



IGF CSTD Open Consultation on WSIS process – 2023

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As we move towards the WSIS plus 20 mark, digital public policy issues have expanded infinitely.

Some of us here will recall that the WSIS Geneva principle in 2003 - held an optimism. “We are firmly convinced that we are collectively entering a new era of enormous potential” - it said.

The problem today is that this promise of collective potential is broken.

The AI moment -- is similar in many ways and not similar in many to the Gutenberg moment - in the 14th century, when Gutenberg’s letterpress printing revolutionized the world of information and knowledge. AI is moving us to a society of archiving like the printing press did, but unlike Gutenberg’s technology, the algorithms that order society are indiscernible to the public. The printing press shifted power into the hands of private forces, taking it away from the state, and destabilizing the authority of the Church, Today, the force-field of knowledge is, similarly, controlled by corporations who seek servitude in exchange for data and information. Our connections are growing as they did in the Age of Enlightenment, but algorithmic society is also a society of fragmentation. As much as the press led to suffragette movements, and in my own country, a struggle against coloniality, it also led to competing visions of the good and to bloodshed. So also, the geopolitical risks of AI for war and annihilation cannot be wished away.

The digital, is indeed a lever of power, and it is no accident that those who control these technologies have little incentive to change the status quo. They resist relinquishing their control and work systematically to undermine institutions of governance and political processes – capturing the space and the narrative. The WSIS did call out the respective roles of governments in public policy unequivocally - including the need to advance international cooperation especially for the governance of digital technologies.

I would like to highlight in particular the neo-colonial dynamics of the data and AI economy that demand our immediate attention. These are not only limited to access and the resultant distributive equity issues in infrastructure, but also the more hidden dynamics of digital markets that seem to change the DNA of development.

The power imbalances in a bipolar context of market control by US and Chinese firms is reinforced through digital trade policy frameworks of the US and its allies; hegemonic ideas of ‘data for good’ that are not bottom-up, prevailing IP regimes that are anachronistic, and overemphasis on personal data protection to the detriment of collective social choice. The missing debate on public financing of digital infrastructure is quite crucial.

1. Trade forums are misused to liberalize data

Digital trade rules have been subverted by a handful of countries to push for the hyper-liberalization of cross-border data flows. This has meant unrestricted market access in the majority world for US Big Tech corporations and Chinese firms. Currently, at the WTO, such provisions are being pushed through plurilateral negotiations on e-commerce. These negotiations have been denounced by many as unfair. Firstly, they violate established multilateral conventions, taking advantage of development asymmetries among nations to negotiate regimes around data flows and associated topics that are much broader in scope than trade issues. Second, this is a prime example of what is called neo-colonialism in the digital economy.

2. 'Data for development' initiatives tend to be extractive

'Data for social good' initiatives can open up individuals to pan-spectronic surveillance, normalizing dependencies of public systems on extractive private firms. Google's G-Suite for Education, a program supplying the company's leading software services (Gmail, Calendar, Drive, Docs, and Sheets) and its low-cost laptop (Chromebook) to schools (often at no cost in many countries) has been criticised for collecting large quantities of valuable personal information, without parental consent, from children under 13 who are often required by their schools to use these services".

3. IP regimes have been weaponised by Big Tech

Given the penetration of the digital economy in every aspect of our lives, it is not possible to regulate data-driven intellectual monopolies without rethinking the international regime on intellectual property. Given the prohibitive licensing costs and other barriers to entry, including patents owned by Big Tech firms, firms belonging to the Global South find it all the more difficult to scale up and leverage market share.

As empirical evidence demonstrates, strengthening patent laws hasn't consistently led to increased national R&D spending.⁸⁹¹⁰ The patent system often struggles to foster innovation, particularly in developing countries, and is ill-suited for rapidly evolving Fourth Industrial Revolution (4IR) technologies that outpace typical 20-year patent protections.

Big Tech firms often resort to 'pre-emptive patenting' to retain their competitive advantage, while stifling the development of domestic industry. As US and Chinese Big Tech firms engage in their 'patent wars', the brunt of this market capture is borne by resource-constrained firms of the Global South.

US tech firm OpenAI's release of Whisper, a speech recognition tool trained on massive amounts of data, including the Maori language, has raised concerns among indigenous communities about cultural appropriation.

Unless the enclosures of digital intelligence and the data constitutive of such intelligence are prised open, innovation cannot be democratized, the commons will degrade, and the rights of creators and custodians of knowledge squelched.

4. The overemphasis on personal data protection at the cost of market regulation has proven to be detrimental

Personal data protection has not provided an adequate response to data colonialism. As Danielle Coleman (2018) highlights, large tech companies, typically owned and primarily operated by white men, are extracting data from uninformed users and controlling that data to profit via predictive analytics. Unfortunately, strong data protection laws will not prevent this domination. The question then is how can policies protect user data in an increasingly digitally-dependent society?

5. The silence around development financing is loud - in fact NY times had carried an article by the African leaders on why debt needs to be written off

The odds are stacked against developing countries as pathways to digital sovereignty are uphill. Recent shocks owing to Covid-19, broken supply chains, and inflation are pushing many Global South nations on the verge of crises.

Moreover, with a shift away from Official Development Assistance (which has never been significantly allotted for the purposes of digital infrastructure) to a model that increasingly relies on private sector involvement via blended finance and multistakeholder partnerships, dynamics of 'financialization' are starting to engulf development funding. The burden is increasingly on vulnerable states to both 'derisk' investment for private sector lenders, and to ensure that internal developments do not impact these private investments.

How can developing countries build infrastructures, develop local capabilities, and allow for genuine self-determination around the adoption of digital technologies and development pathways?

While open licensing of software, standards, data, and AI models is important for democratizing technology innovation, there are concerns about monopolistic capture and the risk of powerful actors benefiting at the expense of less influential contributors. Merely championing openness doesn't maximize the social value of DPGs.

What we need now is a four pronged strategy in digital cooperation

1. Initiate consensus for a global digital human rights constitution that is supra-liberal – incisive enough to cut through the systemic injustices in the international economic order

The nature of individual and collective autonomy needs to be articulated afresh to be commensurate with the data and AI epoch. Also, [echoing UNCTAD's call](#), the right to development and people's self determination also needs a similar rearticulation.

2. Effectively govern global data public goods

We must put equity and benefit-sharing at the heart of a renewed institutional governance framework. The idea of 'data as GPGs' only entrenches power in the hands of a few. Under the

existing intellectual property (IP) regime, processed data and data-based intelligence can be enclosed in perpetuity. Open may not equal public benefit.

Three [interrelated aspects](#) are important in the provisioning of GPGs: financing and burden sharing, mutual restraint, and coordination and global standards. Given the global asymmetries in data capabilities, it may be useful to [consider rules for varying contributions](#) from different groups of actors (such as for instance, common-but-differentiated responsibilities, explored in various international negotiations).

3. Mobilize public financing to galvanize digital innovation ecosystems

Without committed public financing at the international level for platform and data infrastructures as well as foundational [digital public goods](#), low and middle income countries (LMICs) struggling with rising debt burdens and shrinking fiscal resources cannot secure their futures. The multistakeholder model for provisioning digital public goods has more often than not opened up markets in the global South to foreign digital capital, not doing much for domestic digital innovation.

The Digital Development Tax mechanism proposed by the UN Secretary General in his 2021 report, Our Common Agenda, must be set up and used to finance a new work programme for public digital infrastructure in developing countries.

4. Meaningfully internationalize Internet Governance

It is imperative that the Internet, as a global commons is governed democratically. A new arrangement to oversee the technical governance of the Internet, an issue that was dropped from the policy table at the WSIS moment, is indeed, long overdue.

The WSIS +20 review must institute a new institutional process through the establishment of a new home within the multilateral system for ensuring system-wide coordination and coherence on digital issues. This home is necessary to preserve and advance a shared vision of digital human rights, data justice, and the full realization of SDGs in the AI order.

[These inputs were shared during the [CSTD open consultation titled 'WSIS at 20: Successes, failures and future expectations'](#) at the [International Governance Forum](#) on 10 October 2023 in Kyoto, Japan.]