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Democratic Deficit in Global Internet Policy Making
***Some Reflections in the Context of Seoul OECD Ministerial on 'Future of the Internet Economy'***

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(This is a presentation[1] made at the Civil Society / Organized Labour Stakeholder Forum at the Seoul Organization for Economic Cooperation and Development (OECD) Ministerial.)

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The organisers have asked the panelists to speak about the human and political dimensions of the Internet economy, so I will indeed be quite political, and please bear with me. I will be placing the current OECD discussions on policy frameworks for the future Internet economy in context of the right of political participation enshrined in the Universal Declaration of Human Rights and the right of self-determination described in the Right to Development.

Two initial points. First, by the Internet economy I understand a *global* Internet economy and not just one involving the OECD countries. Second, I am also much more comfortable to speak about human and political issues in the emerging information society rather than about the Internet economy, and will like to impress that issues of the global Internet economy should be placed within the broader social and political frameworks of information society, as for instance, were envisaged by the Word Summit on the Information Society (WSIS).

Putting this discussion in the context of the the present OECD Ministerial, I am very impressed by the work that the OECD has been doing in developing policy implications of the complex Internet-driven changes in our society. One can see two strong elements in the documents related to the Ministerial. First is the unequivocal recognition of the transformatory impact of the Internet in almost all social areas, going much beyond economic issues. The second, and perhaps more significant element, is the recognition that policy has a important, often central role to play in driving, supporting or enabling these transformatory changes. In this respect there is considerable evolution in recognising the role of policy in shaping the Internet phenomenon since the 1998 OECD Ministerial in Ottawa on the subject of 'e-commerce'. At Ottawa, governments were much more unsure and hesitant in speaking about policies directly implicating the further evolution of the Internet.

In the context of OECD countries becoming more purposive and surefooted in developing policies for the Internet, and for the information society, an important issue arising from the fact of a global implication of all such policies is that of the legitimacy, or otherwise, of shaping these policies by an exclusive group of countries. Internet policies have an inherently global implication since the Internet represents a shared global space, in a manner that often strains the structures of existing jurisdictions. It is not at all difficult to see how Internet policies that are made by a group of dominant countries become the default policies for the whole of the world. This immediately implicates the evident democratic deficit in developing global Internet policies and raises questions about the legitimacy of current modes of policy making.

It is not as if there are no other possible global options and arenas for a more democratic and inclusive approach to developing these policies that have a clear global impact. The WSIS did deal with this subject, and - as could be well expected, since the arena is new and a fast evolving one - put in place follow-up mechanisms to continue to address the strong imperative of finding the appropriate institutions for developing global Internet policies. Unfortunately, the same OECD countries that meet

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here at Seoul, to decide a framework of policies for the Internet and the information society have shown little effective engagement with these WSIS follow-up structures for global Internet policy making, particularly the Internet Governance Forum (IGF), and its mandated process of 'enhanced cooperation' for developing 'globally applicable policy principles' for the Internet[3].

The IGF is now mostly sought to be made into a platform for sharing best practices, tending toward almost complete exclusion or neglect of its mandated role of policy dialogue, which was presumably to help the process of global Internet policy making. Even worse, a specific process in this direction, called 'enhanced cooperation', mandated by the WSIS to start in 2006 is still nowhere to be seen. While many developing countries have been eager to get on with this process, or at least begin to give some institutional shape to it, developed countries have been markedly non-committal. It is vain to speak about the role of the Internet in promoting democracy worldwide *[as Ambassador David Gross of the United States did speak most eloquently about, in his presentation preceding this one]* when such a democratic deficit is being perpetuated in global governance of the Internet.

In seeking to address the concerns of developing countries, the draft Seoul Declaration speaks about spreading access to the Internet. Developing countries and their citizens do not just want access to the Internet, they want to have a legitimate role in shaping the future Internet. Denial of this democratic right is not acceptable to these countries and their citizens.

It will therefore be most appropriate if the OECD countries join the rest of the world community in engaging with, and strengthening, the existing global and therefore more legitimate fora for developing Internet policies that have global implications. The work done at this Ministerial meeting should feed into these global processes. We do indeed recognise the eminent role that OECD countries play in global Internet policy processes. They are well-resourced and can do useful research and analysis of issues, which the OECD *has* been doing very efficiently. Due to a greater penetration of and popular engagement with the Internet in these countries, many potentialities and challenges in the area of Internet policies are realised first in these countries, which do give them a special role in this area. However, at the same time, it is important to evolve and support more democratic and participative global institutions for the purpose of developing global Internet policies. The importance of such policies will continue to increase rapidly with the increasing role of the Internet in all areas of social life in all countries.

In order to uphold the values of political participation, democracy, and the right to self determination, it is important that developing countries participate equally in global Internet policy making. Such equal participation is also necessary from a more 'practical' point of view. Although most OECD countries are strong democracies, and should be expected to make people-centric Internet policies, these considerations often face an unfavourable trade-off vis-a-vis strong geo-economic considerations of new strategic advantages in the emerging global Internet economy. In this regard most OECD governments see their interest in supporting the business models and profit motives of global technology companies based in these countries, even if these may not always be in broader public interest, like observing anti-trust competition policies, and promoting openness and furthering people's basic rights with respect to the Internet. Developing countries, on the other hand, can be expected to

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3   See Tunis Agenda of the World Summit on the Information Society, http://www.itu.int/wsis/docs2/tunis/off/6rev1.html

favour policies that challenge existing dominations and could therefore be more pro-people. These differences have been highlighted by the experience at World Intellectual Property Organization (WIPO) on the issue of maintaining a balance between protecting intellectual property and promoting a rich public domain.

To further highlight the significance of the 'flaws' in the current process of developing global Internet policies, I must also refer to certain substantive issues that get implicated. There are many aspects of the Internet that are being shaped or mis-shaped by Internet policies, or their absence, which have profound implications for the emerging social, political and economic architecture of the information society towards which we are being fast driven. I will consider two issues that have been mentioned in the draft Seoul Declaration and/ or its background documents.

Perhaps the single most important policy issue facing us today is one of preserving openness and equality on the Internet, which is seriously threatened. The talk of convergence and Next Generation Networks, while pointing to some necessary technology progressions, also mask a serious threat to a fully 'public' and 'equal' Internet. In the next few years some important policy decisions will be taken in this area, which will have formative impact not only on how the Internet evolves, but also on how the very social architecture of information society takes shape.

Another important policy issue is with respect to universal service/ access policies regarding the Internet. Such policies are standard for basic telephony, but in the case of the Internet it is much more complex to determine what 'levels' of connectivity would constitute rightful entitlement for everyone. Moreover, Internet is not just connectivity, it includes what is available  on the Internet as well as what can one do on and with the Internet. The issue of universal entitlements to and on the Internet thus constitutes a complex political terrain with far-reaching socio-political significance. The framing of the universal service issue in the context of the Internet - along with digital intellectual property policy frameworks - will, to a significant extent, set the basic political economy context of the emerging information society.

Such important policy decisions like directing a new architecture of the Internet, with respect to its level of openness and 'equality', implicating peoples rights and entitlements with respect to the Internet, once taken and institutionally established globally will leave little policy leeway for individual countries to self-determine some very basic, and foundational, aspects of information society even within their own borders. It is therefore important that global Internet policies are made democratically, through equal participation of all people and countries, and not just among OECD countries and business monopolies and oligopolies, who at present mostly shape these policies. That would be the first tenet of real democracy in the emerging information society, and also a prerequisite to ensuring human rights for all.