Who Governs the Internet ?

A discussion paper by

Global Partners and Associates

‘Netizens, companies and governments all face an urgent moral imperative to innovate politically – in the broadest sense of the word – on a scale that matches the dramatic technical innovations of the past several decades.’

R. MacKinnon, 2012, Consent of the Networked: *The Worldwide Struggle for Internet Freedom.* Basic Books, p.244

Contents

02 Introduction

03 A short history of internet governance

04 Complaints against the current regime

06 Proposals for change – evolution or revolution?

09 The principles approach

11 Discussion points

12 Further reading

13 *Annex 1*: Compilation of internet governance principles from a range of initiatives

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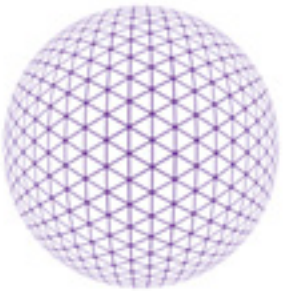

Introduction

The rise of the internet is possibly the greatest amplifier of human potential the world has ever seen. The internet and mobile phones have opened up new horizons for communication, connecting people to a global network for sharing information and ideas. This is having a profound impact on human life in all domains – political, economic, social, and cultural. In human rights terms the internet is tremendously exciting, offering new opportunities for expanding civil and political rights, as well as new potential for realising economic, social and cultural rights. However, the future development of the internet is uncertain. The immense influence of the internet – particularly in the economic and political realms – means that arrays of powerful stakeholders increasingly seek to dominate and control it. There are growing threats from governments and businesses across the world that erect barriers to the free flow of information online for a variety of purposes.

At present the internet is governed by a wide range of institutions and actors, each responsible for processes across different geographical, technical and social dimensions. While it is generally accepted that this dispersed and complex model has been working very well at the technical level, at the policy level there is much greater disagreement. It is unclear how challenges – from privacy, to cybercrime and network neutrality – can be dealt with under the present regime. On the one hand there are governments threatened by an empowered citizenry that seek to enforce greater control over the environment as access to the network proliferates. On the other hand there are governments, and some civil society groups, who argue that the current regime is dominated by the global north and serves to facilitate greater business (and hence, non-democratic) control. The current regime is coming under increased pressure to either step up to the challenges of the internet age, or else risk being replaced for more centralised and top-down governance alternatives. How to develop policy for an area which is global, decentralised and extremely fast-changing is an enormous, and increasingly controversial, challenge. It is imperative that civil society acts promptly to shape a process that will protect and further the public interest.

At present the debate about the future of the governance regime is waging between small silos of experts, and is increasingly political. Some fear that opening up wider discussions about the shortcomings of the current system will play into the hands of authoritarian governments. However the calls for change will not go away. Indeed as some large emerging economies approach and even overtake Western economies, shifts in global governance are increasingly likely. A much wider discussion is needed. Both for utilitarian reasons – because the more perspectives drawn upon the, more likely any response undertaken is to be in everybody's interest – but also for democratic reasons – the internet belongs to everyone and everyone should have a say in how it develops. This paper does not aim to highlight a way forward. Rather it aims to provide a platform for discussion amongst civil society so that together we can develop shared understandings, demands and strategies to protect the public interest.

A short history of internet governance

Governance of the internet is often divided into two categories: technical governance (which is about keeping the internet working) and policy governance (which is about what happens on the internet and the overall direction that it develops in). While in reality, technical governance and policy governance do, to some extent, overlap, it is useful to approach them separately.

Technical governance has developed organically alongside the evolution of the internet. Technical standards and management of internet architecture are functions which are handled by non-profit, membership-based, independent, standard making bodies like the Internet Engineering Task Force and the World Wide Web Consortium. The Internet Corporation for Assigned Names and Numbers (ICANN) is a private-led entity which manages the operational stability of the internet. It is responsible, at the overall level, for the Domain Name System, the allocation of Internet Protocol addresses and the operation of the DNS Root Server System. These bodies are open for anyone to participate (although expertise is in practice a barrier given that they deal with highly technical matters) and make decisions by 'rough consensus'.

ICANN controversy

ICANN was originally mandated through a Memorandum of Understanding with the US government. This was a cause of serious contention, with many stakeholders dissatisfied that the US government had ultimate authority over several key internet governance functions. ICANN made several attempts to move away from US control and in 2009 the US government announced it would end its unilateral supervision powers over ICANN. Instead the US agreed an 'Affirmation of Commitments' and ICANN is now governed by an international board of directors drawn from across the internet technical, business, academic, and civil society communities. However, the National Telecommunications and Information Administration, an agency of the United States Department of Commerce, continues to have final approval over changes to the DNS root zone. Some commentators find this unproblematic given that the USG has in practice followed ICANN procedures in relation to authorising new TLD zone files, even when decisions were counter to USG stated preferences (such as .xxx). Other commentators believe is something that should happen slowly as the current approach continues to evolve, or if an international agreement in the short term is more desirable.

Beyond technical governance, internet governance has a short history. A key starting point for examining internet governance is the World Summit on the Information Society (WSIS) which took place in Geneva in 2003 and Tunis in 2005. At WSIS governments, businesses, civil society and academics from across the world gathered for the first time to discuss the internet, what it was doing to their societies and how to shape it. During the process it became necessary to develop a concept of governance which was tailored to the particularities of the internet. A multi-stakeholder working group, the Working Group on Internet Governance, was set up by the UN Secretary General in October 2004 to 'investigate and make proposals for action, as appropriate, on the governance of the internet'. The key achievement of the WGIG was to develop a broad and inclusive understanding of internet governance which was incorporated into the final Tunis Agenda for the Information Society, signed on to by 174 governments. The oft-quoted definition is as follows: *'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 of the internet.'* [1] This definition is helpful in that it lists the

stakeholders and some of the challenges facing internet governance. However, it provides no direction as to what a system or combination of systems of internet governance would need to be effective and sustainable.

A variety of models for overall governance were suggested at WSIS. In the end two mechanisms were agreed upon: The first was the establishment of the Internet Governance Forum (IGF), a multi-stakeholder body created under the auspices of the United Nations for dialogue on internet policy. Secondly, and more obliquely, the Secretary General was tasked with starting a process towards 'enhanced cooperation'. According to Article 69 of the Tunis agenda this means 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'.

The Internet Governance Forum has now met six times (in Athens, Rio de Janeiro, Hyderabad, Sharm el Sheikh, Vilnius and Nairobi). The IGF has also been further developed through national and regional IGFs in many parts of the world. It is a meeting space where all stakeholders can come together to discuss internet governance issues and develop 'policy' in a bottom up manner. Importantly, even the agenda-setting process is collaborative and bottom up. The multi-stakeholder approach is based on the idea that those who will be affected by decisions have a right to be involved in the making of them, and also that 'a diverse body of participants contribute to better decisions, and their involvement contributes to the successful implementation of policies on the ground' (Macial and Affonso, 2011). Arguably this is especially important in the realm of the internet where traditional regulatory tools do not work as effectively[2] and power is intrinsically distributed. It is not just conventional policy makers – governments or public officials - who shape modern communications environments. They are also being driven by technical standards, by innovative businesses and, perhaps most radically, by everyday internet users themselves.

While those are the official internet governance policy spaces, they are not the only ones that deal with internet issues. International discussions on internet public policy have been taking place for years on issues such as privacy, cyber-security, data protection, child abuse imagery, and intellectual property. As the internet becomes more and more essential to all areas of life, so the number of policy processes which engage with internet issues expands: the International Telecommunications Union, the World Intellectual Property Organisation, the World Trade Organisation, the Organisation for Economic Development and Co-operation, the Council of Europe, the Organisation of American States, UNESCO, the UN Human Rights Council, the G8, are all examples of spaces where internet issues are discussed and some policy cohesion is sought[3]. Furthermore, national governments across the world pass laws and policies which, seeing as the environment is global, affect the internet space for everyone.

[1] See paragraph 34 of WSIS (World Summit on the Information Society) Executive Secretariat (Ed.). (2005). Tunis Agenda for the information society. Document WSIS-5/TUNIS DOC/6(Rev.1)-E. Geneva: International Telecommunication Union.

[2] See Cooper, M (2012) Why Growing up Is Hard To Do: The 'Quarter-Life Crisis' Of The Digital Revolution Triggers A Struggle To Find 21st Century Solutions To 21st Century Challenges Adjunct Fellow, Silicon Flatirons

[3] A recent Consumers International paper identified more than 41 relevant regional and global bodies. See: http://www.consumersinternational.org/media/924905/infosoc2012.pdf

Complaints against the current regime

Despite fairly widespread praise for the current regime, in particular for the extent to which it is open and innovative, it is also true that it is not perfect and indeed there are a number of complaints against it. This overview of complaints is based on discussions amongst online communities, and at relevant events such as the IGF.

Some civil society and developing countries are critical that, despite inclusiveness being a key value of the model, there are significant groups who are underrepresented or not represented at all in the internet governance regime at present. These include stakeholders from developing countries – particularly least developed countries, and particularly civil society from these countries, small businesses, minority groups, children and young people, and people with disabilities. Barriers to full participation include costs, expertise, and language.

Other concerns are about the actual capability of the system to develop applicable and cohesive policy to respond to the many public policy issues. Some refer to this as a 'policy vacuum'. In place of this, national governments make their own policies. And the effect of many different and sometimes conflicting laws is to fragment what should be a globally integrated public space. At the most extreme end are China and Iran who have effectively created national internet spaces. But democracies too are considering, and passing, legislation which prevents certain types of communication and have a global impact, particularly in pursuit of enhancing online copyright protection. Furthermore, some commentators argue that in the absence of effective global policy institutions, many governments are migrating to other forums and ad hoc processes in order to make more concrete contributions to international internet governance. Countries (and other stakeholders) who are not part of these alternative processes are then impacted by policy that they have little or no influence over. For example, the Cybercrime Treaty was developed at the Council of Europe and later other governments were invited/encouraged to sign on. Given the lack of global policy making, to a large extent corporates in this area are self-regulating (or not as the case may be). While there are some examples of corporates responding to this challenge (such as the Global Network Initiative), in general self-regulation has proved incapable of responding to a range of challenges from privacy protection to network neutrality.

Where do different actors fall in this discussion?

At present there is no publicly available topography (that we are aware of) describing the position of governments and other groups in relation to this discussion. Most governments can be most accurately understood as a coalition where different arms of government take different positions on the debate. Positions can also vary in different forums, or in relation to different issues. For example, the US government has been a strong proponent of multi-stakeholder governance at the OECD, but is also leading the Anti-Counterfeit Trade Agreement which has been resolutely closed involving a small number of governments and a few large businesses. Some countries are also reported to proclaim different stances in public than in private. The countries that are most overtly pushing for intergovernmental control include Russia, China, South Africa, Saudi Arabia, Iran, and some other MENA and former Soviet Republics. India and Brazil are also pushing for major changes, but the models they propose are generally more democratic and multi-stakeholder. For other countries it may be that their positions are not yet sufficiently defined.

Proposals for change – evolution or revolution?

Responses to these challenges can be grouped into two categories. On the one hand there are the 'evolutionary' approaches. Proponents argue that the basics characteristics of the current system are right - dispersed, global and multi-stakeholder – but that there is a need to improve the workings of the system. The argument is that the internet as an engine of innovation is unlikely to survive an interventionist regulatory model, and instead what is needed is to improve participation in the current structures, and improve the capabilities of the current regime to contribute to coordinated global policy making, for example by enabling the IGF to produce clearer outcomes. On the other hand there are the 'revolutionary' approaches. These call for whole new institutions and/or power-sharing arrangements. They also call for a movement away from loose, bottom up, multi-stakeholder governance – to a system where international governmental organisations and other state-dominated mechanisms play a much larger role. These discussions are taking place in different spaces/processes, and are being driven by different actors, often with different concerns and agendas.

Promoting an evolutionary approach are some civil society groups who are trying to increase multi-stakeholder participation in all forums where internet policy is formed – for example by participating in the OECD's Civil Society Information Society Advisory Council and campaigning for greater openness and civil society participation at the ITU. There are also efforts to improve the participation of underrepresented groups at the IGF (particularly civil society and developing countries) by improving remote participation and setting up external hubs. And there are attempts to make the IGF as effective as possible – these include engaging in the IGF organising committee (the Multi-stakeholder Advisory Group) and also calling for and engaging in other attempts to reform the IGF. A Working Group on IGF Improvement was formed by the CSTD and held a series of meetings in 2011 and 2012 to discuss the need to improve the IGF 'with a view to linking it to the broader dialogue on global internet governance' and in particular to look into 'enhancing participation from developing countries, exploring further voluntary options for financing the Forum and improving the preparation process modalities, and the work and functioning of the Forum's secretariat'. The Working Group issued a set of recommendations covering five areas: shaping the outcomes of IGF meetings; working modalities including open consultations, the Multi-stakeholder Advisory Group and the Secretariat; funding the IGF; broadening participation and capacity-building; and linking the IGF to other internet governance-related entities. Some notable recommendations include developing special funding to engage people from developing countries (particularly least developed countries), expanding linguistic diversity, and increasing capacity building. Many hoped that the Working Group would find ways for the IGF to produce more concrete outcomes to influence and shape internet policy, for example with working groups capable of structured analysis and dialogue. However, the resulting recommendation calls for the secretariat, whilst maintaining the non-binding, non-decision making nature of the IGF, to pro-actively share outcomes and other docs with other governance entities and invite them to participate in the IGF. These recommendations are welcome however relatively benign in that they are unlikely to result in significant changes to the working of the IGF.

Aside from the IGF, the other mechanism which was supposed to come out of WSIS, as mentioned above, was'enhanced cooperation'. There is currently a lack of common understanding about what implementing enhanced cooperation on international public policy means – some believe it is already happening and it is a process which takes place in all internet policy forums, others believe that it calls for a separate institution. Thus, implementing 'enhanced cooperation' could result

in either an evolutionary or revolutionary change to the internet governance regime depending on which understanding prevails. The continued lack of consensus about what the enhanced cooperation means reflects that little has progressed on this agenda. The Secretary General held a round of consultations in 2010, and released a report in May 2011 which essentially established that there are many different ideas about what enhanced cooperation should look like and many differing proposals about how to take the agenda forward. On May 18, 2012 there was a one day meeting on enhanced cooperation. The discussion centred on whether the WSIS commitment to enhanced cooperation calls for a separate government-only aspect of internet governance. There were many calls for a working group on enhanced cooperation, and many worries that such a working group would be government only. The Association for Progressive Communications launched a proposal for a working group within the IGF to establish: definitions of important terms (such as 'in their respective roles'); issues where better coordination is needed; a map of existing institutions and processes with as assessment of enhanced cooperation in each; and a specific output – a multi-stakeholder declaration on enhanced cooperation in internet governance i.e. common principles and commitments needed to ensure public interest cooperation.

There are also proposals to change the internet more radically. The trend of governments calling for more control at the global level over the internet has a long history, but arguably it has intensified in recent years. Three particular proposals warrant closer inspection. Discussion amongst India, Brazil and South Africa which led to the India government proposing a Committee for Internet-Related Policies; a proposal from Russia, China, Uzbekistan, Tajikistan for an International Code of Conduct for the Information Society; and various proposals to amend the ITU regulations so that it plays a larger role in internet governance.

India, Brazil and South Africa have established a dialogue forum for promoting international cooperation among these countries. In September 2011 they issued a statement outlining their thoughts at that time. The statement called for a new global body within the UN System to 'develop and establish international public policies' for the internet and to 'integrate and oversee the bodies responsible for technical and operational functioning of the internet, including global standard setting'. The statement said that the governments involved would flesh out a more detailed plan and propose this to the UN General Assembly. This has not, thus far, occurred and there are some reports that the proposal has collapsed. However the Indian government did develop its own proposal independently. The Committee for Internet-Related Policies (CIRP) Proposal was presented to the UN GA in October 2011, and again at the one day on enhanced cooperation in 2012. The proposal is for a new institutional mechanism within the UN to develop and establish international public policies with respect to the internet, including overseeing the technical governance bodies. The CIRP would contain 50 member state representatives, and some limited non-governmental stakeholder representational structures – four advisory committees representing civil society, the private sector, intergovernmental and international organisations, and the technical/academic community. As a proposal, it is a move away from the multi-stakeholder model, returning stakeholders other than governments into silos with only advisory influence.

Russia, China, Uzbekistan, Tajikistan submitted a proposal for an International Code of Conduct for the Information Society to the UN General Assembly in September 2011. While not a proposal for a new institution, it certainly suggested a new process and power- arrangement in global internet governance by calling for UN level action on the issue of cybersecurity. Essentially the Code would increase government power over the internet, and it contains no multi-stakeholder dimension. The resolution

proposed a voluntary 12 point code of conduct based on, amongst other things, 'the need to prevent the potential use of information and communication technologies for purposes that are inconsistent with the objectives of maintaining international stability and security and may adversely affect the integrity of the infrastructure within States.' Although voluntary, the code aimed to demarcate more ground for government in internet governance, as the preamble states: 'policy authority for internet-related public issues is the sovereign right of States'. The code includes the right to curb online information that undermines 'social stability', which could enable extensive censorship.

In December the World Conference on International Telecommunication (WCIT) will be happening at the ITU to update the International Telecommunications Regulations (ITR). The ITR is one of the four treaties forming the foundation of the ITU's mission, and thus apply to 193 countries. The ITU is a UN specialised agency whose mandate is to promote global interoperability of telecommunications, radio communications and satellite systems and promote access to telecommunications technology. Currently the ITR does not cover the internet's technical standards, infrastructure or content. Many commentators feel that the ITU is structurally inappropriate to play an important role in internet governance given its processes are top-down and lack transparency and inclusiveness. However, there is evidence that some countries (in particular Russia and China) are seeking to expand the regulations to include internet regulation. In June 2012 (following extensive criticism), further evidence about the proposals has been released into the public domain, including in a document (TS 62) which also contains commentary and attributions. The central thrust of the proposals appears to be an attempt for incumbent telecommunications organisations to recover market share. The proposals which are most significant in terms of internet governance include:

- Proposals to institute a 'sender pays' model of paying for internet traffic. When an internet user accesses, for example, Youtube, it is the user that pays for the packets delivered to them, rather than Youtube. This can be contrasted with other communication fields. For example, it is the sender that pays when posting a letter or making a phone call. Some developing countries prefer this charging mechanism because it will allow ISPs who are instituted in their countries to demand payment from internet platforms (such as Google or Facebook) many of whom are based in the global north. On the other hand some developed countries and the technical communities tend to argue that this model would create market distortions and would mean that future development of internet would be more centrally driven rather than in response to user demand.

- Proposals for the ITU to extend its remit to cover spam. This is seen as controversial because it means that the ITU would address content issues (with potential freedom of expression connotations).

- Proposals to allow internet service to be disrupted in certain circumstances such as national security. This runs counter to the growing norm which finds cutting users off from internet access is always disproportionate and hence a violation of freedom of expression.

The principles approach

It is important to watch and attempt to influence the debate about the overall shape of internet governance regime as this will likely have profound implications for the public interest. Another approach is to, instead of focussing on the actual model of governance system, to develop and promote certain values and objectives to guide internet governance in whichever forum (existing or new) where it takes place. We are calling this the principles approach.

Given that the internet is decentralised, global and fast changing it is not well suited to traditional forms of governance such as national and international law. At the same time, some global cohesion is desirable, to respond to genuine challenges whilst maintaining a global environment. Therefore, many groups (including a range of governments and civil society actors) are pursuing initiatives which aim to create a framework of norms for internet governance – standards that are not legally binding but which carry normative and moral weight. Policy principles offer a more flexible alternative, enabling coordinated policy making without running the risk of enshrining detrimental standards in international law, or stifling innovation. Most of the initiatives attempt to define principles for the process of governing the internet, as well as some objectives and restrictions on the objectives of policies developed. A compilation of principles which speak to the governance regime can be found in the Annex.

The Council of Europe passed an Internet Governance Declaration in September 2011 containing ten principles. The principles were developed by a multi-stakeholder committee of experts and consulted upon widely with Council of Europe member and non-member states, business and technical communities, and civil society activists from Europe and beyond. Both the process and the resulting principles have been widely supported. They call for internet governance mechanisms to 'enable full and equal participation of all stakeholders from all countries', this also expressly includes the users themselves. The principles also uphold the decentralised system of governance.

The Organisation for Economic Cooperation and Development (OECD) ministerial meeting in France in June 2011 came out with 15 Internet Policymaking Principles - the OECD Communique. The process was driven by the US Government. The OECD has, in recent years made efforts to be more multi-stakeholder, particularly through the development of advisory committees representing different stakeholders, such as the aforementioned civil society council, CSISAC. The principles expressly state that the internet has developed without any international regulatory regime, and that such a regime 'could risk undermining its growth'. The principles also call for greater multi-stakeholder participation in internet policies wherever they are formed which should 'should involve the participation of all interested stakeholders and occur in a transparent manner'. Transparency, fair process, and accountability are three fundamental principles which should be 'encouraged', including the support of policy dialogues with publicly available reliable data. The principles also specifically promote codes of conduct 'backed up by effective accountability mechanisms'. In the event, CSISAC declined to sign on the Communique.

While CSISAC supported the process followed and agreed with much of the content of the Communique – the main points of disagreement were on intellectual property protection and whether internet service providers should be pushed to become more responsible for policing the network on copyright holders behalf – issues on which no multi-stakeholder consensus could be formed.

The Internet Rights and Principles Coalition is a multi-stakeholder coalition formed under the auspices of the IGF of individuals and groups committed to upholding human rights in the internet environment. The group have been working since 2009 to outline how human

rights standards should be interpreted to apply to the internet environment, and the internet policy principles which must be upheld in order to create an environment which supports human rights to the maximum extent possible. The evolving Charter of Human Rights and Principles for the Internet examines internet governance mechanisms through the filter of article 28 of the UDHR: 'Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized'. While not recommending any particular system, the Charter finds that governance should be driven by principles of openness, transparent, and accountability. The Charter also places great importance on effective multi-stakeholder participation which much be ensured by multilingualism as well as efforts to increase the participation of 'disadvantaged groups'.

The Association for Progressive Communications is an organisation - as well as a network of organisations, social movements and individuals - that believes all people should have easy and affordable access to a free and open internet to improve their lives and create a more just world. In 2001-2, APC created an Internet Rights Charter through regional workshops in Europe, Asia, Latin America and Africa with APC members and partner organisations. The APC Charter upholds the importance of decentralised and collaborative technical governance of the internet. With regards to broader internet governance, it states that: 'Internet governance should be multilateral and democratic, with the full nvolvement of governments, the private sector, civil society and international organisations. No single government should have a pre-eminent role in relation to international internet governance.' According to the Charter the process must also be open and accessible at all levels.

Discussion points

The questions about how best to govern the internet are not going to solve themselves on their own or go away. There are many legitimate concerns with some of the proposals for greater governmental control. At the same time, there are significant short-comings with the regime at present. Civil society need to consider these issues and develop proactive approaches to ensure that the regime develops in a way that promotes the public interest. Below are a number of discussion points to promote consideration of the main issues:

What type of internet do we want?
Different types of governance will promote different internet environments, so a starting point is to think about our aspirations for the environment.

What type of multi-stakeholder governance is ideal?
Multi-stakeholder governance is a recurring theme. But what is the value of multi-stakeholder participation? Are there any risks? Where should multi-stakeholder governance happen? Are there some issues which it is not appropriate for? What roles and responsibilities do different stakeholder groups have? What are the differences between different stakeholder groups? What are the barriers to participation from civil society? How can/ should they be overcome? Whose responsibility is it?

What are features of the agenda setting, dialogue and decision making processes in a good internet governance regime?
A number of principles recurred across the paper – open, transparent, inclusive. When we say these terms, what exactly do we mean? What would be a best case, and worst case, scenario in regards to each?

How centralised or decentralised should the system of governance be? What are advantages/disadvantages of a decentralised and centralised system of governance? Are there some functions which are more suited to different forms of governance?

Some individuals and groups are calling for the production of one global set of principles – is this desirable?
What would be the benefits and risks of such an approach? Are there other approaches which would be better? If desirable – how could this be achieved in practice? What lessons can we learn from how norms have developed in other areas?
Is this an important discussion? If so, how do we expand it? Who needs to be involved? What are the main issues?

How can civil society increase their meaningful participation in internet governance processes?
How can civil society influence the development of the internet governance regime?

Further reading

Maciel, M. and Affonso, C. Multi-stakeholder Participation on Internet Governance: An Analysis from a Developing Country Perspective, Association for Progressive Communications, September 2011

Puddephatt, A., Hawtin, D. et al. A New Frontier, An Old Landscape, Global Partners & Associates, 2011

Kleinwächter, W. (ed.), #2 Internet Policy Making, Internet and Society Co:llaboration, September 2011

Mueller, M. Networks and States: The Global Politics of Internet Governance (Information Revolution and Global Politics), The MIT Press, 2010

IT for Change, A Development Agenda in Internet Governance, A draft input paper for IBSA Seminar on Global Internet Governance, Rio de Janeiro, September 2011

Wagner, B., After the Arab Spring: New Paths for Human Rights and the Internet in European Foreign Policy, European Parliament 2011

Annex 1: Principles for internet governance from different initiatives

Council of Europe Internet Governance Principles, September 2011.

2. Multi-stakeholder governance: The development and implementation of Internet governance arrangements should ensure, in an open, transparent and accountable manner, the full participation of governments, the private sector, civil society, the technical community and users, taking into account their specific roles and responsibilities. The development of international Internet-related public policies and Internet governance arrangements should enable full and equal participation of all stakeholders from all countries.

3. Responsibilities of states: States have rights and responsibilities with regard to international Internet-related public policy issues. In the exercise of their sovereignty rights, states should, subject to international law, refrain from any action that would directly or indirectly harm persons or entities outside of their territorial jurisdiction. Furthermore, any national decision or action amounting to a restriction of fundamental rights should comply with international obligations and in particular be based on law, be necessary in a democratic society and fully respect the principles of proportionality and the right of independent appeal, surrounded by appropriate legal and due process safeguards.

4. Empowerment of Internet users: Users should be fully empowered to exercise their fundamental rights and freedoms, make informed decisions and participate in Internet governance arrangements, in particular in governance mechanisms and in the development of Internet-related public policy, in full confidence and freedom.

7. Decentralised management: The decentralised nature of the responsibility for the day-to-day management of the Internet should be preserved. The bodies responsible for the technical and management aspects of the Internet, as well as the private sector should retain their leading role in technical and operational matters while ensuring transparency and being accountable to the global community for those actions which have an impact on public policy.

OECD Communiqué on Principles for Internet Policy-making, June 2011.

Promote the open, distributed and interconnected nature of the Internet: As a decentralised network of networks, the Internet has achieved global interconnection without the development of any international regulatory regime. The development of such a formal regulatory regime could risk undermining its growth. The Internet's openness to new devices, applications and services has played an important role in its success in fostering innovation, creativity and economic growth. This openness stems from the continuously evolving interaction and independence among the Internet's various technical components, enabling collaboration and innovation while continuing to operate independently from one another. This independence permits policy and regulatory changes in some components without requiring changes in others or impacting on innovation and collaboration. The Internet's openness also stems from globally accepted, consensus driven technical standards that support global product markets and communications. The roles, openness, and competencies of the global multi-stakeholder institutions that govern standards for different layers of Internet components should be recognised and their contribution should be sought on the different technical elements of public policy objectives. Maintaining technology neutrality and appropriate quality for all Internet services is also-important to ensure an open and dynamic Internet environment. Provision of open Internet access services is critical for the Internet economy.

Encourage multi-stakeholder co-operation in policy development processes: The Internet's complexity, global reach, and constant evolution require timely, scalable, and innovation-enabling policies. Due to the rapidly changing technological, economic and social environment within which new policy challenges emerge, multi-stakeholder processes have been shown to provide the flexibility and global scalability required to address Internet policy challenges. These multi-stakeholder processes should involve the participation of all interested stakeholders and occur in a transparent manner. In particular, continued support is needed for the multi-stakeholder environment, which has underpinned the process of Internet governance and the management of critical Internet resources (such as naming and numbering resources) and these various stakeholders should continue to fully play a role in this framework. Governments should also work in multi-stakeholder environments to achieve international public policy goals and strengthen international co-operation in Internet governance.

Foster voluntarily developed codes of conduct: Governments may be able to achieve certain policy goals through flexible, adaptive means by encouraging, facilitating and supporting the development of codes of conduct that are supported by effective accountability mechanisms. These codes would be developed by voluntary participants in a multi-stakeholder process

and, if appropriate, enforceable under appropriate governmental authority. Such codes of conduct should encourage and facilitate voluntary co-operative efforts by the private sector to respect the freedoms of expression, association and assembly online, and to address illegal activity, including fraudulent, malicious, misleading and unfair practices taking place over the Internet. Such co-operative efforts should be balanced and consistent with the applicable legal framework and where those co-operative efforts are not forthcoming, other policy options consistent with these principles should be considered in consultation with relevant stakeholders.

Develop capacities to bring publicly available, reliable data into the policy-making process:
Publicly available data can increase the quality of all stakeholders' participation in Internet policy-making as well as governments' ultimate policy decisions. The collection, validation and public dissemination of objective data to inform Internet policy decisions should be reinforced and used to augment the combined research capacities of governments, other competent authorities and other stakeholders. International comparable metrics will help to quantify the ongoing economic developments and assess the proportionality and effectiveness of any policy solutions created in multi-stakeholder processes. Data gathering should be undertaken so as to avoid administrative burdens and data analysis should be done carefully to enable sound policymaking.

Ensure transparency, fair process, and accountability:
In order to build public trust in the Internet environment, policy-making processes and substantive policies that ensure transparency, fair process, and accountability should be encouraged. Transparency ensures that Internet users have timely, accessible, and actionable information that is relevant to their rights and interests. Fair process provides predictable decision-making procedures to govern the definition, assertion, and defence of rights. Accountability is achieved through policies that make parties answerable, where appropriate, for their actions on the Internet.

Deauville G8 Declaration, May 2011

As we support the multi-stakeholder model of Internet governance, we call upon all stakeholders to contribute to enhanced cooperation within and between all international fora dealing with the governance of the Internet. In this regard, flexibility and transparency have to be maintained in order to adapt to the fast pace of technological and business developments and uses. Governments have a key role to play in this model.

Internet Rights and Principles, the 10 Internet Rights and Principles, March 2011

10) Governance: Human rights and social justice must form the legal and normative foundations upon which the Internet operates and is governed. This shall happen in a transparent and multilateral manner, based on principles of openness, inclusive participation and accountability IRP Charter of Human Rights and Principles for the Internet

Internet Rights and Principles, Charter of Human Rights and Principles for the Internet, January 2011

Governance of the Internet for Human Rights:
The Internet and the communications system must be governed in such a way as to ensure that it upholds and expands human rights to the fullest extent possible.

Internet governance must be driven by principles of openness, inclusiveness and accountability and exercised in transparent and multilateral manner.

Multilingualism and Pluralism on the Internet:
The Internet as a social and international order shall enshrine principles of multilingualism, pluralism, and heterogeneous forms of cultural life in both form and substance.

Effective Participation in Internet Governance: Everyone has the right to participate in the governance of the Internet.

The interests of all those affected by a policy or decision shall be represented in the governance processes, which shall enable all to participate in its development.

Full and effective participation of all, in particular disadvantaged groups in global, regional and national decision-making must be ensured.

Association for Progressive Communications, Internet Rights Charter, November 2006

6.1 The right to multilateral democratic oversight of the internet: Internet governance should be multilateral and democratic, with the full involvement of governments, the private sector, civil society and international organisations. No single government should have a pre-eminent role in relation to international internet governance.

6.2 The right to transparency and accessibility: All decision-making processes related to the governance and development of the internet should be open and accessible at global, regional and national levels.

6.3 The right to a decentralised, collaborative and interoperable internet: The technological development and core resource management of the internet must be decentralised and collaborative, and help to ensure that the network is interoperable, functional, stable, secure, efficient and scalable in the long run.

6.4 The right to open architecture: The internet as a 'network of networks' is made up of many interconnected networks, based on the key underlying technical idea of open architecture networking, in which any type of network anywhere can be included and made publicly available. Open architecture must be protected.

6.5 The right to open standards: Most of the protocols at the core of the internet are protocols based on open standards that are efficient, trusted, and open to global implementation with little or no licencing restrictions. The protocol specifications must remain available to anyone, at no cost, considerably reducing barriers to entry and enabling interoperability.

6.6 The right to internet neutrality and the end-to-end principle: The neutrality of the internet, chiefly concerned with the effective transportation of packets, enables its intelligence to reside largely in computers, applications, servers, mobile and other devices at the networks' ends. This has enabled the development of a wide range of new internet activities, industries and services 'at the ends,' and turns the internet into an important tool within the wider context of economic and societal development. The internet derives much of its power and reach from the value of its network effect. The more people that have access to the internet, the greater its value as a means for information exchange and communication. The end-to-end principle and net neutrality must be defended from attempts to create a two-tier internet and centralise control.

6.7 The right to the internet as an integrated whole: This central interoperability is part of the internet's value as a global public good and should not be fragmented by threats to create national intranets, the use of content filtering, unwarranted surveillance, invasion of privacy and curbs on freedom of expression.

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