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FROM INTERNET GOVERNANCE TO DIGITAL COOPERATION

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ABSTRACT

As part of the Summit of the Future, the United Nations Member States in 2024 adopted a Global Digital Compact (GDC). The GDC is ambitious and contains many thoughtful suggestions, on how to foster digital technologies, to bridge the digital divide, speed up the implementation of the Sustainable Development Goals (SDGs) and also on how to deal with Artificial Intelligence (AI). The stated objective is to reap the "potential benefits for the wellbeing and advancement of people and societies and for our planet".

However, the GDC leaves open the implementation of this objective, thus raising some important questions regarding its real effectiveness and, ultimately, its potential impact. In addition, in 2025 is the 20-year review of the World Summit on the Information Society, known as WSIS+20, and it is not clear how the two processes will interact. Concerns were therefore raised whether this could lead to a fragmentation of governance mechanisms. This trend deserves to be considered carefully as it may likely lead existing club-governance mechanisms – such as the BRICS grouping, the OECD, or regional organizations such as the European Union – to assert their spheres of influence, as a consequence of the increasing trends towards a multipolar order.

This short paper is written by a practitioner who was involved in discussions and negotiations on Internet governance in the past 20 years and witnessed from the inside the many facets of the debate. A look back may help better understand the directions Internet governance and digital policy may take.

Keywords

Global Digital Compact (GDC), digital technologies, Sustainable Development Goals (SDGs), World Summit on the Information Society (WSIS+20), Internet governance.

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Sumário

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THE WORLD SUMMIT ON THE INFORMATION SOCIETY (WSIS)

The World Summit on the Information Society[2] (WSIS) was the last of the summits of the 1990s which started with the Eart Summit in Rio de Janeiro in 1992[3]. The Rio Summit was a watershed moment in multilateral diplomacy. It put the concept of sustainable development on the global agenda, and, for the first time, a global summit included non-state actors alongside governments. Other Summits were the International Conference on Population and Development[4] in Cairo in 1994, the World Summit for Social Development[5] in Copenhagen in 1995, and the Fourth World Conference on Women[6] in Beijing in 1995. WSIS was to build on these UN Summits and put the Information and Communications Technologies (ICTs) on the global policy agenda. Unlike the other Summits, WSIS was organized not by the UN Headquarters, but by a specialized agency, the International Telecommunication Union (ITU).

The aim was to bring the benefits of the new technologies to the developing countries and to bridge the digital divide. WSIS was held in two phases, 2003 in Geneva and 2005 in Tunis. It was conceived as a classical intergovernmental Summit, built on the rules of procedure of the other Summits of the 90s. The private sector and civil society were invited to participate. However, the participation of non-state actors was constrained and they were allowed to make their voices heard in limited time slots, usually at the end of the meeting after all the government representatives had spoken.

During the first phase of the Summit a new issue came to the fore: the Internet and its governance. Governments in 2003 were unable to agree on how to deal with the Internet and decided to take advantage of the time between the two phases of the Summit and asked the Secretary-General of the United Nations to set up a Working Group "to investigate and make proposals for action on the governance of Internet by 2005"[7]. Significantly, the mandate made it clear that the Working Group would have to

[2] For detailed information about the WSIS and its review processes, see https://www.itu.int/net/wsis/

[3] 3For detailed information about the 1992 Earth Summit see https://www.un.org/en/conferences/environment/rio1992

[4] https://www.unfpa.org/icpd

[5] https://www.un.org/en/conferences/social-development/copenhagen1995

[6] https://www.un.org/en/conferences/women/beijing1995

[7] WSIS Declration of Principleas, , para 50 https://www.itu.int/net/wsis/docs/geneva/official/dop.html and and WSIS plan of Action, para 13.b https://www.itu.int/net/wsis/docs/geneva/official/poa.html

evolve "in an open and inclusive process" and "ensure the full and active participation of governments, the private sector and civil society"[8].

The Working Group on Internet Governance – or WGIG as it became known by its acronym – was a gamechanger compared with the debate on Internet related matters during the Geneva phase of the Summit. It translated its mandate into action and operated in a truly open process with regular consultations open to all stakeholders who were able to participate as equals. WGIG produced a report with a working definition of Internet governance that made it clear that all stakeholders had a role to play and it explained that Internet governance pertained to the Internet's physical and logical infrastructure but also to issues relating to the use and abuse of the Internet. The main proposal for change was to convene a new platform for dialogue on Internet governance, the Internet Governance Forum (IGF)[9]. It also recognized a new stakeholder group, the technical community with the day-to-day responsibility for operating the Internet.

The second phase of WSIS was largely influenced by the WGIG process and was more open and inclusive. Non-governmental actors were given more space and opportunities to take part in the debate and the WGIG report found its way into the WSIS outcome document, the Tunis Agenda, with a separate chapter on Internet governance.

The WSIS outcome documents also include the Geneva Declaration of Principles and the Geneva Plan of Action, with a commitment "to build a people-centred, inclusive and development-oriented Information Society"[10]. The Geneva Plan of Action translated the common vision and guiding principles of the Declaration of Principles into concrete action lines. The ITU in its capacity as the WSIS lead agency organizes an annual meeting, now known as WSIS Forum, to examine the implementation of the action lines, involving all relevant UN agencies.

AN INHERENT TENSION

Looking back at the history from a different angle, it is worth noting that the Internet is a borderless technology which is at odds with the international system, based on nation states and national sovereignty, as enshrined in the UN Charter. Not surprisingly, many governments have difficulty accepting the fact that they are not fully

[8] WSIS Declration of Principles, , para 50 https://www.itu.int/net/wsis/docs/geneva/official/dop.html and and WSIS plan of Action, para 13.b https://www.itu.int/net/wsis/docs/geneva/official/poa.html

[9] Detailed information about the IGF and its process can be found at https://www.intgovforum.org/en

[10] https://www.itu.int/net/wsis/docs/geneva/official/dop.html, para 1

in control of what happens with the technology within their borders. It is one of the many underlying tensions feeding the debate. Many governments would like the technology to respect national sovereignty, such as China's aim "to extend national sovereignty into cyberspace"[11]. More recently, such calls have reemerged, as regards digital sovereignty, data localization or data sovereignty, advocated for, among others, by the European Union and the BRICS members[12]. To a large extent, these initiatives and policies also aim to re-establish the nation state in the cyber space.

This tension was at the core of the negotiations of WSIS. The technology by then had moved beyond the relatively small circle of academics, computer scientists and engineers who had developed the Internet. By 2003 governments the world over became aware of its increasing importance as the backbone of globalization. WSIS turned the Internet for the first time into a subject of international policy discussions and negotiations. It was a clash of two schools of thought: the classical intergovernmental model of multilateral diplomacy versus industry self-regulation and bottom-up decision-making of the various technical institutions that administered and ran the Internet.

The prevailing narrative of that latter school of thought was that public regulation, elaborated and enforced by national or international bureaucracies, would stifle innovation and that the multilateral system would be too sluggish to deal with a rapidly evolving technology. It was argued that it should be best left to the self-regulation of the Internet institutions, as they were better suited than governments to deal with the complexities of the new technology. After all, the Internet worked and, so went the argument, why trying to fix something that worked? "If it ain't broke, don't fix it" was the mantra that summed up this thinking.

The Internet was part of a project funded by the United States government, but it was developed and deployed outside the sphere of government influence. It was created by people who had their formative years in the California of the 1960s and 70s, based on basic libertarian and democratic axioms. Harvard University in this context refers to "the digital utopian ethos of egalitarianism, communalism, and anarchy"[13]. This spirit influenced the technology. A famous quote by Internet pioneer David D. Clarke in 1992 provides the motto for the engineers who developed the underlying technology: "We reject: kings, presidents, and voting. We believe in: rough consensus and running

[11] The Chinese delegate at the second Global Conference on Cyberspace (GCCS), Budapest, 2012 (based on my personal record as a fellow panelist).

[12] See for instance Jang Min & Belli Luca.Digital Sovereignty in the BRICS Countries: How the Global South and Emerging Power Alliances Are Reshaping Digital Governance. Cambridge University Press. 2024. https://doi.org/10.1017/9781009531085

[13] Harvard University offers a course on the cultural history of the Internet: https://histlit.fas.harvard.edu/class/histlit-90ec-cultural-history-internet

code"[14]. Maybe the paramount example of the utopian believe in a new world created by the Internet is the "Declaration of the Independence of Cyberspace" by John Perry Barlow in 1996 ("Governments of the Industrial World, you weary giants of flesh and steel, I come from Cyberspace, the new home of Mind")[15].

This belief that Cyberspace existed outside the current structures of governments and states created a natural tension between the traditional multilateral system and the new technology with the Internet's self-governance model, increasingly referred to as multistakeholder cooperation or multistakeholderism. Some actors, especially the Internet community, saw the two models as irreconcilable and for them the sheer mentioning of "multilateral" became a red flag. Brazil tried to reconcile the two worlds and argued that there should not be a dichotomy between the two. Brazil has strong roots in both systems: the country is committed to the multilateralism of the United Nations and, in relation to the Internet, its domestic governance approach is based on a multistakeholder model, with the Brazilian Internet Steering Committee or Comitê Gestor da Internet no Brasil (CGI.br)[16].

THE GLOBAL DIGITAL COMPACT (GDC)

The GDC was prepared in a series of consultations with the different stakeholder groups. Contrary to the practice used in WSIS, WGIG and the IGF, the stakeholder were not all in the same room at the same time, but segregated according to their stakeholder group. To begin with, the technical community was not identified as a separate stakeholder group. This was noted with great concern by the Internet community, but later corrected. The GDC, while adopted in a classical multilateral setting, pays strong lip-service to multistakeholder cooperation and reaffirms the need to involve all stakeholders into the shaping of the digital future. While this can be seen as the beginning of a new consensus, it has to be noted that Russia and some of its allies almost derailed the process by submitting a last minute amendment, stressing the importance of national sovereignty[17]. In contrast, for some nongovernment actors the process leading to the GDC was not open and transparent enough and did not allow them to

[14] See also Liv Coleman, "We Reject: Kings, Presidents, and Voting": Internet Community Autonomy in Managing the Growth of the Internet, Pages 171-189, 2013. Published online: https://www.tandfonline.com/doi/abs/10.1080/19331681.2012.749823

[15] https://www.eff.org/cyberspace-independence

[16] Luca Belli; Diego Canabarro ; Judith Herzog ; Richard Hill ; AFONSO, C. A. . Exploring Multistakeholder Internet Governance: Towards the Identification of a Model Advisory Body on Internet Policy. PoliTICs, v. 1, p. 1-21, 2020. https://shorturl.at/nK8Rw

[17] See also Sophie Rigg, The Global Network of Civil Society Organisations for Disaster Reduction. October 2024 :https://www.gndr.org/summit-of-the-future-success-or-tepid-failure/.

significantly influence the process They described it as flawed, as it "did not meaningfully engage with, nor incorporate, diverse […] perspectives"[18].

The GDC may or may not have succeeded in reconciling the above tensions. However, in addition, it may have created yet another dichotomy, that is between digital cooperation and Internet governance. The GDC creates a separate chapter on Internet governance and thus implicitly treats Internet governance as a sub-category of digital cooperation. While it confirms the Internet Governance Forum (IGF) as "the primary multistakeholder platform for discussion of Internet governance issues"[19], it also reduces its scope by treating it as a sub-category of Digital Cooperation.

The GDC does not provide a definition of Digital Cooperation, but refers to it as a multistakeholder effort with governments at the centre[20]. WSIS however had produced a definition of Internet governance and its outcome document, the Tunis Agenda, had an entire chapter devoted to Internet governance with explanatory paragraphs. According to the Tunis Agenda, as mentioned above, Internet governance deals with the physical and logical infrastructure of the Internet and issues related to the use and abuse of the Internet and involves all stakeholders in their respective roles.

An observer would naturally wonder: Is there a difference between Digital Cooperation and Internet governance? Both concepts impinge upon the functioning of a network of networks and, indeed, rely on the Internet. However, with the GDC there is a clear shift towards a more top-down approach anchored in the government-led UN system[21] as opposed to the distributed, bottom-up multistakeholder governance eco-system seen by the technical community as best adapted to the distributed technology.

Importantly, the key Internet institutions that facilitate the Internet functioning are nongovernmental: the Internet Corporation for Assigned Names and Numbers (ICANN) – responsible for the Domain Name System (DNS), the Regional Internet Registries (RIRs), such as LACNIC for the Latin American and Caribbean regions that assign the Internet Protocol (IP) addresses, or the Internet Engineering Task Force (IETF) as the Internet's main standard developing organization. They all rely on a common set of values and processes, such as open technical standards, shared global ownership without any central control. Their governance model is based on transparent and

[18] See also Justin Hendrix. Reactions to the Adoption of the Global Digital Compact. Tech policy Press, 2024. https://www.techpolicy.press/reactions-to-the-adoption-of-the-un-global-digital-compact/ and Global partners Digital: https://www.gp-digital.org/a-call-to-action-for-an-inclusive-wsis20-review/

[19] GDC, Para 26

[20] "As Governments, we will work in collaboration and partnership with the private sector, civil society, international organizations, the technical and academic communities and all other stakeholders…".GDC, Para 6

[21] See Konstantions Komaitis in Reactions to the Adoption of the UN Global Digital Compact, 2024: https://www.techpolicy.press/reactions-to-the-adoption-of-the-un-global-digital-compact/

collaborative engagement models with accessible processes for technology and policy development that include researchers, business, civil society as well as governments.

However, the first phase of WSIS deviated from the original objective and turned into an argument over the Internet and how it should be governed. The role of the United States and of ICANN soon became the focus of the debate and turned the summit into a debate on geopolitcs. Some governments, led by Russia, China, South Africa and Brazil, questioned the legitimacy of ICANN as a private sector-led organization with a link to the US Government, and wanted this role to be taken over by the ITU, while the OECD countries defended the ICANN model.

AN UNEASY TRUCE

WSIS consolidated the status quo and gave it good marks, but also called for improvements in the form of "enhanced cooperation"[22]. The "Economist" at the time called it a "kind of truce"[23]. However, the truce called for by WSIS was an uneasy truce while the discontent with existing arrangements continued.

The IGF established itself as the foremost multistakeholder platform for dialogue on Internet governance and the main place for the continuation of the debate started at WSIS, where all stakeholders participated as equals. It is based on the convening power of the UN and has a "soft governance" approach. The IGF has no decision-making power and no power of redistribution, but it has the power of recognition: it can identify issues of concern, draw attention to an issue and put an issue on the agenda of international cooperation. In this way, it helped shape public opinion and shape decisions that were taken elsewhere. Equally important, the IGF has been a collective learning process that led to a better understanding of the technical complexities underpinning the Internet.

In addition, the IGF popularized the term "multistakeholder" and became the main vehicle for disseminating the term and the practice of the multistakeholder approach as a form of participative democracy. The multistakeholder approach was generally seen as the key ingredient of the IGF and the term increasingly gained in prominence and visibility. From 2008 onwards, the UN officialized the term "multistakeholder" by referring to the "Multistakeholder Advisory Group" in all press releases. The concept of multistakeholder cooperation from then on began spreading to Intergovernmental Organizations, such as the UNESCO, the ITU, the OECD or the Council of Europe, but also the G8 as well as the World Economic Forum (WEF). By 2010

[22] Tunis Agenda, para 69-71

[23] Quoted from memory

the concept was well established and widely used to describe Internet governance processes.

Despite the IGF's positive contribution to the Internet governance debate, the discontent with the status quo came to the fore during a treaty negotiation convened by the ITU, the World Conference on International Telecommunications (WCIT)[24]. WCIT took place in Dubai in December 2012 and turned into a disruptive conference. Contrary to multilateral traditions, WCIT did not end with the consensus adoption of the outcome document, but turned into a clash over the Internet when some 50+ governments refused to sign up to the treaty as they felt it would give governments more control over the Internet. The discontent peaked with the disclosures in 2013 by Edward Snowden about mass surveillance by the United States and its "five eyes" allies (United Kingdom, Canada, Australia and New Zealand).

Brazil took the lead in facing the global uproar about the Snowdon relevations and tried to pave the way forward. In 2014 Brazil organized a Global Multistakeholder Meeting called NETMundial in São Paulo. NETMundial adopted Internet Governance principles and proposed a roadmap for the further evolution of the Internet Governance ecosystem[25]. Participants agreed that the multistakeholder approach as the most promising way of dealing with the technology and called for the strengthening of the Inernet Governance Forum as the foremost multistakeholder platform for dealing with public policy issues related to the Internet.

NETMundial was also the starting point of the so-called "IANA transition". By then the US government had decided to end its contract with ICANN for the so-called IANA function. Its role had been very limited and consisted in esssence in ensuring that ICANN respected due process. The IANA transition was an unprecented effort of the ICANN community to develop mechanisms to ensure the transparency and accountability of the organization. It was completed in 2016 and led to the independence of ICANN from the US Government.

The contract the US Government had with ICANN over the IANA function was at the core of the WSIS debate on Internet governance. Many governments found it difficult to accept that one single government had the de facto oversight over the management of what they considered a key global public resource While the US Government oversight over ICANN ended in 2016, ICANN remains incorporated in the US and is therefore subject to US jurisdiction. This remained controversial and was contested by some governments, including Brazil. In their view some form of multilateral mechanism would have been more appropriate. The underlying cause that had led to NETMundial and also the IANA-transition, that is the surveillance issue, remains unsolved to date.

[24] https://www.itu.int/en/wcit-12/Pages/default.aspx

[25] https://netmundial.br/2014/netmundial-multistakeholder-statement//

FROM SELF-REGULATION TOWARDS MORE REGULATION…

With the growing importance of the digital economy more regulation was becoming inevitable. The narrative that regulation would stifle innovation began to fade in the financial crisis of 2007-2009 and the Washington consensus had come to an end when the first Trump Administration adopted policies that were at odds with free trade and globalization. It was the beginning of the end of a 20 year period that was the enabling environment for the selfregulation of the technology and of the utopian dream of a cyberspace outside the sphere of governments.

The European Union took the lead and introduced a series of regulations, with its General Data Protection Regulation (GDPR), that went into effect in 2018 as the most prominent example of this new regulatory wave, imposing much stronger sanctions to organizations processing personal data of Europeans all over the world. It was the beginning of a series of new regulations such as the Digital Market Act (DMA), the Digital Services Act (DSA) and the AI Act that are inspiring many other governments around the world.

Brazil also asserted its regulatory authority in a high-profile case in 2024 against the social media network X, accusing it of not complying with judicial orders based on the Marco Civil da Internet – the county's Digital Rights Framework – in the context of several cases involving criminal networks spreading disinformation. Meanwhile competition policy is also increasingly considered as a useful tool to reign in Big Tech, which have been accused of abusing their dominant position. Both the European Commission and the US government are or were considering using anti-trust legislation against Google for allegedly stifling competition and innovation.

… AND MORE UN INVOLVEMENT

The IGF was the first UN initiative to deal with the Internet, In subsequent years, the UN became increasingly involved, such as the Open-Ended Working Group (OEWG) for responsible cyber behavior or the Ad Hoc Committee on Cybercrime that led to a Treaty on Cybercrime concluded in 2024. In 2018 the Secretary-General started a process that led to the adoption of the GDC in 2024. The GDC fits in well into the evolving digital/Internet governance landscape: while it recognizes the importance of multistakeholder cooperation, governments have taken central stage and are now central to the process. A harbinger for more government involvement is the mention of "enhanced cooperation"26 in the GDC.

"Enhanced cooperation" was a term included in the Tunis Agenda. While the Tunis Agenda recognizes the validity of the status quo, it is a signal that more should be

done to improve the quality of Internet governance. It was compromise language that was interpreted differently by different actors. There was never a common understanding of what was meant by "enhanced cooperation". The language of Para 69 in the Tunis Agenda however is tilted towards governments[26]. The reference to "enhanced cooperation" therefore is seen by many non-government actors as a weasel word that could be used for a government takeover.

While the GDC provides a good basis to secure a sound digital future, its implementation remains open and largely undefined. The 20 year review of WSIS and the IGF as part of the WSIS outcome will provide an opportunity also to discuss the implementation of the GDC. Theres is uncertainty about the modalities of the GDC implementation and its interaction with the WSIS+20 review and it is not clear how the two processes will interact. This has given rise to concerns, as two disconnected parallel processes would be difficult to engage with. The fear is that this could ultimately lead to a fragmentation of governance mechanisms.

The IGF has dealt with all issues identified by WSIS as well as GDC. As a platform for dialogue, it would be well placed to feed into the discussions on GDC implementation. WSIS has an existing implementation mechanism in place which is sufficiently flexible to deal also with new issues. One option therefore could be to use the existing structure of the IGF and the WSIS Forum and fold the GDC implementation into the WSIS follow-up process. A Crosscommunity statement from civil society, the private sector and the technical community on WSIS, the IGF and the GDC urges governments to take these factors into account in their deliberations. It is a strong statement in favour of the WSIS process and the IGF: "The work of the WSIS needs to continue, and the mandate of the IGF must be renewed. Resources must be allocated to strengthen the IGF's capacity to continue as the foremost multistakeholder platform for digital cooperation. It is also clear that the Global Digital Compact complements the global and collective vision and agenda built by the two-phased WSIS process 20 years ago"[27].

The São Paulo Multistakeholder Guidelines adopted by the NETmundial+10 event, hosted by Brazil in April 2024, attempted to offer recommendations for multistakeholder cooperation that should be taken into consideration for the WSIS+20 review, although the potential impact of such recommendations remains another open question.

The Internet today is different from the Internet during WSIS. In 2003 there were fewer than 1 billion users and there were no social networks, no video streaming or

[26] "We further recognize the need for enhanced cooperation in the future, 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."

[27] https://www.gp-digital.org/cross-community-statement-from-civil-society-the-private-sector-and-the-technicalcommunity-on-wsis-the-igf-and-the-gdc/

Internet telephony. Today close to 70 % of the world's population or more than 5,5 billion users are on line[28], but more efforts are needed to bridge the digital divide and connect the unconnected.

Those yet to be connected will create both new opportunities and at the same time new challenges for the Internet as we know it. The majority of the growth will come from the Global South and the non-English speaking world and bring more languages, but also different cultural values into the debate. While changes are inevitable, it will be essential to uphold the key characteristics of the Internet and maintain its open, global and interoperable architecture and its open and collaborative governance model.

[28] https://soax.com/research/how-many-people-use-the-internet#:~:text=Research%20highlights%3A%