

Mapping An Ignored Agenda: Internet Governance at the WSIS

By Anita Gurumurthy and Parminder Jeet Singh

Introduction

A critical issue which is both a good and a bad barometer of the information society (IS) discourse at the World Summit on the Information Society (WSIS) today is the issue of Internet governance (IG). Within the negotiating framework of WSIS, the IG regime was divided into three parts: setting technical standards; critical resource allocation; and public policy-making, enforcement and dispute-resolution.¹ It is at present a very distributed regime.

The emphasis on IG and its high visibility in the WSIS process tended to take focus away from the important issue of exploring how the Internet can address long-standing development issues. It is, on the other hand, also a good barometer of the IS discourse because the issue of IG powerfully shows how neoliberal forces have usurped the conceptual territory of the IS. The debates around IG encapsulate how neoliberal forces have established market ideology as a kind of a given natural law for the emerging IS.

Generally, most of those who have engaged with the subject of IG are academicians, technologists with social

passion, and some activists involved with critical issues like privacy and security. These groups have formed a big part of the civil society (CS) constituency at WSIS. It would not be an exaggeration to say that the domination of their agenda at the WSIS has squeezed out development concerns that are most important to the South. Most governments and CS actors have seen WSIS more as a technology- and infrastructure-related process, with IG itself being 'the' major issue. In this context, core issues of equity and social justice, including gender equality, have been even more difficult to articulate and defend than at other UN events.

IG institutionalizes market-driven connectivity

The approach to IG sees the Internet as a communication protocol between a set of existing users, and the purpose of IG as that of preserving the integrity and stability of this protocol and making it more efficient. In official IG documents, ICANN² for instance, refer to the “Internet community” as the existing *online* community. IG therefore is not seen in the normative terms of what we want the Internet to do for all who constitute the *global* community. Such thinking needs to be recast to take into account the world’s population and see them as the legitimate stakeholders in governing the Internet.

The Internet has a good levelling and equalizing potential for the world’s peoples. It is a major socio-economic enabler. The costs of its universal availability are not so high compared to its multiplier value-adding effect on socio-economic life. However, to achieve these value additions, a lot of institutional and structural changes are needed, which will evolve only if a basic infrastructure is in place. Direct demand for the Internet therefore is not yet ripe in the absence of such systemic changes, which take time to evolve. Basing Internet infrastructure growth on a demand-led, market-driven model is a self-defeating strategy. Such a strategy will not allow the Internet to grow to its great potential in the time that we want it to for addressing long-standing development problems. As the Internet grows through this dominant model, it will once again follow the contours of existing socio-economic inequalities.

The Internet is the basic application on which the information society works. If we are to go by the normative connotation of the information society—a people-centred and development-oriented information society, as WSIS documents put it—we need to see the availability of the Internet in terms different from those we apply to most goods and services. This is not only ethical, it is also practical. Due to the infrastructural nature of the Internet, it is difficult to apportion exactly its value-addition to different activities and beneficiaries. In the first place the Internet has to be there for values to develop, and revenue models based on these values are counterproductive to their own development. It is therefore best to see Internet availability as a public good, and make it universally available as a public provision. Promoting competition that is based on multiple providers in respect of this increasingly “commoditised” service can actually destroy rather than create value. Just as with electricity, connectivity is also something that can be much more expensive if there are multiple providers. It is best to wire up everything in one go rather than respond each time to demand. Such a demand-led diffusion strategy would be wasteful. Like electricity, connectivity needs to be seen as a regulated utility. But unlike electricity, which involves an actual cost of production, there is not much cost for continued connectivity.

The multiplier effect of connectivity is so strong that it makes sense to provide free connectivity and charge for services that get provided over it, treating differentially services that will be priced

WSIS Meetings

The World Summit on the Information Society (WSIS) was held in two phases. The first phase took place in Geneva on December 10 to 12, 2003. The second phase took place in Tunis in November 16 to 18, 2005. **Four documents were adopted: Geneva Declaration of Principles, Geneva Plan of Action, Tunis Commitment, and Tunis Agenda for the Information Society.**

As the UN specialized agency for telecommunications, the International Telecommunication Union (ITU) is the lead organizing agency for the Summit, which is focused on bridging the so-called "digital divide" and using information and communication technologies (ICTs) to help achieve social and economic development goals.

At the Geneva Phase of WSIS, nearly 50 Heads of state/government and Vice-Presidents, 82 Ministers, and 26 Vice-Ministers and Heads of delegation from 175 countries, as well as high-level representatives from international organizations, private sector, and civil society provided political support to the **WSIS Declaration of Principles and Plan of Action** that were adopted on December 12, 2003. In the second phase of WSIS, efforts were made to put the Plan of Action into motion and working groups were set up to find solutions and reach agreements in the fields of Internet governance and financing mechanisms.

and those that will be subsidised in the public interest. This would be a model in which connectivity is treated as a public service, charges are levied on commercial services provided through the Internet, and these in turn fund connectivity, just like advertising funds broadcast. In the US, more than 300 municipalities provide public service connectivity. However, the US will not allow such a model to take root in developing countries and has already actively warded off language on telecom provision in the WSIS document that showed any leaning towards such models. Consistently, the US has used the ITU and WTO agreements to protect the interests of its telecom companies. Even when LDCs have raised the issue of interconnection costs in the WSIS (among others) the US has scuttled the issue.

Negotiations at the WSIS – The politics of agenda-killing

In the Tunis phase of WSIS, two issues were considered key: IG and 'financing Information and Communications for Development (ICTD).' In the early parts of the Tunis phase, some groups³ advocated strongly to put centre-stage the issue of 'financing ICTD,' which in many ways is a proxy for all issues concerning equity and justice in the IS.⁴ This faced the threat of being sidelined by more 'attractive' issues like IG. The same had happened in the Geneva phase of the Summit, where new concepts such as communication rights had captured the imagination of most CS advocates. This issue was

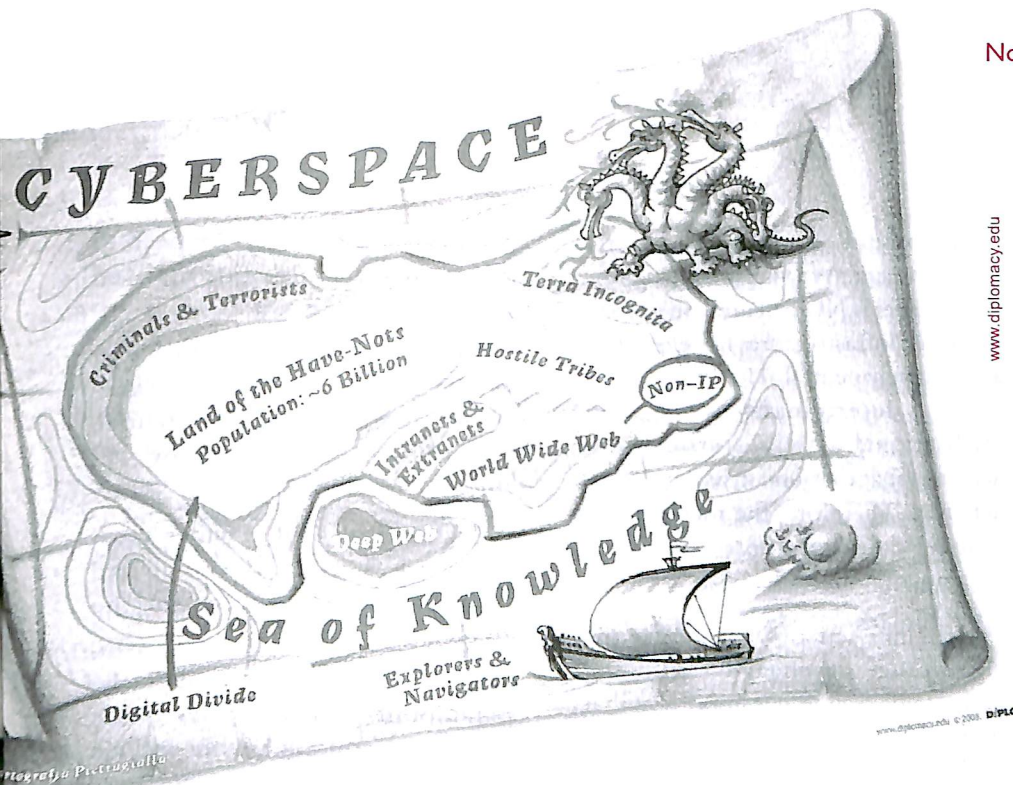
undoubtedly critical, but it was done at the expense of the development agenda.

At the second Preparatory Committee of the Tunis phase therefore it was important to create a loud enough noise on including greater mention of the role of public policy and financing in ICTD, and asserting clearly that the market is not going to deliver gains equitably at all.

Developing countries that saw ICTs as a path-breaking development enabler, advocated a new approach to ICTD financing and argued that:

- Telecommunications connectivity and applications constitute a new developmental infrastructure, and that investments in them involved relatively low costs in proportion to their multiplier effect on almost all sectors.
- A demand-led market paradigm of developing this infrastructure was deeply flawed for innumerable reasons.
- Public investment in such telecommunications infrastructure, supported by large-scale donor assistance, was necessary to kick-start a new paradigm of development.

Undoubtedly, the development opportunity in ICTD and a road-map to it threatens the business opportunities that ICT MNCs of the North are keen to exploit in the South. Significantly, the power of new ICTs, as evidenced in countries like India and China, has also posed a threat to the long-standing geo-political domination



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PrepCom 1 defines the issues

PrepCom 1, convened on June 24-26, 2004 in Hammamet, Tunisia, had the task of defining the issues of the Information Society that should form the focus of the Tunis Summit, the shape the outcome of the Tunis Summit should take and the way to reach the goals set in the Geneva Action Plan.

Based on this broad framework, it was agreed that the focus of the preparatory process to the Tunis phase should be two-pronged: it should provide solutions on how to implement and follow up the Geneva decisions (Declaration of Principles and Plan of Action) by stakeholders at national, regional and international levels with particular attention to the challenges facing the Least Developed Countries (LDCs) and it should complete the unfinished business in Geneva on Internet Governance and Financing. The reports of the Task Force on Financing mechanisms and the report of the Working Group on Internet Governance would provide valuable inputs to the discussion. A consensus was also reached that the agreements reached in the Geneva phase should not be re-opened.

As for the output of the Tunis phase, it was agreed to have a final document (or documents) comprising a concise political part and an operational part aimed at translating the outcome of the work undertaken in the preparatory process into actionable items. Both the political and operational parts would reaffirm and enhance the commitments undertaken in the Geneva phase. The principles of inclusiveness, efficiency, transparency and cost-effectiveness were also endorsed along with a proposed roadmap to chart the way.

by the North. Governments of the North are not about to give a hand to further tip this power equation. It is no surprise therefore that these demands for more resource commitments for ICTD just fell through the cracks. However, it needs to be mentioned that the advocacy for alternative paradigms managed to keep the WSIS text from becoming completely committed to a private sector-driven IS.

IG remained the big issue after financing, and it dominated Prepcom 3. The issue of IG is a good representation of what is increasingly getting worse in global governance. The current IG regime represents a system dominated, and in fact exclusively managed, by one government and some private entities with questionable legitimacies—and the dominant CS response to the unilateral control of IG by the US has consisted mostly in calling for a more

‘privatised governance.’ While most CS constituencies have wanted the US to relinquish control over IG, most have also wanted all public policy linkages to IG to be severed.

IG has thus tended to be defined in non-political and non-public policy terms. In the discussions and debates that have taken place, interests of disadvantaged groups, countries and regions, concerns of social equity and justice, and the nature of the Internet as a public good and its potential as a new development paradigm are issues that have not figured on the table with any prominence.

This is an illusion. The Internet is increasingly the infrastructure, the space and the facilitator for most activities and sectors—social communication, organisational systems, business, government interactions, banking, media, commerce, trade, education, health,

PrepCom 2 Considers Internet Governance

PrepCom 2, convened on February 17-25, 2005 in Geneva, considered the preliminary report of the Working Group on Internet Governance (WGIG). The first phase of the WSIS held at Geneva in December 2003 requested UN Secretary-General Kofi Annan to establish a Working Group to investigate and make proposals to the Tunis Summit for action, as appropriate, on the governance of the Internet.

In its final report, WGIG addressed three main questions: developing a working definition of Internet governance; identifying relevant public policy issues; and developing a common understanding of the roles and responsibilities of the different actors.

Member States formulated 21 working papers that provided material for discussions in hopes of creating a common understanding on a wide range of issues in the fact-finding phase. At its last session from February 14-16, 2005, it had discussed Internet Protocol (IP) addresses and administration of the Internet Root Server system.

A spectrum of views emerged as well as some key stumbling blocks. Chief among them was the legal vacuum in Internet governance. All agreed that the issue of Internet governance involved a host of issues and went beyond assigning IP addresses and domain names. Therefore, devising a legal 'fine' line between technical operations and public policy issues meant building an interface between international public law governing state action, and business and private law governing the Internet. Stakeholders would have to address this complex and difficult issue.

development delivery and entertainment. As a vital infrastructure, the Internet is NOT neutral, in a sense that other infrastructures like electricity are relatively neutral. The Internet is a major determinant of most civilisational activities around us: activities shape around it, and it shapes activities. Therefore, the mechanisms that regulate and control it are of paramount importance.

For feminist activists who realise the significance of engaging with the global trade regime, it is important that we note how the Internet is on its way to becoming the major vehicle of global trade and is becoming the main arena of Intellectual Property Rights (IPR) contestations.

The Internet and public policy - the heart of IG contestations

Several illustrations can help us appreciate the public policy issues implicated in IG, and the need to debate and create legitimate multilateral, multi-stakeholder spaces. The following are just a few examples:

- The way the Internet operates today, most traffic even when intended for a destination within a country, is routed through the US. The ISPs in the South pay a much greater proportion of the international traffic charges.
- Countries speak at WSIS of cooperating on crime over the Internet. But who is to determine what kinds of pornography is legal, what level of hate-mongering, whose laws will operate, etc. in

criminal proceedings? We need to have clearer internationalised indicators.

- The WSIS documents speak of protecting consumer interests in e-commerce. Again, by whose standards of consumer law will these be measured?
- What kind of IPR regimes must apply to sharing of social and developmental content on the Internet?
- Will the interests of business be paramount in deciding IG issues and what consideration will be placed on general public interest?
- With Internet becoming the crucial infrastructure for most countries even in critical security-related sectors, what are the implications in the event of a security conflict with the US which controls the root zone files?
- How do we deal with debates on cultural products freely shared over the Internet, and what does the UNESCO treaty on cultural diversity mean in online spaces?

The marginalisation of Public policy in IG: The case of .xxx

The marginalisation of public policy connections to IG can be seen in the issue of the .xxx domain. ".xxx" is the new top level domain name like ".com" and ".org" that ICANN proposed for pornographic content. As we all know, a big part of Internet content today is pornography. Creating a .xxx domain has funding implications

for ICANN. The defendants of the move said that this new domain will make it easier for those who want to cut out pornographic content from their networks to do so. However, the creation of a new domain did not make it in any way compulsory for all pornographic content to move to this domain. The detractors of the move considered creating such a “red-light zone” on the Internet as giving greater legitimacy to practices connected with Internet pornography like sexual abuse, the inclusion of children, violence against women, trafficking, etc. While the full implications of this move are still unclear, what is interesting is the manner in which the debate took place.

Earlier in the year, some governments like Brazil had opposed the creation of this domain, but ICANN nevertheless went ahead with the process. In September, a new senior official, said to be close to right-wing groups opposed to pornography, moved into the US Department of Commerce, and ICANN received a letter that the US government did not want the .xxx process to go on. ICANN stopped the process. As may be expected, almost all civil society actors in the WSIS space cried foul. To most this was the proof of blatant government interference in the working of the Internet. And they made a strong case that the sanctity of the existing ‘privatised governance’ arrangement for the Internet must be upheld!

For some groups, particularly from the South, this situation poses many

challenges. On the one hand, it was unacceptable that the US government could unilaterally decide on such important issues as resource and infrastructure that were truly global. This was especially scandalous when similar objections raised earlier by other countries were completely disregarded. Clearly, this was a new form of imperialism. However, it was also unacceptable that pornography on the Internet could be treated as if it is above and beyond public policy concerns. So, for the few groups from the South in the WSIS space, our response, while condemning the US government’s unilateralism, was at odds with that of the majority of the CS lobby in the WSIS process.

A Development Perspective on IG

Much of the CS lobby active in IG debates was at WSIS mostly to ensure that IG remained as close to the status quo regime as possible. For them IG had to be kept away, as far as possible, from “governments.” That was their chief goal. Their reasons and concerns have been genuine, but they are basically guided by a complete distrust of public bodies. We in the South, and we as gender activists, have our problems with the state (and these are quite serious), but we also know that public spaces are necessary for furthering gender equality in the face of the tyrannies of an ‘autonomous’ market framework. We have also known the role of public bodies and of regulation on the issue of media and the interests of women. These positions, even though quite

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- **PrepCom 2 also recognized that financing ICT development is a huge undertaking that requires multiple mutually-supportive solutions. It is in this context that agreement on the Digital Solidarity Fund (DSF) was brokered. The DSF is a financial mechanism to be financed by voluntary contributions that aims to transform the digital divide into digital opportunities by addressing specific and urgent needs at the local level and by seeking new voluntary sources of “solidarity” finance. The DSF will complement existing mechanisms for funding the Information Society which should continue to be fully utilized to fund the growth of ICT infrastructure and services.**
- The Fund is managed by a foundation with headquarters in Geneva who decides on the criteria for contributions and on the use of the funds. Currently, 60% of the resources of the Fund are earmarked for LDCs, 30% for developing countries and 10% for developed and transition economies.
- **PrepCom 3 tries to break deadlock on key issues, including Internet governance**
- PrepCom 3, the final preparatory meeting for the Tunis Phase of the WSIS was convened on September 19-30, 2005, Geneva, represented the last chance for more than 130 national delegations and over 150 other stakeholders comprising international organizations, NGOs and business entities, to arrive at an accord ahead of the second phase of WSIS, which begins on November 16.
- While key agenda items for PrepCom 3 include financing mechanisms for ICT development and implementation mechanisms for the WSIS Action Plan, the issue of Internet governance was the most prominent.
- Source:<http://www.itu.int/wsis/>
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what is important is that the public policy functions be carried out in a transparent way – in an internationalised representative system

complicated and dynamic, are relatively well-established in the discourse on gender in the South. This does not amount to siding with control-minded governments. There has been within the WSIS CS arena, an intrinsic distrust of Southern governments and an opinion that if these governments are made a part of the oversight mechanism for the Internet, it will stifle the Internet and kill its potential for growth. The issues of course, are as complex as they are real. Both options, that of a status quo IG regime, and that of moving to an internationalised inter-government oversight, have problems.

The present distributed and issue-based governance of the Internet has unique characteristics in keeping with the nature of the Internet. Obviously, what is important is that the public policy functions be carried out in a transparent way—in an internationalised representative system.

The growth of the Internet is almost always seen as private-sector led, and it is often stated that the private sector should take a lead in its governance as well. Much of this concept of the 'private sector' is based on the consideration of all non-government actors as private actors. Most technocrats who

contributed to developing the Internet were private individuals committed both to the spirit of exploration and to social purposes. Also it is important to remember that much of the initial work on the Internet got done in government labs and publicly-funded universities. "Private" as non-government is very different from "private" as organised corporate interests.

Postscript

The WSIS ended without a look at meaningful options for global governance of the Internet that benefits the developing world despite such expectation having been the basis for calling the Summit. Although the governments of the world have not explicitly endorsed the present IG regime, they were collectively unable to challenge it either. While some critics consider the WSIS documents as a legitimisation of the present IG regime, others see two positive developments coming out of the negotiation. One is the creation of a multi-stakeholder public policy discussion space, called the IG Forum, which will have no substantive powers but will be able to deliberate public policy issues and offer policy alternatives which then can be pushed by actors having greater formal power, like governments in the ICANN's Governmental Advisory Committee. The WSIS documents also make it clear that all is not fine with the present IG regime. They call for an evolutionary process for necessary changes, with timelines to be initiated by the UN Secretary General by the end of the first quarter of 2006. However, the nature of the process as well as the expected

