

# A Fork in the Road to the Future of Global Internet Governance

## Examining the Making and Implications of the NETmundial Initiative\*

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10

It is customary in television debates to get two persons with completely opposed views engaging in a polarised discussion. Many are critical of this method as tending to suffocate the more nuanced views that may fall in between. They rightly claim that it serves to dumb down politics. At another level, however, a time comes in politics when any responsible political actor has to make a clear choice, as the path forward forks between two ways that are mutually exclusive and lead towards two fundamentally different political futures. Global internet governance stands at such a fork today. One path is of a continued evolution of our democratic institutions of governance—however drastic such evolutionary changes may today need to be—while keeping within the larger norms of democracy. The other fundamentally different path is to make a clean departure, and declare democracy inadequate to the scale and complexity of human organisation at the global level, especially in today’s networked society. The focus, in this case, shifts towards seeking what are considered ‘pragmatic solutions’ to global problems, which would involve political, economic, technical and social elites running the world on the basis of some general conceptions of ‘good governance,’ including sporadic consultations with ‘important groups’ or ‘stakeholders’ that are considered relevant by such elites. The accountability of this system, it is claimed, will be ensured from the transparency and intense communicability that characterises a hyper-networked world, which would ensure a basic level of ‘openness.’

Internet governance (IG) is indeed a very new field, as the manner in which the internet is impacting on social systems and structures and transforming them is highly complex, and also very unpredictable. There is so much to know and learn about before one can act decisively. On the other hand, the clock is fast winding down for decisive political action as the internet's architecture is getting concretised, increasingly towards a centralisation of power rather than its decentralisation, as was hoped for. As the dominant architecture is 'normalised' and a considerable amount of economic, social and political investment gets made in it, it will soon be too late to do much about it. The time for political action is therefore *now*. This is a major dilemma facing political actors in the global IG space.

A lot of mainstream actors have become so deeply immersed in exploring and discussing issues, at the cost of doing anything at all about them, that a major vacuum with regard to actual political action is being witnessed, especially at the global level. The global IG meetings and conferences circuit is unbelievably intense, and every few weeks the same faces seem to turn up in different parts of the world. Meanwhile, many actors propose setting up new information platforms and observatories as the real way forward—for instance, the proposed European Union Global Internet Policy Observatory—with numerous issues-mapping exercises occurring over the last few years, and still new ones being developed. At least two or three commissions have been set up to provide 'an authoritative recipe' for moving forward. Interestingly, these commissions are often set up and/or backed by those who gain the most from the status quo, which makes it unsurprising that their reports seem to contain further complexities rather than clear paths for the much-needed political action to address the myriad global public policy issues related to the internet. Much of the conference circuit is similarly propped up by actors from the Global North in general and by those entrenched in the status quo in particular, effectively giving rise to a US-centric global IG regime, corporates included. This puts a question mark on the neutrality of the knowledge that is delivered by these forums on what is one of the most hotly contested geopolitical subjects today. It is further increasingly unclear whether the overall effort is to move things forward politically, or to stall any such movement in favour of the status quo.

With a number of important policy events lined up, especially the 10-year high-level review of the World Summit on the Information Society (WSIS), 2015 could be a key year for concrete action. Alternatively, the year could end up being remembered for missed

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opportunities. Serious political actors must step back at this stage from the ever-faster revolving IG circus with its undeniable charms, and take some time to think dispassionately about the real needs, importance and urgency of global and national public policy issues related to the internet. This is even more so for actors from the Global South, who are increasingly being set up and co-opted into new geo-digital structures that are expected to leave them even more supplicant. The alternative is for these actors to take internet politics firmly into their hands, instead of being led by the nose as at present. It is in this regard that one speaks of a fork in the IG road, about which a clear and firm political decision will have to be made, especially by the Global South.

### **How the Global Political and Corporate Elite are Taking Control**

The political fork that is discussed here first appeared around 2010, and can be said to have taken a very clear shape with the recently launched NETmundial Initiative (NMI), which is led by the World Economic Forum (WEF) and the Internet Corporation for Assigned Names and Numbers (ICANN). The one good thing—perhaps the only one—about the new NMI is that it has provided a clear contour to, and a symbol for, a post-democratic world order. If the involved political actors still turn a blind eye to it, history might judge it as complicity. To put this historic political juncture in context, some key elements of the recent history of global internet governance are very briefly revisited below.

The Working Group on Internet Governance (WGIG), set up after the first phase of the WSIS, was the first important milestone for IG at the global stage. Its report was a remarkably sound document and still stands its ground today. Even though it had members from different stakeholder groups, its conceptions and outcomes were thoroughly democratic. The report described key public policy issues in the IG space while also laying out the respective roles and responsibilities of different stakeholders in this regard. Public policy was clearly to be a governmental responsibility, with other stakeholders contributing inputs to it. It also put forward the option of four institutional models for addressing both technical and public policy requirements with regard to the internet at the global level.

The outcome documents of the second phase of the WSIS, held in Tunis in 2005, took liberally from the WGIG report. In terms of actual institutional development, the Tunis Agenda mandated the establishment of a policy dialogue space in the form of the Internet Governance Forum (IGF), but left the issues of oversight of technical administration of the internet and internet-related public policies for further discussions within a placeholder concept of ‘enhanced cooperation.’ The Tunis Agenda represented a real and good compromise, and was spoken of highly by all parties in the following years. The pro status quo groups<sup>1</sup> were happy with a broad and somewhat diffuse definition adopted for internet governance, and an implicit admission that the existing structure of technical and administrative management of the internet was working well and need not change.

Although during the WSIS they had strongly opposed the proposal for establishing the IGF, status quoist groups quickly began to take control of it as they realised that developing country governments, except for Brazil, and for some time initially China, lacked the time and energy, and perhaps also the ability, to employ the complex and time-consuming processes of the IGF to press their claims and priorities.

It was towards the WSIS plus-five review that developing countries began to get vocal about the lack of any progress on institutional evolution related to public policies, as was required under the ‘enhanced cooperation’ mandate. It was at the 2008 IGF in Hyderabad, India, that Brazil first brought the issue of ‘enhanced cooperation’ to the IGF as a main session, against considerable resistance from status quoist groups. At this time, India did not appear to be too interested in the subject. But things began to heat up when, in 2010, India, Brazil and South Africa—the IBSA grouping—came together to make a joint statement on the issue, seeking a UN-based platform for addressing pressing internet-related public policy issues.<sup>2</sup>

The status quoist groups had until then dismissed any mention of ‘enhanced cooperation’ by claiming that it was a meaningless term that was used in the final WSIS negotiations to dexterously cover up the gaps between different positions. It was always a non-starter, dead on arrival, and there was no point flogging it any further. But when confronted by developing country demands to begin work on this mandate of the Tunis Agenda, they came up with a novel response. They claimed that ‘enhanced cooperation’ was well and happening at the IGF. Later, they began to claim that the IGF was an appropriate place for global coordination on internet-related public policies, and no other institution was needed for this purpose. Interestingly, such a claim was accompanied by simultaneous efforts to decrease or altogether remove the UN administrative oversight of the IGF. These groups refused to consider proposals for stable core UN funding for the IGF, and have been active in developing private funding for it. At its annual meeting in Baku in 2012, there was even an attempt by the Multistakeholder Advisory Group of the IGF to choose its own chair instead of one nominated by the United Nations. On the other hand, many of the concerned status quoist actors remained mindful of the fact that the IGF was after all a UN institution and would always be subject to its oversight and directions in some form or another. It would be difficult to ever fully negate this fact; thus, the status quoists considered wise to not put all their eggs in the IGF basket.

In 2010, the WEF revealed its Global Redesign Initiative, which presented a new vision of global governance. Multistakeholder governance was now no longer about consultations by governments with other stakeholders but involved co-development of policy, with an equal role claimed for non-government stakeholders and governments. WEF’s Global Agenda Council on the Future of the Internet declared that such a multistakeholder institution with an equal role for all stakeholders is certainly the most appropriate one for dealing with internet-related public policy issues. As the WEF was working on these documents, one began to hear the reverberations of these radical, and certainly anti-democratic (i.e.

‘post-democratic,’) proposals in the form of a new formulation in IG discussions—‘equal-footing multistakeholderism.’ The WEF’s rather ambitious blueprint was evidently being introduced and tested out in all earnestness in the virgin IG space.

However, it was becoming increasingly difficult for status quoist parties to argue that there were no significant global internet-related public policy issues to be dealt with. Consequently, around 2012, a somewhat deliberately inadequate term—‘orphan issues’—began to be bandied about in the IG discourse. The term referred, somewhat grudgingly, to such global policy issues that were indeed impossible to deny any more and which did not have any existing institutional home. And then, all at once, in the middle of 2013 the Snowden revelations considerably raised the stakes, making the ‘no action needed’ position even more implausible and difficult to defend.

Greatly miffed with the US National Security Agency’s surveillance of its president and other key targets, Brazil declared that it would seek a new UN-based institutional architecture for global internet governance, which sent alarm bells ringing all over. With India sticking to its earlier position for a new UN-based body, this coming together of the views of two leading developing countries could have potentially gathered cascading support for democratising global governance of the internet in a highly charged post-Snowden environment. An ‘admission’ of the need to do something about the ‘orphan issues’ was central to the overture that ICANN’s CEO made to the Brazilian president in late 2013, almost certainly at the behest of the US. In response, Brazil agreed to host a conference on this subject, which was then quickly taken control of by ICANN.

The NETmundial meeting in São Paulo in April 2014 produced a problematic format to deal with global governance issues, where global corporates sat at the outcome-drafting table ensuring that their narrow commercial interests were protected and promoted. They were, for instance, able to introduce controversial intellectual property-related text into the document. ICANN, on the other hand, ensured that nothing normative was mentioned with regard to the process of transition of its oversight. Ignoring these major drawbacks, most non-governmental actors present at the meeting seemed delighted simply with the fact that a new format was produced, and in their mind, legitimised, for ‘equal-footing multistakeholder’ development of global normative texts. In this context, they appeared to be willing to turn a blind eye to the grave problems with the event’s processes, and the fact that it was largely controlled by the status quo powers.<sup>3</sup>

The NETmundial outcome could still be considered to be relatively harmless if it was to be just another conference declaration that had no formal status. The problem, however, is that the status quoist groups project this outcome as a kind of new constitutional document for global governance of the internet. Never mind the fact that not only was this document not supported by many governments, a very large group of civil society actors, present on the floor when the document was adopted, opposed it, and issued a statement to the

effect. (Many of the civil society actors involved later withdrew this opposition, apparently because they so greatly liked the new format that promised them seats at the global policy table.) A false claim of universal support for the São Paulo NETmundial meeting began to be employed to legitimise and further shape a new global IG order.

In order to preserve the ‘gains’ from the NETmundial meeting and build on them towards a new post-democratic global IG order, a need was felt to set up some kind of formal and enduring global organisation or forum. This is what led ICANN’s CEO to approach the WEF, that veritable seat of the global elite, and the NMI was launched. Although elitist, a relatively positive feature of the WEF is that it is certainly seen as a more global forum. Developing a new initiative around it does mitigate the perception of the US centrality of the current regime, which the status quoists felt was hurting their image the most. Facing some early resistance to their initiative, ICANN and the WEF co-opted the Brazilian Internet Steering Committee as a third partner to try and give the NMI a more acceptable look. But the window-dressing nature of this new addition was not lost on most observers.

This new initiative is clearly set to be ‘the’ place for finding multistakeholder ‘solutions’ to global internet problems, including and especially those that are traditionally considered matters of public policy. It therefore anticipates and is presented as the alternative to any other possible new globally democratic institutions that may be demanded for addressing global internet-related public policy issues. The NMI website has this to say about what is meant by seeking IG ‘solutions,’ which is a thinly disguised formulation for stepping into the area of public policy:<sup>4</sup>

Internet governance solutions may be policy models, standards, specifications, or best practices and are produced by the Distributed Governance Groups. Solutions may be adopted voluntarily, or when necessary, formalized through other means such as social conventions, regulations, directives, contracts, and/or other agreements. Solutions for non-technical Internet governance issues are urgently needed to address the growing number of issues ranging from cyber-security to user privacy.

The website makes it further clear that the NMI is not just a policy dialogue, or a platform for taking inputs for policymaking, for the kind of tasks that the IGF is identified with. The purpose here is to take the dialogic outcomes from institutions like the IGF towards actual policies, camouflaged under the term ‘solutions.’

Through its work the NETmundial Initiative focuses resources to formulate solutions for the emerging issues identified through the multistakeholder dialogues at the IGF and other relevant fora.

In the eyes of its protagonists, the NMI evidently fulfils the role of the institutional mechanism that the Tunis Agenda codenamed ‘enhanced cooperation,’ which was to deal with global

internet-related public policies. Later UN resolutions identified the complementarity between the IGF as a policy dialogue forum, and ‘enhanced cooperation’ as the site for actual development of public policies. The above quote from its website shows how the NMI arrogates to itself this complementarity with the IGF, and thus also clearly the global policy development role in the IG space. Wolfgang Kleinwachter, an academic advocating civil society’s support for the NMI, has stressed the complementarity of the IGF and the NETmundial process.<sup>5</sup> If there is still a veil over whether the NMI is supposed to be ‘the’ global forum for addressing key existing and emerging internet-related public policy issues, it is too thin to be of any significance other than to those who are rather too willing to be beguiled by it.

### **Democratic or Post-democratic Governance—A Choice has to be Made NOW**

As the global political and economic elite develop their own captive global IG mechanism, the process has been accompanied by a systematic deriding of UN-based venues and possibilities, and a withdrawal from them. There is space here to only briefly touch upon this rather well-planned and well-executed strategy. After the first few years of showing great respect to the WGIG report and the Tunis Agenda, such deference begun to disappear among the status quoists around 2010 when the new elite-based model of global IG started to be given shape. The WGIG report, which interestingly was of a multistakeholder authorship, was completely banished from the discourse. The Tunis Agenda began to be spoken of as a relic from the past that hindered forward movement rather than enabled it, so much so that some actors, like the Indian government, had to struggle to get even a simple reference to the Tunis Agenda inserted in the São Paulo NETmundial Statement. The major sticking point for status quoists regarding these WSIS documents is the text about the respective roles in public policy development for governments and non-governmental actors. It went fully against the new post-democratic formulation of equal-footing multistakeholderism that was proposed as the new governance model extending also to actual public policymaking where corporate actors were to sit and vote at the same level as governments in global public policy matters.

It was with great difficulty that in 2012 developing countries managed to get a UN Working Group to look into the unfulfilled ‘enhanced cooperation’ mandate of the Tunis Agenda. However, in the face of a complete refusal to consider any kind of substantial institutional evolution by developed country governments, as well as big business, the technical community and most of the involved civil society, this Working Group could not come up with any recommendations, as it was required to. It is symptomatic of the changed times that while 10 years ago the WGIG could both map public policy issues and come up with four alternative institutional models, this new Working Group could not even attain that level of outcome. This clearly evidences a path of regression rather than progress as far as any possibilities within the UN system are concerned. Even the public policy mapping exercise that this new Working Group conducted, on which work was recently finalised by the secretariat of the UN Commission on Science and Technology for



*An NMI-like global multistakeholder body may very well be the path adopted, where elites make deals among themselves.*



Development, has been refused admittance by developed countries as an official document for the proceedings of the Commission and the WSIS plus-10 review. It is important to recognise the significance of the emergence of an alternative global IG paradigm and process in the name of NETmundial, over the year 2014, against the backdrop of a simultaneous withdrawal from the UN Working Group tasked precisely with developing recommendations for institutional evolution in the global IG space.

Any serious proposal for a new UN body modelled on the best global participatory practices to deal with global internet-related public policies, as was presented by India to the UN General Assembly in 2011, is met with significant propaganda of it being an effort to control the internet. Very interestingly, the same actors who oppose such a forum at the global level—developed country governments, global businesses, the technical community and many major civil society actors—fully engage with the Organisation for Economic Co-operation and Development’s internet policy body, which is inter-governmental, and has exactly the same design and level of participation for non-governmental actors as the body that India proposed at the UN level. Inter-governmentalism at home and multistakeholderism abroad is a strange recipe—but perhaps it is an understandable one when the real motive is to resist any meaningful global governance of the internet that could place global normative or policy checks on the march of internet-assisted global political and economic domination by actors largely based in the US.<sup>6</sup>

At the same time that proposals for any new globally-democratic bodies or forums to deal with internet-related policy issues are blocked, the existing ones like the International Telecommunication Union (ITU), whose mandate comes closest to a possible internet-related role, are also not allowed to take up internet-related matters. This is quite a paradox. In what was clearly an ideological battle at the World Conference on International Telecommunication, the possibility of a mere mention of the word ‘internet’ in the new International Telecommunication Regulations was strongly resisted. Global governance of the internet had to be fully kept away from any globally democratic body. At the recent ITU Plenipotentiary meeting, developing countries repeatedly proposed text to mandate the ITU to look into issues of privacy and data protection—among the most important global policy issues today—but this was not accepted by developed countries, global businesses, the technical community, and also, something that one needs to keep mentioning with great regret, some major civil society groups engaged in IG area. The justification for such a stand was simply that the ITU is not the appropriate institution to govern these and other internet-related public policy issues. But then if not the ITU, the question is: Which



institution is the appropriate one to handle such issues, given that the same actors also block the possibility for any new UN-based, or otherwise globally democratic, body for such a purpose? The NMI has begun to provide the answer: It would be an NMI-like global multistakeholder body, where the elites make deals among themselves in the name of efficient and expertise based 'management' of the global internet.

The fork in the road to the future of the global governance of the internet is thus very clear. It lies between the possibilities and evolution of our democratic governance institutions on the one side, and new post-democratic forms based on an engagement among the global elites on the other. It can hardly be clearer. This is therefore one of those crunch times when every political actor must correspondingly make a clear choice of one or the other path. Going with the elitist model is one way, and making patchwork improvement to it—in terms of greater transparency and selection of non-governmental nominees by respective communities, for example—does not change its basic nature of serving elite interests. It perhaps makes it simply more dangerous by 'band-aiding' its superficial problems. The other path at this fork is to clearly reject this post-democratic enterprise in favour of evolving and innovating solutions within our democratic institutions and norms that are designed to serve the public interest. This of course does not mean accepting the grave defects in the existing UN mechanisms, just as for instance in India, keeping our faith in the current basic democratic institutional model, as it exists nationally, does not mean we are blind to its multiple shortcomings, or that we will give up on addressing them. After all, the IGF has been a remarkable innovation within the UN system. We can evolve a similarly innovative mechanism that can effectively address global internet-related public policies, which is democratic in its basic architecture, while adopting the best contemporary practices of openness and participation, many of which have uniquely evolved in the global IG space.

This primary choice, between an evolutionary democratic path and a post-democratic elites-based governance model, frames and logically precedes other engagements and activities in the global IG space. It is said that in politics, not doing anything itself is a political choice. Not to urgently address this key framework political issue or dichotomy could by default mean giving explicit or implicit consent to what today is the dominant wave in the IG space—that of derision and withdrawal from the UN-based and other globally democratic forums, and investment into post-democratic models of governance where global 'solutions' or policies are negotiated and decided among the political, economic and social elites. We must not 'un-see' the direction the IG discourse is taking and keep our attention narrowly fixed on the other myriad activities and engagements in the IG area.

The choice that the various political actors make at this historic fork in the road will determine the appropriate political alliances and strategies for them. It is time that the IG world shake off the deep obstinacy that has come to characterise it, the key result of which has been a complete policy paralysis in this most important of policy areas that impacts all social sectors.