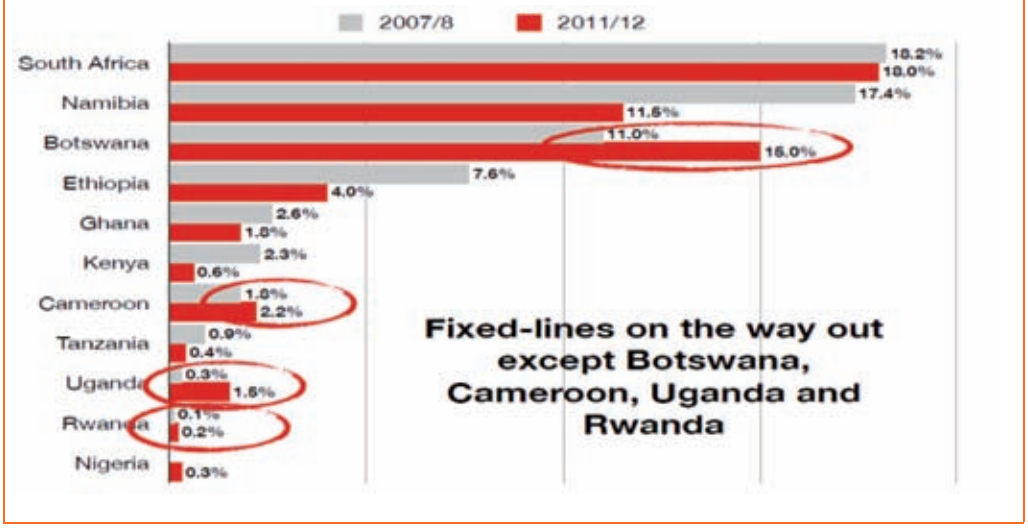


Source: Alison Gillwald. Towards an understanding of ICT access and use in Africa, 2013.

The surge of mobile phones has led to the quasi extinction of fixed lines in most of the surveyed countries. Such development strategies have resulted in higher costs of Internet access in the world in addition to the poor quality and stability of the mobile networks.

FIGURE 8

Share of households with fixed-lines

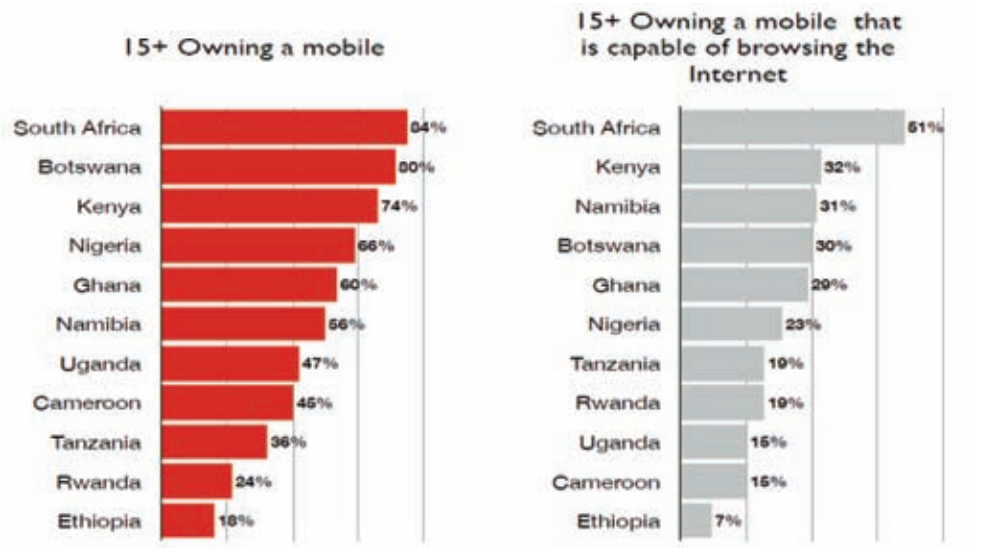


Source: Alison Gillwald. Towards an understanding of ICT access and use in Africa, 2013.

In Africa, the mobile has become the main Internet browsing tool. Internet on computers is a marginal phenomenon. The preference for mobile Internet reflects the age gap among the users.

FIGURE 9

Mobile ownership and capacity to browse Internet

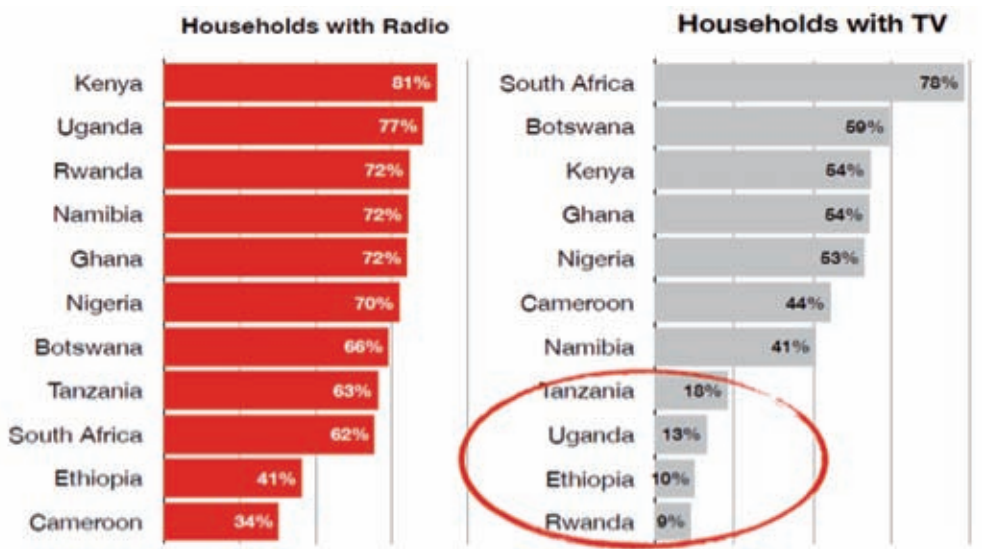


Source: Alison Gillwald. Towards an understanding of ICT access and use in Africa, 2013.

The low use of Internet could be also explained by the recourse to radio and TV as the main means for information as shown in Figure 10.

FIGURE 10

Main means of information



Source: Alison Gillwald. Towards an understanding of ICT access and use in Africa, 2013.

Africa leads the world in the use of mobile phones for money transfer online. But the traditional way (sending through a relative) remains predominant in all of the countries surveyed.

TABLE 1

Means of sending money in Africa

Means of sending and receiving money that the business uses					
	Mobile Money	Post Office	Western Union etc	Banks	send cash with someone
Uganda	**16%**	1%	2%	17%	**81%**
Tanzania	**14%**	0%	0%	5%	**93%**
Rwanda	**8%**	0%	1%	10%	**70%**
Ethiopia	0%	0%	0%	5%	**55%**
Ghana	0%	1%	1%	12%	**54%**
Cameroon	0%	1%	**26%**	4%	**75%**
Nigeria	0%	0%	0%	11%	**77%**
Namibia	1%	**25%**	1%	41%	**86%**
Botswana	2%	16%	3%	27%	**73%**

Source: Alison Gillwald. Towards an understanding of ICT access and use in Africa, 2013.

Lessons learned from the WGIG legacy

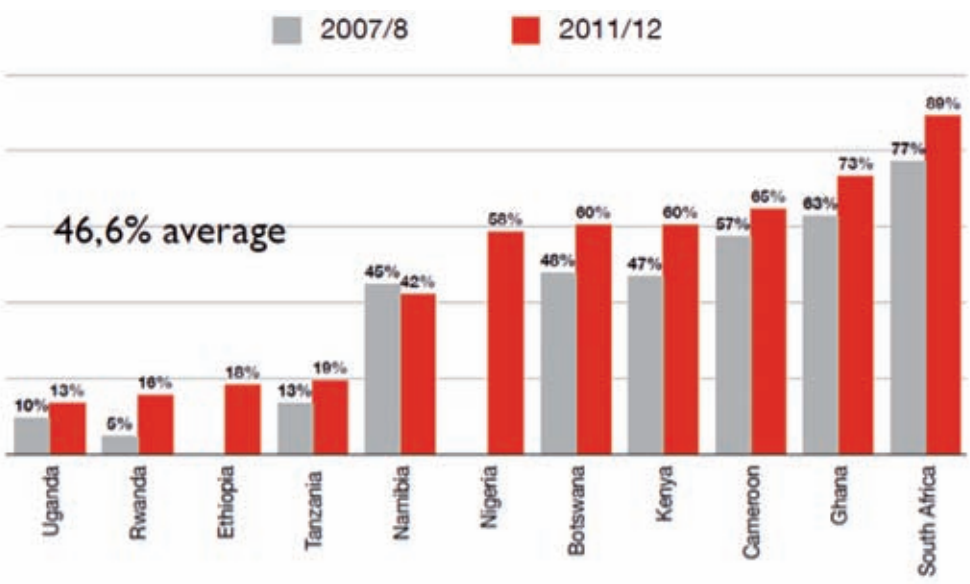
The use of the multistakeholder approach to tackle complex issues has proved its efficiency. In the context of a shortage of capacities, scare resources, fragmented markets and dysfunction of regulatory bodies, getting all stakeholders around the table has spillover effects. The challenge is no longer advocating the usefulness of Internet.

Africa's inroads into the knowledge society are showing many malfunctions that can only be tackled by the reinforcement of multistakeholder participation in problem solving. The significant growth in mobile communications and steady growth in Internet penetration are happening at unbearable costs. Mobile operators are getting the best return on investments, without creating wealth. The investment made in covering Africa with more than 23 tbps optic fibre has not yet resolved the lack of adequate terrestrial connection to the hinterland from the coasts and tackling the demand side. The benefits of the Internet are not evenly distributed. Increased connectivity has exposed one of the main challenges Africa has to overcome: cybercrime. The African Union has developed a Convention on Cybersecurity aimed to commit member states to establishing legal frameworks for e-transactions, protection of data, and punishment of violations. Failure to achieve a secure environment and protecting privacy will doom Africa's hope to create an economy driven by trust.

The opacity of the dealings of international operators renders difficult the assessment of the benefits African populations are getting. The investments seem to be guided by two rationales: the market rationale among investors, and in many countries, the personal interests of the decision makers. Consequently, investments are not always funnelled where most suited for development purposes. One illustration is the frenetic deployment of broadband: in the absence of assessments of needs, countries are depleting their scare resources for infrastructures which might prove less useful than roads and electricity.

FIGURE 11

Share of households with electricity



Source: Alison Gillwald. Towards an understanding of ICT access and use in Africa, 2013.

Failure to collectively set and implement priorities is hampering the development objectives. The failed MDGs are an illustration. The new SDGs are heading toward the same fate if:

- National ICT strategies are not coherent with development strategies.
- Constraints are not overcome, such as the slow pace at which government and agencies are adopting ICTs in their operations; the cost of bandwidth and broadband access; the inadequacy of local content; the weak or non-existent research and development strategy; the low connection to the power grid; the low ICT skills and computer literacy; and the cost of end-user devices.

Only a genuine multistakeholderism with full involvement of the African diasporas can help overcome most of the hindrances. Not doing that will lead to the conclusion expressed at the recent Highway Africa Conference in Grahamstown, South Africa, reported by Jimson Olufuye: "AU heads

of states have been meeting for 50 years and Africa is not united… It is high time AU changes course and embraces an enhanced multistakeholder approach to its meetings with governments, private sector, civil society and academia/technical cooperating and collaborating."[10]

10. Olufuye, J. (2015). Connecting the Next Billions for Social and Economic Growth & Development. Powerpoint presentation at the African IGF, Addis Ababa, Ethiopia, 6-8 September.

CLOSING REFLECTIONS

THE WGIG IN RETROSPECT

Jānis Kārkliņš

Well-informed decisions usually are the best…

The World Summit on the Information Society (WSIS) was one of the major United Nations development summits organized at the turn of the 20th to the 21st century. WSIS was a landmark event covering a broad range of issues related to the use of new information and communication technologies (ICTs) for development. Initiated by the International Telecommunication Union (ITU) at the 1998 Plenipotentiary Conference in Guadalajara, Mexico, WSIS was hosted by Switzerland in Geneva in 2003 and by Tunisia in Tunis in 2005.

At the brink of the millennium, the ICT revolution was emerging but still at its infancy. The Internet was serving a few million users, mostly in the developed world, and personal computers were a dozen times less powerful than today's simplest smart mobile phones, which were not in the picture at the time. Nevertheless, there was overall understanding that the technological evolution was unstoppable and would influence development not only in the economy but also in societies and for individuals.

The main focus of the discussions, especially during the Geneva phase of the Summit, was about connectivity and access to ICTs including their affordability and interconnection costs. Very little attention was paid to different aspects of the use of ICTs, including multilingualism. The digital gap was mostly seen as the difference between those who had access and those who did not. Discussions at that time focused on connectivity levels in urban and rural areas, access by men and women, and the prohibitive cost of electronic devices in comparison with average income in different parts of the world.

In that context, the last part of the preparations for the Geneva Summit focused on the issue of Internet governance, which was brought into play and became an important topic in the mix of issues under consideration by diplomats. For some, not only was the term "Internet governance" new, but the Internet itself was not well known.

At the time, the Internet Corporation for Assigned Names and Numbers (ICANN) was unheard of by many, including myself. My first contact with the CEO of ICANN at the time, Paul Twomey, happened at the margins of the preparatory meeting for the Geneva Summit at the Palais des Nations, where he was meeting delegates and explaining the tasks and the role of ICANN.

The initial debates in WSIS about Internet governance were rather chaotic and mostly politically motivated. Knowledge about the functioning of the Internet was limited, including the role and tasks of the main players. The prevailing perception was that the Internet was a network-based technology under tight US government control. This notion was unacceptable to many.

The WSIS negotiations were lengthy and politicized, based on inaccurate premises. Those diplomats who had some knowledge about the Internet had to educate their colleagues in order to keep the discussions on track. ITU staff also did some explanatory work but it became abundantly clear that expertise in the room was lacking for any meaningful decisions. This fact was acknowledged by all.

Collective wisdom prevailed and alongside the development of a set of general principles suggested to be applied to govern the Internet, it was decided to create a Working Group on Internet Governance (WGIG) under the auspices of the UN Secretary General that would prepare a report explaining the functioning of the Internet, the role of different organizations involved in the process, and the public policy issues related to the Internet. The Working Group was constituted on the basis of the UN traditions of balanced representation and included not only governmental representatives but also civil society, academia and industry experts.

The decision to create the WGIG was one of the most important in the preparations for the Tunis Summit, as it created the preconditions for a potentially well-informed decision-making process. A similar expert body, in the form of a Task Force, was created to inform the debates on financial mechanisms to bridge the digital divide.

Looking back, I can say that the Report of the WGIG laid the foundation for negotiations on Internet governance-related issues at the preparatory process of the Tunis Summit and was widely recognized by the diplomatic community as an informative and balanced representation of common knowledge and understanding about the Internet that existed at the time. The report helped inform the debates and facilitated understanding about the complex issues pertinent to the Internet. The Report was widely read

and frequently referred to during the negotiations and was helpful in identifying possible responses to different concerns.

It is worth mentioning the multistakeholder composition of the Working Group. Though at that time it was not yet a decision-making exercise, unlike the NETmundial in 2014, it should be considered as an exemplary engagement of experts representing different stakeholder groups.

The WGIG was also attempting to propose options on how to address the underlying political issue: supervision of critical Internet resources. In the time preceding the Summit, it was a brave step which proved that a multistakeholder process could advance more swiftly than an intergovernmental one. It would be hard to imagine that a group of government experts would venture to propose options on such a highly politicized question.

Another element of the WGIG report, the recommendation of a multistakeholder discussion platform widely known as the Internet Governance Forum, proved to be a visionary proposal. Over the past 10 years, the multistakeholder discussions have advanced and brought many questions to successful resolution. Internationalized domain names (IDN) fast track is just one example when insistence by non-English speaking communities resulted in a process within ICANN which resulted in the introduction of IDN ccTLD in the root. Many other complex and sometimes controversial issues have been discussed in depth, bringing a better understanding among stakeholders about associated complexities.

A 10-year retrospect of Internet governance issues

Attention to Internet governance issues has been cyclical. At the Tunis Summit, and soon afterwards, management of critical Internet resources was at the height of attention. However, that faded out gradually as ICANN's relationship with the US government evolved and later resurfaced in a new light in conjunction with cyber security and online privacy issues, following revelations about misuse of the Internet by a government agency.

Freedom of expression online has always been a topical issue in Internet governance debates. Its significance was strengthened in the context of the Arab Spring events. A consensus resolution of the Human Rights Council of 6 July 2012, acknowledging that the same fundamental human rights apply offline and online alike, was another development in the codification of international human rights law and its adaptation to the new virtual realities.

Issues of multilingualism and local content have become more prominent after the introduction of internationalized domain names by ICANN and the development of applications that support different characters other than only ASCII. UNESCO played a significant role in this respect.

It is obvious that in the past 10 years since the publication of the WGIG Report many things have changed and the Internet has become an even more fundamental underlying technology of the economy and modern

society. Nevertheless, the understanding of the issues fostered by the Working Group is still relevant.

One issue that is still widely debated is the approach that needs to be taken when talking about Internet governance and its mechanisms. Two main schools of thought still prevail: a narrow and a wider approach to the issue. Should management of critical Internet resources constitute a scope of discussion or should it be seen in a broader context? The Working Group favoured a wide approach and today we clearly see the international debate gradually shifting to issues related to actual use of the Internet rather than the management of critical Internet resources only.

In the Report one can see the attempt to offer options in considering the evolution of the predominant role of one government in Internet-related issues. Even though the suggested models have not been implemented and an evolution of the governance mechanism has taken a different route, the importance of the proposals should not be underestimated. They contributed to the overall evolution of Internet governance and highlighted a few fundamental principles including the following:

- Internet governance should not be a monopoly of anyone.
- It should be organized in a collaborative way by all interested and involved stakeholder groups from all over the world.
- Particular attention should be given to participation by the stakeholders from developing countries, where in the past five years the growth of the Internet has been the fastest.

All these statements are very relevant today.

At the same time we need to acknowledge that neither the Internet nor its governance mechanisms are as they were in 2004. The Internet has more than three billion users. The biggest user country is China. English is losing its predominant language role. ICANN has a loose relationship with the US government determined by the Affirmation of Commitment. It has offices and representatives in several dozen countries around the world. The Government Advisory Committee (GAC) of ICANN has more than 150 countries represented, including those who in 2003 did not recognize ICANN as a coordinator of technical issues related to the domain name system. The IANA function, which for a long time was the only unchanged issue, is under consideration by the wide Internet community.

In this respect, when engaging in the WSIS+10 review, where Internet governance issues will be prominently featured, one should consider whether the 2005 concepts, such as enhanced cooperation, are still valid. In this publication David Hendon, who took part in negotiating the concept of the process leading towards enhanced cooperation, describes how the third Preparatory Committee of the Tunis summit arrived at the text of paragraphs 69 to 71 of the Tunis Agenda. Maybe it is time to depart from the term that was coined to address one situation and define the parameters

of intergovernmental and multistakeholder engagement on public policy issues associated with the Internet and its governance.

Internationalization of Internet governance is also evolving. It is no longer exclusively US- or developed world-centric.

In 2014 the Brazilian Internet community, in cooperation with many others, convened the NETmundial conference, which was the first attempt at multistakeholder decision making. The UK, Hungary, South Korea, the Netherlands and soon Mexico have organized cyberspace conferences that also look into new realities of the virtual world. China is hosting the annual World Internet Conference in Wuzhen. Several high-profile expert committees have been organized (the Panel on Global Internet Cooperation and Governance Mechanisms chaired by President Hendrik Ilves and the Global Commission on Internet Governance chaired by Carl Bildt) to analyze different aspects of the fast-evolving Internet landscape.

Thirty-plus national and regional IGF initiatives are evidence of the foresight of the WGIG which suggested the creation of a forum where all Internet-related issues could be discussed.

In conclusion, the Internet ecosystem has become increasingly complex as more users innovate and create on the Internet. In an absolute majority of cases these innovations drive economic and social development. Nevertheless, there are issues that are not benign, that need to be understood and remedies developed without stifling the open and free nature of the Internet. One thing is clear: the Internet governance debates will not go away. They are with us to stay. We need to be as well informed as possible in order to make the utmost of these discussions and ensure that the decisions that are made in the relevant places are based on full knowledge and understanding.

THE IMPACT OF THE WGIG: REFLECTIONS AFTER 10 YEARS

Fiona M. Alexander

The 1998 Plenipotentiary Conference of the International Telecommunication Union (ITU) passed a resolution calling for a world summit on the information society.[1] After a few years of further discussion both at the ITU Council and the United Nations (UN), the UN General Assembly in December 2001 agreed to the summit.[2] Unusually, this particular UN summit was to occur in two phases. This decision, a diplomatic innovation at the time to accommodate the requests of the two countries that offered to host as well as to ensure that discussions occurred in both the developing and developed world, paved the way for a paradigm shift to multistakeholder inclusion in the UN via the UN Working Group on Internet Governance (WGIG).

In the 18 months leading up to the 2003 first phase of the World Summit on the Information Society (WSIS) in Geneva, multiple rounds of intergovernmental negotiations were held. This included three sessions of the official intergovernmental preparatory committee (PrepCom), a week-long intersessional meeting, and a regional meeting per each official UN-designated regional bloc. As a member of the United States delegation, I participated in the nine-plus weeks of these official discussions – not to mention the countless days of bilateral and stakeholder consultations – as a negotiator on Internet governance-related issues.

1. International Telecommunication Union. (1998). Resolution 73 of the ITU Plenipotentiary Conference, Minneapolis, 1998: World Summit on the Information Society. www.itu.int/net/wsis/docs/background/resolutions/73.html

2. United Nations General Assembly. (2001). Resolution 56/183: World Summit on the Information Society. www.itu.int/net/wsis/docs/background/resolutions/56_183_unga_2002.pdf

These consultations included debates on such things as the perceived inequities of the costs of Internet interconnection, domain names, root servers, Internet standards development, the role of governments overall, and the misperception that the US government, through the relationship between the National Telecommunications and Information Administration (NTIA) and the Internet Corporation for Assigned Names and Numbers (ICANN), somehow controlled the Internet. The discussions were long, tense and acrimonious and held only amongst government representatives. Stakeholders from industry, the technical community and civil society – the very same people that had developed the standards, designed the networks and then built and operated the systems that were being debated – were not allowed in these small closed-door discussions. In a few instances, non-governmental stakeholders who attempted to join were escorted out of the room. This non-inclusive manner of the discussions persisted over the repeated objections of the US voiced at the beginning of each session.

As the third PrepCom got underway, the chairman announced there would be a drafting group on Internet governance. For a week, he announced in his daily updates that this group was meeting. However, no such meetings were occurring. Internet governance negotiations had effectively come to a standstill. After a week, I conferred with my counterpart from the United Kingdom. He suggested that given the Swiss chairmanship of preparations at this time, we approach the Swiss e-envoy to inquire on the path forward. After some encouragement, this Swiss diplomat subsequently convened the small group to once again tackle these issues. This diplomat, Mr. Markus Kummer, is now well known in Internet governance circles.

Even though the same 25 or so people had been debating the issues for over a year in a small group, echoing the views expressed by their respective heads of delegation in each plenary session, the group had made little to no progress. There was no shared understanding of terms, concepts or how the Internet actually worked. What remained were very strong national positions, some of which were now even more entrenched than ever. Specifically, some governments supported the existing multistakeholder system while others firmly believed that Internet governance was the job of governments and favoured intergovernmental solutions. And given that the actual true experts were not even allowed in the room, there was little reason for optimism. Whispers began that the summit would fail.

This is when the diplomatic decision to have a summit in two phases, unheard of at the time and as far as I am aware never repeated, provided a way out. Having a Phase 2 of the summit enabled our small group of negotiators to compromise on the idea of asking for a study to inform our next round of debates. Three major areas of disagreements were identified and transformed into the terms of reference to be studied by what would become the WGIG.[3] Those issues were:

3. World Summit on the Information Society. (2003). Geneva Plan of Action. www.itu.int/dms_pub/itu-s/md/03/wsis/doc/S03-WSIS-DOC-0005!!PDF-E.pdf

- What did Internet governance mean?
- What issues were covered under this umbrella?
- What were the respective roles and responsibilities of each stakeholder group?

The WGIG completed its report in June 2005[4] and it was considered by UN member states as part of WSIS Phase 2. Elements of the report and specifically a working definition of Internet governance were incorporated in WSIS Phase 2 outcome documents. This definition has endured and will likely be reinforced at the WSIS+10 High-level Meeting in December. The major WSIS outcome on Internet governance issues – the creation of the UN Internet Governance Forum (IGF) – also finds its home in this report. And a comparison of the list of issues identified by the WGIG aligns closely with the issues raised in a bottom-up manner by stakeholders at the IGF each year. In addition, while the WGIG did offer views on the respective roles and responsibilities of the various stakeholder groups, this set of issues continues to be debated in various venues under the rubric of enhanced cooperation.

In retrospect, perhaps the critical lasting significance of the group is that it took on this task in a manner that was open and inclusive of all stakeholder groups. This was a complete change from the intergovernmental, closed WSIS discussions.

WGIG members are best placed to describe their experience in chartering new work methods, at least on Internet-related issues, under the UN umbrella. The result though is that through their dedication, commitment and insistence on inclusiveness, they set a new standard for multistakeholder inclusion. In WSIS Phase 2, stakeholders were no longer banished from the room. Instead, they were invited to give statements and allowed to participate more actively in some small group negotiations. As a result, in 2015 as we celebrate 10 successful years of the IGF, it is hard to imagine a world in which only governments gather to discuss the future of the Internet in a closed and non-transparent manner. Multistakeholder inclusion is now the only acceptable norm for Internet governance deliberations.

4. UN Working Group on Internet Governance. (2005). Report of the Working Group on Internet Governance. www.wgig.org/docs/WGIGREPORT.pdf

THE CONSEQUENCES OF THE WGIG AS VIEWED 10 YEARS AFTER ITS FINAL REPORT

Raúl Echeberría

The creation of the Working Group on Internet Governance (WGIG) was a turning point in the evolution of Internet governance and beyond – a turning point in the process for the construction of new governance models.

In 2004, the year when the group was created, it was difficult to anticipate the consequences that the initiative would have and realize the historic moment we were living.

It is impossible to analyze the relevance of the WGIG without stopping to reflect on what things were like before the creation of this new and innovative group.

Preparatory process for the 2003 summit

Many of us who were involved in the operation and management of Internet resources at the time and were part of what has come to be known as the "Internet technical community" did not pay enough attention to what was happening at the first preparatory meeting for the World Summit on the Information Society (WSIS). Many of us were convinced that this summit was essentially about the development of the information society, so we were surprised when the topic of "Internet governance" began to gain traction and became one of the central topics of debate.

From that moment on, we became actively involved and participated in the following meetings. This was a challenge, at times difficult and frustrating.

Those of us who were not part of government delegations could not even enter the rooms where the discussions and negotiations were carried out. It was a paradox that we could not participate in discussions dealing with our daily work.

Despite the fact that we are talking about something that happened barely 12 years ago, times were undoubtedly different. There was no Twitter, no WhatsApp, no video streaming; smartphones were not widespread. Now it is easy to follow what is going on during a meeting, even without being present in the room; this, however, was not the case in those early days.

In 2015, it is difficult to wrap our minds around the fact that things could work that way, but such was the world of Internet governance 12 years ago: very little integration of the different stakeholder groups, each of which would work and discuss things on their own.

Internet organizations

So what was the status of Internet organizations in this regard? Since their inception, the nature of Internet organizations was such that openness, participation and transparency were essential elements and it was thus possible for everyone to participate. Now it is easy to see that this was not enough.

Interaction with other actors was limited, though important steps were already being taken in this sense. The Governmental Advisory Committee of the Internet Corporation for Assigned Names and Numbers (ICANN GAC) had existed since 1999, but government involvement was still low. Other organizations had cordial relations with governments and international organizations, but there was very little actual collaboration.

WSIS 2003 and its results

The discussion on Internet governance which took place at the 2003 phase of WSIS in Geneva was not sufficiently informed. Those who participated in the debate did not always have the elements needed to understand every aspect involved in the discussion. Meanwhile, the model on which the summit was based limited participation of non-governmental actors, a fact which clearly did not help shed light on the debate.

Internet governance was not the only controversial topic discussed at the summit. It was, however, one of the summit's two main topics and, for this reason, if no agreement was reached in this area, the summit would not be considered a success.

When everything seemed to point to failure and certain government authorities were even led to cancel their presence at the summit because of its uncertain outcome, a magic solution appeared which would make the summit a success.

This solution was the creation of a multistakeholder working group which would serve as advisor to the UN Secretary-General, generating information that would allow understanding of the issue in all its complexity, and contributing possible future solutions to be considered by governments during the second phase of the summit to be held in Tunis in 2005.

Twelve years on, we must accept that this was a brilliant solution and a decision which would change everything.

The Working Group on Internet Governance (WGIG)

The process for creating the WGIG was very cleverly designed by Markus Kummer, who met with as many people as he could from the various regions and stakeholder groups, and collected data and possible names. Finally, through a method known as "black box", the UN Secretary-General formed a group which, while not perfect, brought great balance in terms of geographical representation, stakeholder diversity, political views, gender, experience and knowledge.

One might say that creating the group was not trivial – its composition was a factor which would ultimately contribute to its success.

The first WGIG meeting revealed a cultural clash between participants coming into the process from different sectors and with different experiences.

Proof of this could be found in simple, practical aspects. The difficulty some of us with no prior experience encountered when registering and entering the Palais des Nations, the UN headquarters in Geneva. Our surprise in discovering there were no power outlets for our laptops; the surprise of those who did not understand our surprise and why we would need power outlets in the first place. Disappointment when we noticed there was no Internet connection, and the question of how we would be able to remain inside the building for three days without it.

All of these aspects, both symbolic and formal, revealed a new state of affairs: the group was undoubtedly seen as strange by the Internet community, but it was also a rarity within the context of the UN. This must have been a sign that we were on the right track.

The decision to appoint Nitin Desai as the group's chair could not have been better. Working together with Markus Kummer, Nitin Desai was key for greasing the group's inner workings.

It was important for those of us who were new to that environment to understand certain formalities and customs that we needed to adopt and respect. It was also important to show government officials that this was a new experience and that not all of their rules were valid in this new environment.

We all started to learn. From early on, we also began challenging each other's positions and strengthening our own personal stances, improving our ability to listen, to understand, and – why not – to seek consensus whenever possible.

The quality of our work evolved a great deal, so when the time came to prepare our final report we were in a totally different place as a group.

The level of information we shared and the ability to understand – for some, certain technical aspects of which they were unaware; for others, various political and diplomatic aspects in which we had no experience – were definitely superior.

The maturity of both the group and the novel multistakeholder experience were evidenced in the fact that the group was able to seek the maximum consensus possible, while at the same time understanding their differences and translating them into the final report in a clear, non-prejudiced and respectful manner.

The 2005 summit

The 2005 phase of the summit – WSIS Tunis – was totally different from the Geneva meeting. While different positions persisted, the level of information and knowledge exhibited by all participants was totally different. The WGIG report was of great impact, but probably the greatest impact was that of the WGIG experience itself.

Both during the preparatory process (three meetings in Geneva plus multiple discussions at regional and national level) as well as during the summit itself, it was possible to see numerous non-governmental experts who were part of the official delegations. In general, representatives of every stakeholder group had easy access to – and interaction with – government representatives.

The dynamics surrounding the 2005 summit were completely different from those of 2003, and the WGIG had made the difference.

The detailed and concrete discussion which led to various agreements was possible thanks to the light that the WGIG report shed on the different topics under debate. The WGIG report helped frame the discussion and on numerous opportunities the texts from the report served as input for the debate. The final agreements include quite a bit of content from this report.

One of the summit's most important contributions was the creation of the Internet Governance Forum (IGF), an idea which originated in the work of the WGIG and one of the proposals which gained the most support within the group.

One might say that the WGIG experience was instrumental in accelerating the understanding of the need for greater openness to the participation of all stakeholders, just as the discussions and final report were instrumental in facilitating and serving as input for the summit agreements.

Post-summit changes

Long gone are the pre-2003 days, when dialogue between different stakeholders was limited and each of us remained within our comfort zone. After the 2005 summit, the construction of collaborative and multistakeholder models gained momentum.

As we have said, the IGF was one of the agreements of WSIS 2005 which originated as a recommendation included in the WGIG report, and it has become the most innovative experience in the history not only of Internet governance but also of international governance in general.

It was a delicate and subtle construction. This forum was endorsed by the United Nations, which brought peace of mind and provided a guarantee to those with a more government-oriented vision and not much trust in organizations with more flexible institutional frameworks, such as those originating in the Internet world. At the same time, however, the forum was not part of the UN's formal structure and was therefore not governed by the same rules as other intergovernmental bodies and forums.

The first IGF meeting took place in 2006 and once again highlighted the differences between two cultural models. Upon their arrival, many government delegates began looking for their country's designated seats and the traditional signs specifying the names of each country, yet these were nowhere to be found. A different story was being written in a different world, a story perhaps too formal in the eyes of those coming from the world of civil society or the Internet community and too casual in the eyes of those coming from international diplomacy.

The first IGF was a major step in the evolution of Internet governance, but it was not enough: each stakeholder expected more.

In 2006 we did not dare include some of the most controversial issues on the agenda, but these issues have been included since 2007. Human rights continued to be a complex and difficult issue to include in the agenda, yet a few years later they have earned a place of privilege.

Formats have changed: we have moved from large panels to more interactive models, remote participation has become essential, and participation systems are constantly being improved.

In 2013, for the first time after Edward Snowden's revelations, a public debate on Internet surveillance was organized at the IGF with the participation of the most relevant actors.

This shows just how much the IGF had evolved, and how this forum has now become a place where all actors feel comfortable enough to hold discussions even on the most sensitive issues.

The world of the Internet

In parallel with the process of the creation and consolidation of the IGF, Internet organizations also underwent significant changes. The multistakeholder processes which began with the WGIG also motivated the creation of more and better participation opportunities for all stakeholders. These organizations have never ceased to evolve and perfect their processes.

We have gone from a situation where the conditions that made it possible for all Internet organizations to participate existed but the objective was the processes themselves, to a situation where the true objective is not just the existence of processes but the real participation – in other words, having processes which result in better opportunities for stakeholder participation.

This evolution continues and we are all hoping for more, always guided by the principles of facilitating and promoting the participation of all stakeholders, providing greater transparency by encouraging the discussion of more complex issues, sharing best practices and promoting the search for consensus.

There is still much to be done, much to be improved, many organizations and forums to be modernized. And that is fine.

The WSIS review and the post-2015 agenda

We are at this moment in a very different situation. It has been 10 years since WSIS and we are in the middle of the process of reviewing the achievements we have made in the implementation of the Tunis agreements (WSIS+10).

It is a moment when we are discussing if the IGF mandate should be renewed or not. As we have already noted, the IGF has been the most innovative experience not only in the history of Internet governance but in international governance in general.

The possibility of all the stakeholders being engaged on an equal footing in discussions relevant to them is something without precedent. It is essential to continue with this experience, and to ensure continuous improvement of the IGF, and for that it is imperative that the IGF mandate be renewed for the longest possible time.

We, the community, have built among all the stakeholders a new governance model. A model that is based on premises very different from the traditional governance systems. A model where transparency, accountability and the search for consensus are fundamental pillars

It is reasonable that, due to the fact that the Internet is becoming something more and more important for humankind every day, the debates about its governance are also becoming more important, and that the confrontation between different views creates some tensions. The multistakeholder nature of Internet governance is a reality that cannot be ignored. It is a new reality that should be globally accepted. The emerging conflicts should be analyzed within this new reality. Those conflicts, if addressed through multistakeholder mechanisms, will continue being an engine for the evolution of the current governance models.

The definition of the different roles and responsibilities of different stakeholders in different Internet governance mechanisms is something that will

take a long time to be solved. We have made progress in the recognition of different roles and responsibilities, but the concrete definition of those roles is something that will be discussed yet for a considerable time.

At this moment it is very important, however, to recognize the significant improvements that have been made in the relationship among different stakeholders and in the conditions for the meaningful participation of all those stakeholders. It is the fundamental key for enhanced cooperation.

The challenge now is the confluence of the Internet governance debate and the debates around the new Sustainable Development Goals (SDGs). Essentially, the challenge is to conceive of the Internet and ICTs as one fundamental element for achieving progress with regard to the SDGs and to make Internet governance compatible with this globalizing development-oriented vision.

Ten years

There have been many changes since 2003. We have moved from a model where many of us could not enter the rooms where government representatives were making major decisions, to the current situation where it is difficult to conceive that certain issues related to Internet governance could be discussed without procedures in place to guarantee participation of all stakeholders.

Precisely now that the results of WSIS and what has been done and achieved during the past 10 years are being assessed, it is important to keep in mind this evolution in the way the different stakeholders interact, new and improved forms of cooperation, and the consolidation of a multistakeholder model with a broad notion of Internet governance. Much of this change began with the Working Group on Internet Governance. Much has transpired since that first WGIG meeting at the Palais des Nations in 2004, where many uncertainties existed regarding what we would be able to achieve.

Ten years after the final report of the WGIG was published, it is fair to recognize the historic role of this group's work in catalyzing change and creating conditions to encourage the future development of Internet governance.

Author biographies

Fiona M. Alexander is the associate administrator (head of office) for the United States Department of Commerce's National Telecommunications and Information Administration's (NTIA) Office of International Affairs (OIA). She manages the US government's relationship with the Internet Corporation for Assigned Names and Numbers (ICANN), and NTIA's involvement in international ICT bilateral and multilateral discussions in venues such as the International Telecommunication Union (ITU), the Organisation for Economic Co-operation and Development (OECD), and the Asia Pacific Economic Cooperation Telecommunications Working Group (APEC TEL). She is also a key member of the Department's Internet Policy Task Force, providing strategic guidance with respect to online privacy, copyright protection, cyber security, and the global free flow of information. She was NTIA's lead negotiator for issues related to Internet governance in the context of the UN World Summit on the Information Society as well as the Affirmation of Commitments with ICANN. In addition, she was a key member of the US team that worked on the OECD's Internet Policy Making Principles. Prior to joining the NTIA, she was a senior consultant at Booz, Allen & Hamilton. She has a Master's degree in International Relations from American University, Washington, D.C.

Peng Hwa Ang was a member of the WGIG and is a professor at the Wee Kim Wee School of Communication and Information, Nanyang Technological University, Singapore. His teaching and research interests combine law and communication, touching on Internet law and policy, censorship, and the social impact of media. He is the author of *Ordering Chaos: Regulating the Internet* (Thomson, 2005). He is co-founder and served as inaugural chair of both the Global Internet Governance Academic Network and the Asia Pacific Regional Internet Governance Forum.

Karen Banks was a member of the WGIG and is manager of the finance department at the Association for Progressive Communications (APC). She is a director of GreenNet, a small non-profit ISP in London and founding member of APC. In 1993, she formed (along with other women colleagues from APC) the APC Women's Networking Support Programme (WNSP). In 1995, APC WNSP led an all-women team of 40 to the UN Fourth World Conference on Women, where they provided email and web access to over 10,000 delegates. Karen coordinated the APC WNSP from 1996 to 2004, and managed various national, regional and global ICT policy advocacy and capacity-building projects and processes for APC. This included coordination of APC's participation in the World Summit on the Information Society (WSIS), the Internet Governance Forum (IGF) and OECD meetings. She is a trustee of Privacy International. In 2004 she was awarded the Anita Borg Social Impact Award with the APC WNSP.

Diego R. Canabarro, D.Sc., is a full-time advisor to the board of the Brazilian Internet Steering Committee (CGI.br). He is also an associate researcher of the Center for International Studies on Government at the Federal University of Rio Grande do Sul (CEGOV/UFRGS) and a research fellow at the National Center for Digital Government at UMass Amherst.

Nitin Desai was the WGIG's chairman. He is a graduate of LSE, taught Economics at two UK universities, worked briefly in the private sector, had a long stint as a government official in India, and then joined the UN in 1990. In India, he was in the Planning Commission (1973-88) and later in the Ministry of Finance as the chief economic adviser (1988-90). In the UN, where he was Under Secretary-General for Economic and Social Affairs, his major work was the organization of a series of global summits, notably the Rio Earth Summit (1992), the Copenhagen Social Development Summit (1995), the Monterrey Finance and Development Summit (2002), and the Johannesburg Sustainable Development Summit (2002). After his retirement, he has been involved in a variety of public policy activities nationally and internationally. He continued to assist the UN until December 2010 as Special Adviser on Internet Governance to the UN Secretary-General and the chair of the multistakeholder group that organizes the annual Internet Governance Forum. He is a member of the Prime Minister's Council on Climate Change. He chairs the Board of Governors of the Institute of Economic Growth and is a member of the Executive Committee of the Nehru Memorial Museum and Library and the Jawaharlal Nehru Memorial Fund.

Avri Doria was a member of the WGIG and is a research consultant. Her professional activities include several part-time activities, including: as a research associate at the Association for Progressive Communications (APC), as VP Policy and Governance for dotgay LLC, and as a member of the Secretariat for the Advisory Council for Public Interest Registry (PIR) OnGood services for NGOs. She was a member of the UN Working Group on Enhanced Cooperation (WGEC), spent five years as a member of the Internet Governance Forum (IGF) Secretariat and is a member of the IGF Multistakeholder Advisory Group (IGF MAG). As a technologist she has been involved in the development of Internet protocols and architectures for over 30 years, is a participant in the Internet Engineering Task Force (IETF), and a past chair of the Internet Research Task Force (IRTF) Routing Research Group. She is co-chair of a research group on Human Rights Protocol Considerations. She has been active in ICANN policy and was chair of the GNSO Council. She is an author of RFCs and articles and teaches on Internet governance subjects. She was awarded the ICANN Multistakeholder Ethos Award in 2014.

William J. Drake was a member of the WGIG and is an international fellow and lecturer in the Institute of Mass Communication and Media Research at the University of Zurich. He is also a member of the Nominating Committee of ICANN; a member of the inaugural Coordination Committee of the NETmundial Initiative; a core faculty member of the European and South Schools on Internet Governance; an advisor to the World Economic Forum Future of the Internet Initiative; and an affiliated researcher at the Institute for Tele-Information, Columbia University. Previous activities have included: chair of the NonCommercial Users Constituency, member of the Board of Directors of the European At Large Organization, and member of the Council of the Generic Names Supporting Organization, in ICANN; member of the Multistakeholder Advisory Group of the IGF; expert advisor to the high-level Panel on Global Internet Cooperation and Governance Mechanisms; member of the Group of High-Level Advisors of the UN Global Alliance for ICT and Development; vice chair and Steering Committee member of the Global Internet Governance Academic Network; and advisor to the WEF Task Force on the Global Digital Divide. Previous work experience has included: co-

editor of the MIT Press book series, The Information Revolution and Global Politics; senior associate at the Centre for International Governance of the Graduate Institute of International and Development Studies; president of Computer Professionals for Social Responsibility; senior associate and director of the Project on the Information Revolution and World Politics at the Carnegie Endowment for International Peace; founding associate director of the Communication, Culture and Technology Program, Georgetown University; assistant professor of Communication at the University of California, San Diego; and adjunct professor at the School of Advanced International Studies and the Georgetown School of Business. He has a PhD in Political Science from Columbia University. www.williamdrake.org

Raúl Echeberría was a member of the WGIG and is now vice president of Global Engagement at the Internet Society. Previously he served on the organization's Board of Trustees (2008-2014), and was one of the founders of LACNIC (the Internet Address Registry for Latin America and the Caribbean). He was chairman of the board of LACNIC between 2000 and 2002, when he was appointed as CEO, a position he held until 2014. Starting in the early 1990s, Raúl was responsible for technologies at the National Agriculture Research Institute of Uruguay, where he played an important role in the start-up and development of the Internet in Uruguay. Between 1998 and 2002 he was a member of the Board of Directors of the Latin American Network Forum (ENRED), and also a member of ICANN's Name Council on behalf of the non-commercial constituency when it was first created in 1999. Based on his experience and strong involvement in the early stages of ICANN, Raúl was hired by Oxford University in 2000 as a researcher, to be part of a group (the NAIS project) that prepared an in-depth analysis of ICANN's experience with its At-Large Election in the year 2000. During 2001-2002 Raúl worked as the coordinator of the Association for Progressive Communications (APC) programme "ICT Policy Monitor in Latin America and the Caribbean", an experience that allowed his increased involvement in the development of the information society from a civil society perspective. Between 2004 and 2005, he played a relevant role in the WSIS negotiations at the Summit in Tunis as a member of the Uruguayan delegation. His role received public recognition from Ambassador Masood Khan, chair of the negotiations. In May 2006 he was again distinguished by the UN Secretary-General, being chosen to be a part of the Internet Governance Forum's Multistakeholder Advisory Group, in which he served until 2014.

Baher Esmat was a member of the WGIG and is leading the ICANN stakeholder engagement team in the Middle East serving as regional vice president. He joined ICANN in 2006 after a four-year tenure at the Egyptian Ministry of Communications and Information Technology, where he played a role in the nation's efforts to build an information society. He is currently serving on the Internet Governance Forum's Multistakeholder Advisory Group. He is a former member of the CSTD Working Group on IGF Improvements and the CSTD Working Group on Enhanced Cooperation. He is also a founding board member of the Egypt ISOC Chapter. He earned a Bachelor's degree in Electronics and Communications Engineering from Cairo University in June 1993, and a Master's degree in Computer Science from the American University in Cairo in June 1999.

Anriette Esterhuysen was a member of the WGIG is the executive director of the Association for Progressive Communications (APC), an international network working with information and communications technologies (ICTs) to support social justice and development. She has published extensively on ICTs for development and social justice. She holds a BA in Social Sciences, a BA Honours in History of Music and a Post-Graduate Diploma in Library and Information Science from the University of the Witwatersrand in Johannesburg, South Africa.

Juan Alfonso Fernández González was a member of the WGIG and is an advisor in the Ministry of Communications of Cuba and an assistant professor at the University of Informatics Sciences. He is also a member of the Multistakeholder Advisory Group for the Internet Governance Forum. Previously he was the coordinator of the Cuban Commission for Electronic Commerce, director of Information Technology at Cuba's Ministry of the Steel, Mechanic and Electronic Industry, technical director and project manager in the Robotic and Software Centre, and a senior researcher and professor in the Microelectronics Research Centre of the Havana Polytechnic Institute. He was a member of the UN Global Alliance for ICT and Development and the UN ICT Task. He participated actively in the negotiating process for the outcome documents of both phases of the World Summit on the Information Society. He has published articles on software management, electronic commerce and the economic sustainability of international telecommunication networks and the Internet. He has the degrees of Senior Researcher of the National Academy of Sciences of Cuba and of Physics of the University of Havana. He holds a patent in image processing and is a FIDE International Chess Master.

Hartmut Richard Glaser, M.Sc., is the executive secretary of the Brazilian Internet Steering Committee (CGI.br). He is a professor at the Polytechnic School of the University of São Paulo. He is also a board member of LACNIC, of which he was one of the founding members. Since 2007, he has been a special adviser to the Chair of the Multistakeholder Advisory Group of the Internet Governance Forum. In 2015, President Dilma Rousseff made him Commander of the Order of Rio Branco, an honorific title in Brazil, for his contributions to the development of the Internet in the country.

Sherly Haristya is a doctoral student at the Wee Kim Wee School of Communication and Information, Nanyang Technological University, Singapore. While working on her dissertation about the role of civil society in developing and shaping the deliberative system of global internet governance, she is also assisting in the IANA Stewardship Transition Coordination Group (ICG) Secretariat. She was in the local committee of the Internet Governance Forum (IGF) 2013 in Bali, Indonesia, and involved in writing the Internet Governance Forum 2013 Narrative Report that describes the preparatory process of the IGF 2013.

David Hendon was a member of the WGIG and is a visiting professor at Surrey University and chairman of the 5G Innovation Centre's Strategy Advisory Board. He is also a part-time senior advisor at the UK Communications regulator Ofcom, working on spectrum, international strategy and network resilience issues. He is independent chair of the 4G/TV Co-existence Oversight Board established by the UK Department of Culture, Media and Sport, a member of the Smart Meters Steering Group & Strategic Reference Group at the UK Department of Energy and Climate Change, and a non-executive director of two small communications businesses. Formerly a career civil servant, from 2002 to 2011 David was a director in the Department for Business, Innovation & Skills where he was responsible for BIS's business-facing activities and policy for the electronic communications and ICT sectors. From 1998 to 2002 he was CEO of the Radiocommunications Agency, which managed UK radio spectrum prior to the establishment of Ofcom. He was chairman of the board of the European Telecommunications Standards Institute from 1996 to 1999. He was a member of the WGIG in 2005 and led the EU delegation during discussions in the final months leading up to the WSIS in Tunis.

Pablo Hinojosa is director of Strategic Engagement at APNIC. He is responsible for representing the organization, cultivating and managing relationships with governments, key intergovernmental organizations and member communities. Prior to joining APNIC, he was responsible for managing the Latin American portfolio at ICANN.

Before joining ICANN, he was director of Multilateral Affairs at the Mexican Federal Telecommunications Commission. As a government official, he was a representative from Mexico on ICANN's Governmental Advisory Committee (GAC), where he held the position of vice-chair. He was part of the Mexican delegation attending WSIS and also advisor to the chair of the Asia-Pacific Economic Cooperation Telecommunications and Information Working Group (APEC-TEL).

Ambassador **Jānis Kārkliņš** currently is the Permanent Representative of Latvia to the United Nations in Geneva. He also has served as the Latvian Ambassador to France, Andorra, Monaco and UNESCO, the Director of the NATO Center of Excellence for Strategic Communications, as well as the Assistant Director General of Communication and Information of UNESCO. During his first stay in Geneva he presided over the Preparatory Committee of the Tunis Phase of the World Summit on the Information Society. He represented Latvia in the Governmental Advisory Committee (GAC) of ICANN and chaired this Committee from 2007 until June 2010, at the same time being the GAC liaison to the ICANN Board of Directors. In 2014 the UN Secretary-General appointed Ambassador Kārkliņš to be the Chair of the Multi-stakeholder Advisory Group of the Internet Governance Forum. He holds an engineering degree from the Riga Technical University and attended an Executive Education Program for Eastern European diplomats at the Hoover Institute at Stanford University.

Wolfgang Kleinwächter was a member of the WGIG and is a professor emeritus for International Communication Policy and Regulation at the University of Aarhus in Denmark. He also is a former member of the ICANN Board of Directors and Special Ambassador of the NETmundial Initiative (NMI). He has been involved in Internet governance issues since the early 1990s. He was a special adviser to the chair of the Internet Governance Forum (IGF) (2005-2010) and a member of the UNCSTD IGF Improvement Working Group (2010-2012). He has been involved since 1998 in ICANN where he chaired, inter alia, the Nominating Committee (NomCom) and was a member of the GNSO Council. He is also a co-founder of the European Dialogue on Internet Governance (EuroDIG), the Global Internet Governance Academic Network (GigaNet) and the ICANN Studienkreis. In 2009 the Council of Europe appointed him to chair the Cross Border Internet Expert Group. He also chaired the Internet Governance Sub-Group of the EU Task Force on the Internet of Things (IOT) and the evaluation team of the EU Safer Internet Action Programme (SIAP). In the academic world, he was from 1988 to 2012 a member of the International Council of the International Association for Media and Communication Research (IAMCR), where he chaired the IAMCR Law Section for more than 10 years. From 1994 to 1998 he chaired the Coordination Committee of the European Interregional Information Society Initiative (IRIS). From 2007 to 2012 he was a member of the Steering Board of the EU FP 7 research project "Next Generation Internet/EURO-NF". He is the founder and chair of the European Summer School on Internet Governance (Euro-SSIG), has testified in hearings in the Deutsche Bundestag and the European Parliament and has published and edited more than 200 articles and 12 books. In 2012 he received the Internet Award from the German Internet Economy Association (eco).

Jovan Kurbalija was a member of the WGIG and is the founding director of DiploFoundation and the head of the Geneva Internet Platform. He is a former diplomat with a professional and academic background in international law, diplomacy, and information technology. In 1992, he established the Unit for IT and Diplomacy at the Mediterranean Academy of Diplomatic Studies in Malta. In 2002, after more than 10 years of successful work in training, research and publishing, the Unit evolved into DiploFoundation. He directs online learning courses on ICT and diplomacy and lectures in academic and training institutions in Switzerland, the United States, Austria, the United Kingdom, the Netherlands and Malta. His main areas of research are diplomacy

and the development of an international Internet regime, the use of hypertext in diplomacy, online negotiations and diplomatic law. He is the author of *An Introduction to Internet* Governance, which has been translated into eight languages and is now in its 6th edition.

Markus Kummer is an independent consultant specializing in Internet governance and policy. He is a member of the Board of Directors of the Internet Corporation for Assigned Names and Numbers (ICANN) and the secretary of the Internet Governance Forum Support Association (IGFSA). Until September 2014 he was the Internet Society's senior vice president. Previously, he worked for the United Nations, first as executive coordinator of the WGIG and subsequently of the Secretariat supporting the Internet Governance Forum (IGF). In this capacity he was responsible for preparing and organizing the first five annual IGF meetings between 2006 and 2010. In 2013, he was asked by the United Nations to chair the preparatory process for the annual IGF meeting held in Bali, Indonesia. He joined the United Nations in 2004 after holding the position of eEnvoy of the Swiss Foreign Ministry. He was a member of the Swiss delegation during the first phase of the World Summit on the Information Society (WSIS). He served as a career diplomat in several functions in the Swiss Foreign Ministry. He is based in Geneva, Switzerland.

Olivier Nana Nzépa was a member of the WGIG and also has served as a member of the African Bamako Bureau in charge of WSIS, a member of the Commonwealth Working Group on the Action Plan for the Digital Divide (CAPDD), and and an international ICT consultant for Atos KPMG Consulting, the UNDP, UNESCO, UNECA, CIDA and INTIF. As a member and former regional coordinator of the Research ICT Africa network, he has published extensively on ICT governance, regulation, access and usage, data compilation, policy analysis, and capacity-building issues. He is currently the head of the ICT Department at the University of Yaoundé II, a professor/consultant at the Higher Institute of Public Management in Yaoundé, Cameroon, a visiting professor to Middlesex University Business School, and an OUBS international fellow.

Alejandro Pisanty was a member of the WGIG and is a professor at the National Autonomous University of Mexico (UNAM). His academic life has included Theoretical/Quantum Chemistry, Solid State Physics, Information Technology, Internet Governance, Distance Education and e- and mobile learning. He has held posts at UNAM such as director of Academic Computing Services and coordinator of Open University and Distance Education. He has been a member of the Board of Directors of ICANN (also its vice-chair for six years), the Board of Trustees of the Internet Society (ISOC) and chair of ISOC Mexico. He has acted as a consultant on information technology in education, e-justice and e-government. He has played a leading role in advanced networking (founding CUDI, the Internet 2 organization in Mexico), virtual reality (founding Ixtli, the virtual reality CAVE of UNAM), supercomputing and a large growth of crucial Internet services. In ICANN he led the Evolution and Reform Committee (2001-2003) and was a member of the Stability, Security and Resilience of the DNS Review Team (2010-2012). He was a member of the Internet Governance Forum Advisory Group (now MAG), and has been a steady participant in Internet governance processes and debates both internationally and in Mexico.

Paul Wilson has over 25 years' involvement with the Internet, and over 15 as the director general of APNIC (www.apnic.net). As part of this current role, he represents the activities and interests of the Asia Pacific Internet community in regional and global forums related to the development and management of the Internet. Paul has participated, often as a speaker, in every IGF event, and served on the MAG for three years. He has also been closely involved in the Asia Pacific Regional IGF (APrIGF), serving currently as the chair of the Multistakeholder Steering Group. Previously the

CEO of Pegasus Networks, the first private ISP established in Australia, Paul also acted as a consultant to the United Nations and other international agencies. Pegasus was a founding member of the Association for Progressive Communications (www.apc.org), and Paul served for some years on the APC Council, including as vice-chair of the Executive Board. He also worked during this time with the International Development Research Centre (IDRC) on their "PAN" (Pan-Asia Networking) Programme, helping to introduce Internet services for the first time in several developing countries.

Michael Yakushev was a member of the WGIG and is an international lawyer and scholar on internet legal issues. He served in the Soviet and Russian Foreign Ministry, and in the Russian Ministry of Telecommunications. He has also worked in a number of multinational IT companies as chief counsel of their Moscow-based offices. He was a member of the Digital Opportunities Task Force (DOT Force) after adoption of the Okinawa Charter (1999-2000). Since 2014, he is ICANN's vice-president for Eastern Europe and Central Asia. He lives in Moscow, Russia.

10th Anniversary Reflections

2015 marks the 10th anniversary of the World Summit on the Information Society (WSIS). The UN General Assembly reviewed the progress made over the past decade and negotiated a text that addresses a number of global Internet governance issues. 2015 is also the 10th anniversary of a multistakeholder experiment that helped bring the WSIS to a successful conclusion: the Working Group on Internet Governance (WGIG). Convened in 2004, the WGIG assembled 40 representatives of governments and stakeholders who engaged in months of intensive peer-level dialogue and collective analysis. The WGIG process was an important turning point and catalyst in the intergovernmental recognition of multistakeholder processes for Internet governance. In June 2005, the WGIG released a widely noted report that advanced a "broad definition" of Internet governance; holistically addressed a range of policy issues; offered four competing models for the "oversight" of critical Internet resources; and proposed the establishment of the Internet Governance Forum. The report significantly influenced the final agreement adopted by WSIS.

This book reflects on the WGIG's procedural and substantive contributions to the evolving global Internet governance dialogue and institutional ecosystem. Written by former WGIG members and others who played key roles in the debates on the WGIG and WSIS, the volume is a follow-up to a book produced in the summer of 2005: William J. Drake, ed., *Reforming Internet Governance: Perspectives from the UN Working Group on Internet Governance*. http://amzn.to/20bZ62s.

Topics include: historical overview; understanding Internet governance; institutionalizing multistakeholder cooperation; from oversight to stewardship; Internet governance for development; and closing reflections.

Authors include: Fiona Alexander, Peng Hwa Ang and Sherly Haristya, Karen Banks and Anriette Esterhuysen, Nitin Desai, Avri Doria, William J. Drake, Raúl Echeberría, Baher Esmat, Juan Fernández González, Hartmut R. Glaser and Diego R. Canabarro, David Hendon, Jānis Kārkliņš, Wolfgang Kleinwächter, Jovan Kurbalija, Markus Kummer, Olivier Nana Nzépa, Alejandro Pisanty, Paul Wilson and Pablo Hinojosa, and Michael Yakushev.

APNIC APC cgi.br ICANN Internet Society