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THE MAKING OF INSTITUTIONS OF INFORMATION GOVERNANCE: THE CASE OF THE INTERNET GOVERNANCE FORUM

ABSTRACT

Histories of information systems are inseparable from the histories of their governance. In the case of the Internet, governance structures informally developed during its early design were substantially different from the typical mechanisms resulting from public policy decision-making. Traditionally, global information systems, such as telecommunication systems, were governed through state-centric mechanisms that would set treaty-based framework for non-state actors to operate within. Legitimate participation in these traditional governance structures was the prerogative of states that possessed sole decision-making authority. In the case of the Internet, non-state-actor-driven governance frameworks were developed outside of those traditional mechanisms. They relied on a different conception of legitimacy and authority. This paper discusses how the state and non-state actors were forced to cooperate around the creation of institutions that could accommodate the variety of views on authority, legitimacy, and decision-making processes in Internet governance. It tracks the creation of the Internet Governance Forum as a case where notions of legitimacy and authority were redefined for policy deliberations of complex information systems. The paper concludes with whether those changes lead to the emergence of new institutions that contribute to the sustainability of the network by enabling coexistence of competing political interests and values; and what this could mean for the future of the network

KEYWORDS

Internet governance, institutional history, information policy

THE MAKING OF INSTITUTIONS OF INFORMATION GOVERNANCE: THE CASE OF THE INTERNET GOVERNANCE FORUM

INTRODUCTION

History of information systems is inseparable from the history of institutions that govern them. This is particularly important in the history of large and complex systems governed by a mix of private and public institutions, such as the Internet. David Clark, one of the founding designers of Internet architecture, famously said: "We reject kings, presidents, and voting. We believe in rough consensus and running code."[i] This quote illustrates that the pioneers of Internet architecture were designing not just a computer network, but also means by which this network would be run, managed, and regulated (also see Braman, 2010, 2011). Unpacking the history of institutions that govern information systems and the processes that lead to the establishment of these institutions is an important aspect of understanding both the history and the modern state of the information system itself.

The vision of governance held by the founding designers of the Internet was imbued with a set of powerful beliefs. Even though the Internet originated from government sponsored research projects, Drissel (2006) explained that "[i]n the years since the genesis of the Internet in the late 1960s, pioneers of digital technology have described cyberspace as a unique electronic frontier, one that steadfastly resists all attempts at governmental control or state-imposed regulation" (p. 105). The governance structures informally developed during the design of the Internet supported substantially different mechanisms of policy deliberation and decision-making, compared to traditional, formal, state-centric structures.

Huston (2002) observed a gulf that "exists between the typical method of constructing a public policy framework for the communications industry and the exigencies of the Internet." He referred to this gulf as an "unresolved tension (…) over the very nature of the Internet and its regulatory model." The "Internet way" of policy formulation, reflective of the values of the academic community that engineered the Internet against the backdrop of the counterculture movement of the 1960s and 1970s, has been based largely on the ethos of openness and collaboration. Castells (2002) explained that "[w]hile the younger ARPANETers were not part of the counterculture, their ideas, and their software, provided a natural bridge between the world of big science and the broader student culture that sprung up the BBSs and Usenet News network" (p.25). As such, the Internet was viewed as a tool of liberation from "both from governments and corporation" (p.25) and its governance structures as caught in the tension between individualism and communitarianism that were characteristic of the counterculture movement (Matei, 2005).

Conversely, traditional public policymaking, especially for international issues, centered around hierarchical procedures with the institutions of the nation state as the ultimate decision-making nucleus, and with a focus on maintaining the status quo, which often results in negotiations and decisions taking place behind closed doors and at a very slow pace (Huston, 2002; Uimonen, 2003). This approach was well suited for

telecommunication markets that were historically dominated by government-owned monopolies in many parts of the world, but it was not a natural fit for the Internet governance mechanisms that evolved outside of that system (Shahin, 2006).

The Internet we know today could have become a very different information system. The current, bottom-up and private-sector led model is a result of numerous technical and political decisions. It was one of numerous other versions of interconnected computer networks tested at the time, such as Cycaldes in France or EURONET in greater Europe (Shahin, 2006). These and other initiatives were based on a set of institutional arrangements and values that were distinct from the context of DARPA and the academic community that worked on the early design of the Internet. The still ongoing debate over the shape of the governance system of the Internet is to a great extent a debate over the shape of the network itself. It is a debate over the shaping of the online experience including freedom of speech, privacy, security, and more. It is a debate over legitimacy of decision-making processes and institutions concerned with the Internet. My goal in the rest of this paper is to unpack how the tensions underlying this debate have evolved and to discuss whether they are leading to the emergence of new institutions that contribute to the sustainability of the network by enabling coexistence of competing political interests and values; and what this could mean for the future of the network.

THE GRIDLOCK OF GOVERNANCE

The tensions between different approaches to Internet-related policymaking (i.e. openness and collaboration vs. hierarchy and closeness) erupted with the commercialization of the Internet and the emergence of the World Wide Web in early to mid 1990s. Commercialization brought new demands and powerful players, who focused their efforts on gaining ease of access to increasingly valuable unique addresses and domain names on the web; it also raised a series of questions around the enforcement of trademarks and copyright online. Internationalization of the Internet coupled with its growing adoption placed new demands on the informal institutions of custodianship established through the community of original Internet designers, who came primarily from academia (Goggin, 2009).

The unexpectedly broad and rapidly growing demand for “webified” domain names required a system capable of managing the technical, operational, and legal aspects of voluminous domain name registration on a global scale. Creating such a system surfaced numerous tensions between the young and loose institutions that emerged alongside with the growth of the technical infrastructure and the established mechanisms of intra-, inter-, and extra-governmental decision-making processes. Mueller (2002) identified eleven distinct stakeholder groups and actors that were working in the Internet governance space in the 1980-1990’s. Those ranged from private organizations, such as telecom providers and copyright holders, Network Solutions, which managed most of the domain names at the time, prospective entrants into the domain name market, and local and regional internet providers; to institutions of Internet custodianship and

technical standards setting, such as country code registries and Internet Engineering Task Force (IETF) ; to civil society and civil liberties groups, international organizations, and national governments (with the US government placed in its own category). The politics of Internet governance thus became an act of balancing the competing interests of these diverse stakeholder groups, which in his later book Mueller described as a tension between the network-centered and the state-centered approaches to governance (Mueller, 2010).

Goggin (2009) explains that the original designers of the Internet "and other *éminence grise* sought to fashion and charter various bodies to preserve what they saw as fundamental to the Internet community's modes of governance" (p.51). Thus, at the end of the 1980's and early 1990's a set of tensions arose between the loose institutions of Internet governance and the US government. Those tensions centered primarily on the question of authority over the domain name system (DNS) hierarchy and were fueled by the shift of power balance in favor of commercial, as opposed to government or educational, interests in the Internet (Goggin, 2009; Mueller, 2002). The US government efforts to clear the question of authority over the DNS were viewed as an intrusion by many in the Internet community. Yet, these efforts were, at least partially, a response to another set of tensions between the US and other national governments and intergovernmental institutions, regarding the authority over the setting of public and technical policies that govern the Internet (Mueller, 2002; Shahin, 2006).

When the question of Internet governance bubbled up as a contested issue in the late 1980's and the early 1990's, neither the diverse Internet community nor the nation states, or intergovernmental apparatus could lead Internet-policy-setting unilaterally. On the one hand, when national states started showing interest in the Internet policy debate, there were already well established governance institutions based in the private sector[ii], the civil society, and to a degree academia. Those were premised on principles of collaboration, meritocracy, and "rough consensus" (e.g. IETF, RIRs). Some of these institutions drew their power from the support of the US government or the communities of stakeholders they claimed to represent; others derived their power from the path dependency established through protocols and technical solutions adopted early on in the development of the Internet; yet others drew on their technical expertise, which is critical to the effective governance of the Internet.

On the other hand, all the actors involved in Internet governance have worked, and continue to work, within government-established legal frameworks, which vary across the globe. As citizens of particular countries, different individual Internet governance actors and organizations are subject to the laws of their sovereign states. Moreover many individual and institutional actors draw their financial and political resources from their government systems. This dependency introduces a set of additional, more localized tensions around Internet governance and poses an interesting problem of legitimacy: it may make actors appear as acting on behalf of their governments or actually make them proxies of political interests.

The situation in which neither actor has a key or a "killer switch" to the information system and neither of them can make unilateral public and technical policy decisions, required institutions that can balance and bridge conceptually different worlds of policy making and an array of competing financial and political interests. A common claim is that the looseness of the early institutions of Internet governance is what enabled the phenomenal growth of this network as the most open, accessible, and inclusive communication network so far. At the same time, the complexity of issues and interests, coupled with their political and economic significance, required a system of rules, norms, standards, and regulations. Still ongoing, the process of construction of these institutions is an integral part of shaping the Internet and the web experience of its users.

THE IMBALANCE OF POWER

The tension between the network-centered and the state-centered approaches to Internet governance raises a series of questions about legitimacy and authority in Internet governance and highlights the fundamentally global character of Internet related policymaking (Mueller, 2010). For many in the Internet community, particularly those belonging to the old guard of Internet designers and those viewing the Internet in more libertarian terms, the growing interest of governments in issues of Internet governance, specifically the calls to implement a more nation-state focused and hierarchical decision-making process, was an assault on the very spirit of the Internet and its normative foundations (Mueller, 2010).

Some actors involved in the early Internet governance debates in the 1990's, particularly those belonging to the initial group of Internet designers and those representing US-based commercial interests, were appreciative of the US government's relatively hands-off approach to the Internet (Hafner & Lyon, 1996). The creation of the Internet Corporation for Assigned Names and Numbers (ICANN) in 1998—a private, US-based, not-for-profit corporation with authority over the critical Internet resources—was an institutional response of the US government to the pressures for internationalization of Internet governance. It also served a compromise between the commercial actors, primarily Network Solutions, the custodians of the Internet, such as Jon Postel, and the US government. Mueller (2002) described ICANN as "a resource-based international regulatory regime" that is "a rough facsimile of an international treaty organization without a treaty" (p. 220).

In parallel, the tensions between the advocates of the two forms of policymaking were also reflected in a series of global debates about Internet policy, which culminated in a UN-sponsored World Summit on Information Society (WSIS). The summit, which was held in two phases in 2003 and 2005, started as a meeting focused primarily on socioeconomic development and information technology. Yet, it has quickly morphed into an intense international debate about Internet governance and made apparent the global scope and the unorthodox notion of authority in informal Internet-related

policymaking. The summit had two outcomes that are important for the history of Internet governance and may prove to be important for the history of the Internet.

First, WSIS was a pivotal moment in recognizing and defining a more meaningful role for non-state actors in global communication policymaking (Raboy, Landry, & Shtern, 2010). At that point, in the early 2000's, most of the policy decision-making authority was already assumed by non-governmental institutions with a strong private sector presence such as IETF, ICANN, regional and national registries, etc. Governments could not simply try to assert their authority through established intergovernmental channels, such as the ITU, due to the distributed architecture of the Internet, the interdependency of the engaged stakeholders, and to a degree, lack of expertise. Moreover, the WSIS attracted an unprecedentedly large, diverse, vocal, and engaged group of civil society organizations. Broadly defined those included non-governmental and non-commercial groups that were already involved in the technical and political shaping of the Internet. Instead, the WSIS formalized the practice of "multistakeholderism," where "representatives of public interest advocacy groups, business associations, and other interested parties participate in intergovernmental policy deliberations alongside governments" (Mueller, 2010, pp. 7–8). Although there is a long history of non-governmental organizations participating in UN activities, the WSIS is commonly viewed as drastic departure from the established practices. Whereas in the past, UN processes placed civil society organizations in advisory capacity at the edges of formal processes, in WSIS participants from the civil society took part in the core of the discussion (Raboy et al., 2010; Raboy & Landry, 2005).

The second important outcome of the WSIS was negotiations about specific institutional arrangements that would accommodate this unorthodox balance of power; negotiations that resulted in very limited substantive decisions. The tensions surrounding the legitimacy of ICANN and its associated groups, as well as the some fundamental disagreements about the roles of state and non-state actors in Internet governance proved to be irresolvable. The Summit produced its own general framework for global information policy deliberations with a strong emphasis on development, but because of the lack of agreement among the participants, made no concrete policy decisions. The main "tangible" outcome of the summit was an agreement to create a non-binding forum for multistakeholder Internet public policy discussion—the Internet Governance Forum (IGF).

The IGF has since become a vessel for the unresolved tensions between the different cultures of authority and decision-making in the Internet community and the intergovernmental apparatus. It has also become a stage for enacting a variety of normative schemes based on a plurality of worldviews, cultural, national, and institutional identities, as well as ideologies and economic philosophies of the participants in the forum. Although it is riddled with weaknesses and is subject to continuous criticism by different parties, the Forum continues to attract participants and donors, and in December 2010 the UN extended its mandate for an additional five years. From a historical perspective, the process of the establishment of the IGF and its working practices is an important demonstration of how principles of governance of a

unique and complex information system have been (and still are) worked out. The IGF continues to evolve and interact with other institutions of Internet governance, which makes it a good space for the study of historical processes of institutionalization of governance of distributed information systems.

ON THE WAY TO WSIS I – SURFACING OF TENSIONS

Traditionally, what the most international intergovernmental organizations typically agreed to was participation of the non-state actors in a limited, consultative capacity. Mathiason (2009, p. 103) explains this reluctance by some governments' concern that some non-state actors may be hostile to them. Other researchers explain marginalization of non-state actors through the state-authority-centric view of governance at the core of the institutional settings of the UN. Such view of authority renders the non-state actors as illegitimate forces in governance (Armstrong & Gilson, 2011). WSIS was different. It was created against a backdrop of redefined legitimacy in Internet-related policymaking, primarily because governments and the existing intergovernmental organizations, such as the ITU or UNESCO, were rather latecomers in the Internet arena (Shahin, 2007). Markus Kummer (2005) explained:

> In the context of discussions on global governance, Governments have been confronted with other stakeholders requesting to be allowed to participate in decision-making arrangements. The debate on Internet governance, however, followed a different pattern. Here, Governments wanted to obtain a say in the running of the Internet, which has developed outside a classical intergovernmental framework (p.1).

By the time the ITU had identified Internet governance as a strategically important area, the debate was already fairly advanced and non-state actors had played a pivotal role (Mueller, 1999). Singh (2008) explains the accommodation of non-state actors as a function of the incumbency status of the US, which "gives countries, companies or groups, which already benefit from rules designed to maintain their market share, an enhanced ability to set agendas or choose to exit negotiations" (p.234). As such, the US was in a position to lay the foundation of Internet governance according to philosophies of deregulation, private sector leadership, and self-regulation (Mueller, 2010 makes a similar argument).

Institutional adjustments

The initial WSIS was shaped by the reluctance to include non-state actors in UN-sponsored deliberations and the necessity to reckon with some already existing non-governmental institutions of Internet governance, primarily in the technical domain. This reluctance can at least partially explain why the primary focus of the preparatory debates for the first phase of WSIS was on the rules of participation for the non-state actors (Kleinwächter, 2008). By the time the WSIS preparations took place, there was a growing tendency for civil society participation in UN meetings, but there was no

agreement on the extent to which non-state actors could participate in negotiations, which were considered a prerogative of the sovereign states. To accommodate the voices of the non-state participants, the Bureau of the Summit held an informal intersession and made special arrangements during the preparatory process. Such accommodations were possible only after a number of clashes between the private sector and the civil society representatives with the government delegations which were slow to adjust to the new arrangements. For example, Kleinwächter (2008, pp. 548–551) explained how during the preparatory process for the first phase of WSIS a disagreement around the accreditation process for civil society representatives became one of the main issues. Representatives of civil society groups were physically blocked from attending meeting rooms where government representatives discussed the arrangement and the content of the Summit. The fact that the summit was a UN meeting imposed additional difficulties to bridging the ideological divides. While the Group of 77, led by Pakistan, argued for an observer only status for civil society groups in the preparatory process, the EU and US argued for a more engaged role.

The result was a compromise that required conceptual adaptation from all the parties. On the one hand, the adopted procedures of the Summit left it "in the hands of the chair person of a relevant body how far the doors would be opened and how much nongovernmental speakers could say"(p.551). The typical strategy employed by non-state actors was to influence their country delegations to support their positions or to place active people on their country delegations. However, during the third PrepCom an even more liberal model of NGO participation in WSIS was adopted. The non-state actors were not only invited to the plenary as observers, but were also invited to make brief interventions, which was a significant departure from the traditional UN settings where only government delegates could make interventions (Mathiason, 2009).

On the other hand, to make their voice heard and to be taken seriously in the WSIS, the non-state actors, particularly the civil society groups, had to go through a rapid process of institutionalization. They had to adapt to the UN-specific ways of engaging in the deliberation process. For example, during PrepCom 2, hundreds of civil society delegates had to figure out ways to get organized and produce interventions and contributions according to the UN meetings protocol. This resulted in the establishment of structures such as the WSIS Civil Society Content and Themes Group, which was responsible for coordinating content-related issues, the Civil Society Plenary, which was the de facto civil society authority in the WSIS settings, and WSIS Civil Society Bureau, which was coordinating the procedural issues (Kleinwächter, 2008; Mueller, 2010). While the first two bodies have evolved in a 'bottom-up' fashion led by the civil society organizations participating in the WSIS, the last one was a 'top-down' structure created by the UN bureaucracy (Mueller, 2010).

In terms of substance, during the PrepCom meetings, the outlines of the conflict over the definition of Internet governance, as well as the definition of authority and legitimacy within that yet to be defined domain, started to emerge with a particular focus on the management of critical resources (e.g. the root server system, domain name system, etc.). The participating governments (with a notable exception of the US)

demonstrated an apparent consensus about the need for an intergovernmental organization to manage the root server system, domain names, and the Internet Protocol address assignment. The civil society and the private sector, on the other hand, could not reach a consensus. A number of actors, such as ISOC, voiced their support of the ICANN regime. Others advocated for variations thereof, but not for an intergovernmental organization taking over the management of critical resources. To a degree, at this stage, the civil society groups took on a blocking role guarding the private sector from government intervention (Mathiason, 2009).

The division between the apparent consensus among government delegations and the range of options considered by the private sector and civil society groups demarcated what I view as the main tension of the WSIS and later the IGF debates—the tension between two approaches on the view of authority and legitimacy in Internet policymaking. The intergovernmental solution was a centralized, state-centered, exclusive antithesis to the ethos of distributed, meritocratic, and open policymaking mechanisms of private and civil society groups.

Genesis of a core

In addition to debates about participation of the non-state actors and discussions of the substance of the WSIS, another important process evolved during the PrepComs—institutional and personal hubs started to form within the WSIS process. Mueller (2010), presents a number of social network analyses, two of which are particularly relevant. In the first analysis, Mueller mapped organizations of the civil society as nodes and actors as links, which allowed him to identify the Association of Progressive Communication (APC) as a hub of the civil society transnational advocacy network (p.91-94). In another analysis, Mueller mapped individuals in terms of their centrality and their function as an intermediary in the civil society network; this analysis allowed him to identify Karen Banks of APC as the single most central and influential individual in terms of mediating the flow of information (p.93-95; for a more detailed report on these data also see Mueller, Kuerbis, & Page, 2007). These findings, particularly the second analysis, illustrate the genesis of the WSIS "core"—a collective of idea entrepreneurs who became passionate and committed to the WSIS, and later the IGF, as a process valuable in its own right, regardless of its tangible outcomes.

WSIS I – SOLIDIFYING THE TENSIONS

The first phase of the Summit, which took place in Geneva in December 2003, solidified a set of conflicts regarding the governance of the Internet. First, the role of the non-governmental actors in Internet governance was again up for discussion. Despite a consensus about the need for multilateral and transparent Internet governance, there was no agreement as to whether it should be a multi-stakeholder or government-driven process. Second, despite a shared recognition among Summit participants that Internet governance involves more than just technical management of the infrastructure and that it has broad social implications, the "nature" of Internet governance could not be

defined. The main question was whether Internet governance should be limited to technical and commercial aspects of the network or extended into other spheres, such as freedom of expression, privacy, cultural and political expression, etc., which governments considered their prerogative. The former interpretation of Internet governance would picture the Internet as primarily a technical and economic resource, while the latter acknowledged the network as a cultural and political tool as well.

These tensions led to the establishment of a Working Group on Internet Governance (WGIG), which was tasked with developing a working definition of Internet governance, identifying policy issues that should come under its umbrella, and mapping the roles of various stakeholders (Kleinwächter, 2008; Mathiason, 2009; Mueller, 2010; The World Summit on Information Society, 2003a, para. 13b) (see **Error! Reference source not found.**).

<Insert Box 1 around here>

Examining this mandate suggests that establishment of the WGIG was the initial step towards addressing the role of the non-governmental sector in Internet governance and in itself constituted an institutional innovation within the UN system. The innovative aspects of this decision were: (1) the working group was set up to be multistakeholder and to include non-state actors together with governments as equals and (2) the group was organized by the Secretary General, which gave it the legitimacy of the UN, despite the formal status disparities between the state and the non-state actors (Kleinwächter, 2008; Mathiason, 2009). These two principles would later prove to be pivotal for the establishment of the IGF and for the shaping of its practice.

THE POLITICS OF THE WGIG

There is a broad agreement among the analysts of the WSIS process that WGIG was unique. Substantively, it aimed to fill the gaps in knowledge and address the differences in perceptions of Internet governance in order to temper political conflicts. Symbolically, the WGIG embodied and enacted the idea of multistakeholderism both through the composition of the group and the operating principles it adopted, including extensive use of open, public consultations and application of Chatham House Rules[iii] for the internal workings of the group (e.g. Mathiason, 2009; Mueller, 2010).

The task of drafting the framework for Internet governance turned out to be too complex and controversial. The political complexity of bringing representatives of the nation states and intergovernmental organizations to have a policy dialogue with the non-state actors, particularly the civil society, was formidable. WGIG participants ended up with a “creative compromise” (Dutton, Palfrey, & Peltu, 2007, p. 5) in terms of defining the domain of Internet governance and even more so, charting a framework for Internet-specific policy deliberation. In WGIG the format of discussion and consensus building around Internet governance topics became the governance mechanism itself; in other words, the format of discussion became both the process and the goal.

WGIG reports and records of its consultation process suggest that the group did not shy away from the diversity of decision-making cultures, perceptions of authority and legitimacy, or the structures of power, all of which were fundamental to the identity of various stakeholder groups. However, neither party could act in isolation and completely disregard the others because they depended on each other.

As individuals, members representing non-state actors and the institutions of Internet custodianship lived and worked within systems of rules and norms set by their respective nation states. As such, they not only enacted state-centric norms and values, including perceptions of legitimate authority and acceptable policy decision-making, but many of the members and institutions of the Internet community drew their formal authority and resources from the same state-centric systems. For the states, the distributed architecture of the Internet and its reliance on voluntary cooperation of a diverse and distributed set of groups and organizations—the procrastination and the trust-your-neighbor principles described by Zittrain (2009)—made them dependent on the Internet community comprised of mostly non-state actors.

In addition, the US position played an important role. Despite internal tensions, such as those underpinning the establishment of ICANN, the US interests during WSIS were better served by an alignment with voices opposing the state-centric approach to Internet governance. This US position gave an important governmental support to the non-state actors within the UN system, who argued for a more transparent and inclusive process of Internet-related policy deliberation. At the same time, US support of multistakeholderism enacted numerous global North-South tensions.

Yet another complexity stemmed from the WGIG being housed in the UN with its actions based on a Secretary General sanctioned mandate. The UN context implied a degree of compliance with the intergovernmental way of doing things in terms of formality, and national-state-centric perceptions of legitimacy and authority. Moreover, it also set an expectation for delivering a successful outcome—the group could not end its work with a statement of disagreement. Instead WGIG had to devise creative compromise solutions, which laid conceptual foundations that once set, are still serving global Internet policy deliberations.

WGIG process as an experiment in multistakeholderism

The WGIG was an ongoing experimentation in institutional accommodation of distinct approaches to policy decision-making and often contradicting views of legitimacy and authority. It was influenced significantly by the individuals who accepted the value of having WGIG even before joining the group and developed working processes and funding mechanisms that aspired to offer a different power arrangement within a predominantly national-state-drive UN environment.

The WGIG process was led by a small group of around 40 individuals, chosen from across the stakeholder groups and supported by a small secretariat. The WGIG's membership was selected based on the guiding criteria of balance in terms of "regional representation, stakeholders, gender, developed and developing countries, and

different schools of thought" (Mathiason, 2009, p. 117). The final nominal composition of the group seemed to achieve relatively good balance in terms of most of these criteria, excepting gender; also, governments constituted the largest group of represented stakeholder groups, alas with a symbolic absence of US government.

It is difficult to make claims as to why the particular individuals were chosen to represent their particular stakeholder group; it was a mixture of luck, ambition, and proactiveness. Many participants entered the WSIS process without a clear vision as to where it was heading; in fact the focus of WSIS has shifted as the summit progressed (see Mueller, 2010, Chapter 5 for a partial discussion). As such, the selection was based on credentials earned during a rather short span of the first phase of the WSIS and its preparatory process. To a degree, people who joined the group had to buy into the validity of a multistakeholder approach to policy debate before being appointed to the group.

The strong personalities of the group members were an important factor in what shaped the WGIG dynamics and its outcomes. Nitin Desai, the chair of WGIG, Markus Kummer, the WGIG executive coordinator (both seasoned diplomats with experience in reaching compromise and knowledge of the UN processes), and other group members, have repeatedly highlighted the fact that those were the participating individuals who created WGIG from scratch and gave it its particular shape (see Drake, 2005). For example, Nitin Desai emphasized that, "[t]he members of the group were there as individuals**.** But they had been chosen to reflect a balance across regions and interest groups" (p.vii); Markus Kummer, referred to the group as "people from different geographic, cultural and professional backgrounds. Individuals gathered with their different outlooks on life, different ideas and different ways of interacting, and in the process became a group with a common purpose" (p.1). This was a group of enthusiasts, many of whom would later continue on to form the IGF.

Establishing its own working procedures, the WGIG created a series of practices for multistakeholder discussion, ones which were destined to become the operating principles of the IGF (e.g. MacLean, 2005). For example, the multistakeholder ethos put a great emphasis on the openness of the process. One of the main critiques of a national-state-centric decision-making process, was (and still is) the lack of transparency. Numerous accounts of the WSIS process highlight the fact that the civil society participants in particular found it difficult to penetrate the state-centric UN processes (e.g. Kleinwächter, 2008; Mathiason, 2009; Mueller, 2010). As a reaction to this, the WGIG adopted a model of periodic open consultations, which provided input to the working group and at the same time, helped it develop its own identity, establish rapport, and build authority and legitimacy with numerous groups involved in WSIS (MacLean, 2005).

The WGIG was driven by the ethos of transparency and inclusivity filtered through strong personalities of its members. As Nitin Desai (2005), reflected:

> The open consultations had the paradoxical effect of reinforcing the WGIG's sense of self-identity. Group members did refer to the views presented at the

> open consultations. They were influenced by the weight behind different positions as evidenced in these open meetings. But they became increasingly conscious that their job was to write their report, not a report on the views expressed in the consultations (p.ix).

In other words, the WGIG was creating itself as a new structure within the UN; a structure where the bottom-up, transparent, inclusive, and consensus-driven philosophy could be adapted to the numerous institutional pressures, interests and identities, as those were reflected through the members of the WGIG. While accepting input from open consultations, the drafting of the final documents was conducted in closed sessions, partially to relieve the group from the institutional pressures attached to their being representatives of particular stakeholder groups. At one point, the WGIG members went into a two-day retreat using the Chatham House Rule, which allowed them to discuss issues in private settings, speaking as individuals. These discussions could then be used later in the report, but without attribution. While the intention of this procedure was to promote a more open, free from formal institutional constraints dialogue within WGIG, it gave the individuals participating in the group a lot of power over the final report and allowed them to obfuscate their underlying interests. Within the UN system, that was the first time the Chatham House Rule was implemented with a group that included not only state, but also non-state actors (Desai, 2005).

Funding of the WGIG was another aspect where WSIS participants sought to revise the power relations between the state and the non-state actors. When the WGIG was originally formed there was no debate regarding its funding. That omission was strategic. On the practical level, it eased the establishment of the WGIG during the first phase of WSIS. Since the UN was not asked to pick up the bill, the member states were more inclined to support the creation of the working group. On the ideological level, the advocates of limited state involvement in Internet governance wanted to see a "multistakeholder" funding for the group. As a result WGIG had to solicit funding from numerous entities including governments (Switzerland, Netherlands, Norway, France, and Japan) and non-governmental organizations (Numbers Resource Organization, Swiss Education and Research Network - SWITCH, ICANN, and the Foundation for MultiMedia Communications) (Mathiason, 2009, p. 116). This voluntary funding arrangement noticeably missed representation from governments of the global south, the G77 group and China, who favored a UN-centric arrangement for Internet governance.

The WGIG aspired to draw on the bases of legitimacy of both the Internet community and the UN system as way to bridge the two cultures of decision making. This innovation, however, came at a cost, as WGIG produced no binding outcomes and exposed itself to political criticism for its sources of funding. The fact that WGIG was not a formal negotiation with binding outcomes relieved the group from the pressure of reaching consensus on every contested topic, but it also allowed the presenting of a wider array of opinions. The WGIG did set an agenda for the second phase of the WSIS, offered new language for future diplomatic discourse, and laid down the foundation for new structures of legitimation and domination[iv] in Internet policymaking. Even though

some criticized the fact that private entities with clearly stated interests in shaping the Internet governance regime have funded WGIG, participation of these non-state actors within the nation-state-dominated space signaled readiness to engage across partisan lines, even if unwillingly. The lack of binding power and the unique funding situation freed the working group from taking singular stands on issues. Instead, it allowed a broad recognition "that neither governmental top-down regulation nor private sector or civil society bottom-up self-regulation alone can manage the totality of Internet issues" (Kleinwächter, 2008, p. 569).

Defining Internet governance

One major conceptual task of WGIG was defining Internet governance. In its final report, the group offered the following working definition:

> Internet governance is the development and application by Governments, the private sector and civil society, in their respective roles, of shared principles, norms, rules, decision-making procedures, and programmes that shape the evolution and use of the Internet (Working Group on Internet Governance, 2005, para. 10).

This definition has since been widely cited in both policy work and research. On the face of it, this definition may sound as boiler plate policy talk, but it is reflective of important conceptual shifts that impacted the path towards institutionalization of Internet governance.

First, the WGIG definition acknowledged that non-state actors have a role in Internet governance, which was one of the cornerstones of disagreement during the first phase of the WSIS. This acknowledgement, however, came at a cost of implicit recognition of the nation-states' claim for exclusive authority over public policy making. Following a traditional UN definition of stakeholder groups, the WGIG report focused primarily on the roles of governments, the private sector and civil society. Governments were described in the report as possessing the ultimate binding decision-making authority. They were charged with national, regional, and international policymaking and implementation as well as the development and adoption of laws, regulations, and standards, as well as other activities. The private sector was charged, among other activities, with self-regulation and development of best practices. The list of responsibilities of the civil society included: inter alia, capacity-building, bringing perspectives of marginalized groups, and engaging in policy processes. The report also recognized the importance of the academic and technical communities, but it did not go in depth to define their roles in potential future Internet governance arrangements (see Working Group on Internet Governance, 2005, para. 29–34).

Second, the WGIG definition extended the scope of Internet governance beyond questions of management and control over critical Internet resources. As Mueller (2010) described it, "[t]he overall effect was to make it possible to define practically any communication-information policy issues as Internet governance" (p.67). The WGIG

report identified four areas that constitute the Internet governance domain. These were: issues of infrastructure and management of critical Internet resources (e.g. management of the Domain Name System), issues related to the use of the Internet (e.g. spam), issues that go beyond the Internet and have existing institutions addressing them (e.g. copyright), and the link between Internet governance and development. Although many of the specific issues in each area are in a continuous flux, many of the contemporary discussions of Internet governance (e.g. IGF) are still built around the same clusters.

While broad in terms of the issues it covers, the WGIG definition of Internet governance is rather specific about the functional role of "governance." The report defined it as "development and application" of systems of governance, i.e. principles, norms, and decision-making procedures. To this end, the report offered a number of mechanisms. First, it suggested creation of "a space for dialogue among all stakeholders" (p.10) with an emphasis on inclusion of participants from developing countries. Then, it offered four models for implementing systems of governance, trying to address some of the core political tensions that surfaced during WSIS.

The models were built around creation of new governance bodies, such as a UN-anchored and national-governments-led Global Internet Council (GIC) as a vehicle to set global Internet public policy and hold the Internet Corporation for Assigned Names and Numbers (ICANN) accountable; enhancing the Government Advisory Committee (GAC) of ICANN or replacing it by an International Internet Council (IIC), both of which would give national governments an oversight authority over ICANN; or a combination of the above to result in establishment of Global Internet Policy Council (GIPC) and replacing ICANN with WICANN (World Internet Corporation for Assigned Names and Numbers) anchored at the UN. Although they favored the nation states advocates, each of the mechanisms was a response to interests represented by the diverse group of participants in the working group, all of them acknowledged that neither an exclusively nation-state-centric nor an exclusively non-state-actors-led solution were feasible political solutions.

WGIG legacy

The final WGIG report was issued amidst growing criticism of ICANN and the US government by both state actors, who wanted a more UN-like regime for Internet governance, and the non-state actors, who argued for a less state-centric regime and more multistakeholder involvement. Two weeks prior to the public release of the final WGIG report in July 2005, the National Telecommunications and Information Administration (NTIA) of the US Department of Commerce (DOC) released the "US Statement of Principles on the Internet's Domain Name and Addressing System**."**[v] In the document the US government reaffirmed its intention to maintain an authoritative role in the management of critical Internet resources, which was one of the core issues fueling the Internet governance debate. Furthermore, during the same summer, the US government allegedly intervened in the decision-making process at ICANN when the assistant secretary for communication and information at the DOC sent a letter

expressing the US opposition to approval of the proposed .xxx top level domain. Although there was no formal directive to withdraw the domain, this incident is generally viewed by the critics of the ICANN regime as the US government's abuse of its formal authority over ICANN, which back in the day was established through a Memorandum of Understanding (e.g. Lightfoot, 2007; Mueller, 2010).

Against this background WGIG formally agreed that, "[n]o single Government should have a pre-eminent role in relation to international Internet governance" (Working Group on Internet Governance, 2005, para. 48) was particularly significant. It was destined to become an important rhetorical milestone in the politics of Internet governance as it became the basis for later debates about legitimate authority and desirable processes of policy decision making in Internet governance. The idea of mutual dependence of state and non-state actors became central not only to explicit post-WSIS activities, but also for other fora including the ITU and ICANN. It was and remains symbolic and contradictory because it preserved the top-down approach to Internet governance with the nation-state as a pivotal decision-maker.

Substantively, none of the concrete proposals for decision-making mechanisms in WGIG report got acted upon (see also Mueller, Mathiason, & Klein, 2007; Mueller, 2010, p. 68). The only actionable recommendations that survived the second phase of the WSIS was a call for establishment of a "global multistakeholder forum" with no binding decision-making authority (Working Group on Internet Governance, 2005, para. 40–47). The WGIG had also developed a blueprint for such a forum, with an emphasis on multistakeholder participation and inter-sector dialogue as a vehicle for bridging gaps in understanding and perceptions of contested political issues. This blueprint celebrated a new kind of legitimate authority within the information policy space—an authority drawn from a multiplicity of institutional identities of the participants. It was different from the traditional authority of nation states, as it was exercised through the UN, and required more openness for non-state actor participation. At the same time, it required the non-state actors to adopt some of the discourse and procedures of state-centric policy deliberation systems (such as the UN) in order to have legitimate authority in the emerging institutional systems for Internet governance.

The final report of the WGIG in June 2005 laid foundations for both the second phase of the WSIS planned for Tunis in November 2005 and for the IGF. This report was by no means perfect and has been criticized both for not being specific enough in terms of its recommendations and for not tackling the heavy political tasks, such as agreeing on basic norms and principles of Internet governance. Nevertheless, the report, and even more so the deliberative practices that developed in the course of WGIG, set a precedent for structural arrangements capable of accommodating the competing interests and the diverse ideological approaches of groups engaged in global Internet-related policy discussion. It was the first time when representatives of both state and non-state groups worked together to produce a result that the international community viewed as tangible and constructive. Notwithstanding the political tensions that became evident within the group, the ability to produce a consensus document was an

important step towards the formation of other new structures of legitimation and domination within the Internet governance sphere.

WSIS II - THE BIRTH OF ANOTHER COMPROMISE

As the WSIS was moving into its second phase toward the end of 2005, other forums, within and outside the UN, started to pick up the discussion about Internet governance (see Kummer, 2005, p. 4 for a list of events). There is an ongoing debate about the relative importance of Internet governance-focused fora and events. Yet it is nearly impossible to distill the importance of a standalone event without considering the context of other IGF developments. Hart (2008), for example, argues the importance of the G8 and EOCD in shaping the global Internet governance regime, when viewed through the lens of political economy. All these fora should be viewed in relationship with each other, as well as in relationship with the continuously changing environments of socio-technological affordances and practices. For the purposes of trajectory outlined here, however, it is important to capture how ideas distilled to form the particular arrangements around the IGF.

Soon after the first phase of WSIS, two other competing initiatives were launched within the UN system. In February 2004, the ITU conducted an "expert meeting on Internet governance," which highlighted the multi-institutional and the multidimensional character of the Internet governance debate. In March of the same year, the UN Information and Communication Technology (ICT) Task Force organized the Global Forum on Internet Governance, which was considered a counter-conference to the ITU expert group meeting. This meeting enacted a version of multistakeholder participation by opening up the debates to non-state participants and highlighted the debate about Internet rights (Mathiason, 2009). Both meetings, however, had to deal with similar challenges as had WGIG and suffered from similar weaknesses. They enacted the traditional, state-centric, structures of legitimation and domination by the very virtue of taking place under the auspice of the UN, thus celebrating the intergovernmental decision-making mechanism. Inputs from these two rather conflicting meetings, together with the WGIG report, served as the basis of the second phase of the WSIS, which took place in Tunis in 2005.

Many individuals who participated in the WSIS process, especially the idea-entrepreneurs of the WGIG, also participated in these newly emerging meetings. The main common feature of these interactions was adoption of the multistakeholder ethos and the broad definition of Internet governance as they were outlined in the WGIG report. Thus, during WSIS II, participation of non-state actors was becoming more of a norm. Even though many state actors, noticeably the BRICS,[vi] continued challenging the legitimacy of non-state actors' direct involvement in the drafting of diplomatic language of any remotely binding documents, there was a noticeable shift in the overall attitude of the Summit participants.

Kleinwächter (2008) wrote, "[g]overnments could and would continue to discuss and negotiate among themselves in closed shops, but this diplomatic mechanism became partially embedded in a broader development process that was more open and transparent and included more actors" (p. 564). In other words, multistakeholderism was moving into the mainstream of the WSIS discussions. Nine out of forty articles of the Tunis Commitment document reference multistakeholderism (The World Summit on Information Society, 2005a), which indicates a substantial growth in visibility of this idea, over the Geneva phase (The World Summit on Information Society, 2003a, The World Summit on Information Society, 2003b). Significantly, while there was growing recognition of the multistakeholder principle in the Tunis documents (also see The World Summit on Information Society, 2005b), there was no agreement on the extent of possible involvement by non-state actors and how it should be conducted.

Mueller (2010) states that the second phase of the WSIS "pitted the United States against the rest of the world" (p.76), which resulted in heated debates and disagreements. The participants were able to reach a consensus only due to procedural constraints and the bureaucratic need to produce some results, so that the summit could be considered successful. According to Mueller, the final document (The World Summit on Information Society, 2005b) contained consensuses on three main points. First, it acknowledged the viability of existing Internet governance arrangements with the private sector responsible for most of the day to day management and future development of Internet technologies. By doing so, the Summit reaffirmed the public authority of ICANN over the management of critical Internet resources. However, and second, it made a dent in the pragmatic legitimacy of US formal unilateral authority over ICANN (as this unilateralism was perceived by critics of the US and the ICANN regime). The WSIS achieved that by emphasizing the policymaking role of nation-states and their sovereignty over the management of their country code top level domains, thus setting a path towards changing the ICANN itself, particularly the role of its GAC. As Mueller summarized it, "[i]f the US position was animated by an attempt to defend 'the soul of the Internet' from governments, it lost" (p.78).

Third, the WSIS mandated the creation of the IGF. According to Mueller (2010):

> The creation of the IGF was widely understood to be the kind of agreement that could get the WSIS out of its impasse; it allowed the critics to continue raising their issues in an official forum, but as a nonbinding discussion arena, could not do much harm to those interested in preserving the status quo (p.78).

In other words the decision was to compromise and continue deliberations while keeping the governance of critical Internet resources outside the UN-like structures, where state-actors have the sole authority for policymaking, and to instead keep it in the private sector, a mostly self-regulated environment.

Reviewing the IGF mandate (see Box 2**Error! Reference source not found.**), as it is set out in Paragraph 72 of the Tunis Agenda (The World Summit on Information Society, 2005b), one can see it as a compromise accommodating views ranging from those who wanted a proactive, authoritative and intergovernmental institution to oversee the

Internet, to those who wanted a private-sector-led, inclusive, and meritocratic arrangement. The underlying assumption of this compromise was that an open and multistakeholder discussion of relevant policy questions will lead to an order that can be supported only through cooperation between the state and the non-state (Mathiason, 2009, p. 126). According to Dutton et al. (2007, p. 5), Markus Kumar explained:

> "… the Tunis Agenda for Information Society (WSIS 2005), which established the IGF's mandate, was 'a diplomatic compromise, the beauty of which is that it is full of creative ambiguity that allows everybody to find something to satisfy their own wishes. As the agenda was based on a decision-making Summit, the text on controversial topics such as the IPR [Intellectual Propoerty Rights - DE] was carefully balanced in a way that avoided going into details that could be divisive and difficult to resolve'."

<Insert Box 2 around here>

Through the compromise mandate the WSIS handed over to the IGF a set of tensions between the different cultures of Internet policymaking. Muller (2010) describes these tensions as politics of principles—arguments around the dominant set of norms and principles within the IGF as an outcome of struggles over agenda setting and representation. The WSIS also handed to the IGF a genesis of new structures of legitimation and domination, as those were enacted though the Summit itself and especially through the WGIG. These structures offered new forms of legitimate participation and authority to define Internet governance. They were fundamental to the shaping of the IGF as an institution and in defining its significance within the Internet policy space.

IGF – HISTORY MATTERS

The WSIS process is often described as a clash between opposing worldviews about the Internet and its governance systems. In his reflection on the WGIG process, Markus Kummer (2005), Executive Coordinator of the IGF Secretariat, described WSIS as "a confrontation of two visions of the world, or two schools of thought," which clashed on the issue of "private sector leadership versus intergovernmental cooperation" in Internet governance (p.2). Kleinwächter (2008) described it as clash between a view of globalization, which anticipated a decline of the system of sovereign states in favor of global institutions and transnational corporations, much due to the evolution of media and communication technologies; and a view of glocalization, which highlighted the centrality of physical space and left the governments a central role, while redefining the concept of sovereignty. Mueller (2010) portrayed the WSIS as a clash between two models of global governance: one focused on the private and the other on the nation-state leadership. The IGF was born out of these tensions between varying worldviews held by stakeholder groups that frequently misunderstood and mistrusted each other,

but were forced to search for a common ground because they were both intertwined and in a way dependent on each other (also see: MacLean, 2005).

The IGF was more than just a creative compromise to preserve the status quo. The WSIS process challenged the way the global policymaking community thought about Internet governance by promoting a more comprehensive definition of what that entails. The WSIS also provided an experimental space to test preliminary forms of institutionalization of the new ways of thinking about legitimacy and authority in Internet policy deliberation; institutionalization that would allow the diverse cultures of decision-making to co-exist in a productive fashion. In a way, the IGF was established as a vessel that absorbed all: the unresolved political tensions of the WSIS, the institutional experiments around WGIG, the new ways of thinking about Internet governance, and the new ways of practicing deliberation around fundamental principles of Internet governance.

IGF - Process or substance?

The formal practices of the IGF are reflective of the practices that evolved informally during WSIS, and especially the WGIG. The WSIS set a path for the IGF in terms of relationships between the state and non-state actors. Multistakholdersim is a single most fundamental principle of the Forum. It is enacted through meticulous composition of the panels during the IGF, which are required to have stakeholder diversity in addition to gender, geography, and other diversity requirements. Despite being hosted by the UN and deriving its formal authority from a mandate of the Secretary General of the UN, the IGF relies on independent sources of funding. The WSIS also solidified a nucleus of idea entrepreneurs. The group of individuals, who were active during the Summit and the WGIG, also saw IGF as an important political vehicle in managing the tensions around conflicting policy demands concerning Internet governance; these individuals played an important role in shaping the practices and the character of the IGF. With that, the IGF is subject to similar criticism as were WSIS and WGIG. Some view it as the red herring of Internet governance, abused by those favoring the status quo in order to drive attention away for actual governance challenges pertaining to the Internet.

However, the IGF is not an extension of WSIS or a mere continuation of WGIG. The impact of the IGF is often viewed through the lens of *the process*, rather than tangible outcomes in the form of treaties or concrete regulations. Involvement of the non-state actors in Internet policy deliberation is the prime example of that change. The IGF became the most non-UN UN forum. First, there are practices institutionalized in the IGF, which introduced new ways of thinking about legitimate forms of participation and alternative sources of authority in decision-making. Second, building on legacy social networks created during WSIS, there are practices that evolved around the IGF and enable a more effective engagement of non-state actors in policy deliberation in a variety of fora (not just the IGF). Finally, the IGF established a framework where the state and non-state actors could supposedly debate as equals in order to work out their differences (also see Braman, 2009; Mueller, 2010) thus offering the diplomatic

community a new set of discursive tools and structures of domination, for arguing for their, often conflicting, positions.

There is a growing number of examples where one can trace the influence of IGF processes. When in 2010 the Economic and Social Council (ECOSOC) of the UN adopted a resolution calling for the review of IGF, the initial composition of the working group included only government representatives. Yet a quick response by civil society groups and other non-state actors led to inclusion representatives of the business community, the civil society, the technical and academic community, and Intergovernmental organizations, who were there not just as observers, but as discussants.[vii] I claim that arguing so effectively for inclusion of non-state actors in an intergovernmental deliberation would be impossible without the re-definition of legitimacy and authority though an IGF-like process.

Similarly, when in 2011, the French presidency of G8 called to discuss Internet governance among the participating governments only, the non-state actor groups protested. The organizers tried to salvage the situation by selectively inviting representatives of private companies and civil society groups, but the meeting was largely rendered as mute on Internet governance issues due to it deviating from IGF-like practices of multistakeholder involvement.[viii] Most recently, in December 2012, a large group of governments walked away from a treaty negotiation of International Telecommunication Regulations held by the ITU. Some observers noted a number of interests being in play, including traditional tensions between the global north and the global south. Yet, to offer an example, the formal US explanation of their decision not to sign the treaty listed inconsistency "with a multi-stakeholder model of Internet governance" and "provisions on Internet governance" to be included in the redefined scope of telecommunication regulation.[ix]

It would be naive to pinpoint the changes in how Internet governance is addressed in other fora on the IGF. However, the IGF played a significant role in normalizing non-state actor participation in government-centric systems (particularly within the UN) and in mainstreaming a broad view of Internet governance. So, it would be equally naive to argue that broad and effective, bottom-up involvement of non-state actors in setting information policy agenda could have (or actually have) evolved separately from the processes that led to the establishment of the IGF and independently from the practices that got institutionalized through the Forum. In this sense, the IGF has an important symbolic meaning as an institutional framework that allows coexistence of competing political interests and values—interest and values that will have to be included in any future Internet policy deliberation.

So, why would this matter?

The way the Internet and the institutions of its governance evolved created a situation where sources of technical and financial control over the Internet lay primarily with the non-state actors; but at the same time, the non-state actors are formally subjected to the authority of their sovereign governments (Kummer, 2005). In her work on the engineering history of the Internet, Braman (2010) argued that in the early years of

Internet design, the technical and the legal decision-making have become interpenetrated. She explained that technical decision had "law-like effects" that "supported or subverted legal decision-making (…) whether or not legal decision-makers understood the societal implications of the technical decisions that were being made" (p.310). Similarly, I argue here that institutionalization of practices of policy deliberation and decision-making has supporting or subverting effect on legal (and to a degree technical) decision-making by redrawing structures of legitimation and domination; i.e. by revising what is considered legitimate or authoritative engagement in policy deliberation, compared to the previously established institutional settings.

The broad definition of Internet governance suggests that a lot is at stake. Regulation of the Internet today touches on fundamental human rights, personal liberties, markets, culture, and other aspects of contemporary societies. Some of the potential threats include censorship, balkanization of the global network into geographically bounded national networks, and the use of technology for oppression. The way global Internet policy deliberations are conducted will influence the ability to voice criticism of emerging technical and legal solutions; the ability to coordinate how the economic, the technical, and the political regulation is conducted; and the overall experience of the Web by its end users. The case of creation of the IGF highlights the diversity of interests and influences involved in shaping the basic elements of such deliberative processes. The Internet technologies and the way they are used are changing and so are the institutional arrangements for their governance. Unpacking the historical trajectory that brought us to the current state, should inform future developments of Internet governance frameworks.

ENDNOTES

[i] See: http://www.ietf.org/tao.html

[ii] There is a growing body of literature arguing for the centrality of the private sector as the sphere where the governance of the Internet actually happens both at the level of infrastructure management and content creation/monitoring (DeNardis, 2010; Mueller & van Eeten, 2011).

[iii] According to MacLean (2005), "[u]nder Chatham House rules, reports of meetings do not attribute statements or positions to individuals in order to preserve the freedom of participants to speak their minds on the subject under discussion" (p.12).

[iv] I am using Giddens' (1984) meaning of structures of legitimation and domination. Giddens refers to structures of legitimation as a modality of norms based on rights and obligations of the actors; in the context of this paper that would refer to perceptions of legitimacy of participation of non-state actors in policy agenda setting and policy deliberation with nation-state-centric institutions. Giddens talked about structures of domination as mobilization of resources that allow the agents to secure their interpretation and normative claims; here it applies to the authority for influencing the definition of Internet governance and its agenda.

[v] See: http://www.ntia.doc.gov/ntiahome/domainname/USDNSprinciples_06302005.htm

[vi] Distinctively from the traditional meaning of BRICS, here BRICS refer to Brazil, Russia, Iran, China, and Syria, who are particularly active players within the ITU.

[vii] See: http://www.unctad.info/en/CstdWG/

[viii] For example, see response from the Internet Governance Caucus: http://www.igcaucus.org/open-letter-president-sarkozy-eg8-meeting-plan and an analysis of Internet Governance Project: http://www.internetgovernance.org/2011/05/24/the-g8-a-declaration-of-the-dependence-of-cyberspace/.

[ix] See: http://www.state.gov/r/pa/prs/ps/2012/12/202037.htm

REFERENCES

Armstrong, D., & Gilson, J. (2011). Introduction: Civil society and international governance. In D. Armstrong, V. Bello, J. Gilson, & D. Spini (Eds.), *Civil Society and International Governance: The Role of Non-state Actors in Global and Regional Regulatory Frameworks* (1st ed., pp. 1–12). New York, NY: Routledge.

Braman, S. (2009). *Change of state: Information, policy, and power*. Cambridge, MA: MIT Press.

Braman, S. (2010). The interpenetration of technical and legal decision-making for the Internet. *Information, Communication & Society*, *13*(3), 309–324.

Braman, S. (2011). The framing years: Policy fundamentals in the Internet design process, 1969–1979. *The Information Society*, *27*(5), 295–310. doi:10.1080/01972243.2011.607027

Castells, M. (2002). *The Internet galaxy: Reflections on the Internet, business, and society*. Oxford, UK: Oxford University Press.

DeNardis, L. (2010). The privatization of internet governance. Presented at the Fifth Annual GigaNet Symposium, Vilnius, Lithuania.

Desai, N. (2005). Preface. In W. J. Drake (Ed.), *Reforming Internet Governance: Perspectives from the Working Group on Internet Governance (WGIG)* (pp. vii–x). Geneva, Switzerland: United Nations.

Drake, W. J. (Ed.). (2005). *Reforming internet governance: Perspectives from the working group on internet governance (WGIG)*. Geneva, Switzerland: United Nations.

Drissel, D. (2006). Internet governance in a multipolar world: Challenging American hegemony. *Cambridge Review of International Affairs*, *19*(1), 105–120. doi:10.1080/09557570500501812

Dutton, W. H., Palfrey, J., & Peltu, M. (2007). *Deciphering the codes of Internet governance: Understanding the hard issues at stake* (Discussion Paper No. 8). Oxford, UK: Oxford Internet Institute. Retrieved from http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1325234

Giddens, A. (1984). *The constitution of society*. Berkley, CA: University of California Press.

Goggin, G. (2009). The international turn in Internet governance: A world of difference? In G. Goggin & M. J. McLelland (Eds.), *Internationalizing Internet Studies: Beyond Anglophone Paradigms* (pp. 48–61). New York, NY: Taylor & Francis US.

Hafner, K., & Lyon, M. (1996). *Where wizards stay up late: The origins of the internet*. New York, NY: Simon and Schuster.

Hart, J. A. (2008). Global internet governance. Presented at the Faculty/Student Conference of the International Public Affairs Association at Indiana University, Bloomington, IN.

Huston, G. (2002). Telecommunications policy and the internet. *On the Internet*, (January/February). Retrieved from http://www.isoc.org/oti/articles/1201/huston.html

Kleinwächter, W. (2008). Multistakeholderism, civil society, and global diplomacy: The case of the World Summit on the Information Society. In W. J. Drake & E. J. Wilson (Eds.), *Governing Global Electronic Networks* (pp. 535–582). Cambridge, MA: The MIT Press.

Kummer, M. (2005). Introduction. In W. J. Drake (Ed.), *Reforming Internet Governance: Perspectives from the Working Group on Internet Governance* (p. 107). New York, NY: United Nations Information and Communication Technologies Task Force.

Lightfoot, C. A. (2007). ICANN and the .xxx top level domain: The tipping point for future internet governance independence? Presented at the International Studies Association 48th Annual Convention, Chicago, IL.

MacLean, D. (2005). A brief history of WGIG. In W. J. Drake (Ed.), *Reforming Internet Governance: Perspectives from the Working Group on Internet Governance* (pp. 10–23). New York, NY: United Nations Information and Communication Technologies Task Force.

Matei, S. A. (2005). From counterculture to cyberculture: Virtual community discourse and the dilemma of modernity. *Journal of Computer-Mediated Communication*, *10*(3). doi:10.1111/j.1083-6101.2005.tb00262.x

Mathiason, J. (2009). *Internet Governance: The new frontier of global institutions*. New York, NY: Routledge.

Mueller, M. L. (1999). ICANN and Internet governance: sorting through the debris of "self-regulation". *info*, *1*(6), 497 – 520. doi:10.1108/14636699910801223

Mueller, M. L. (2002). *Ruling the root: Internet governance and the taming of cyberspace*. Cambridge, MA: MIT Press.

Mueller, M. L. (2010). *Networks and states: The global politics of internet governance*. Cambridge, MA: MIT Press.

Mueller, M. L., Kuerbis, B. N., & Page, C. (2007). Democratizing global communication? Global civil society and the campaign for communication rights in the information society. *International Journal of Communication*, *1*, 267–296.

Mueller, M. L., Mathiason, J., & Klein, H. (2007). The internet and global governance: Principles and norms for a new regime. *Global Governance*, *13*(2), 237–254. doi:Article

Mueller, M. L., & Van Eeten, M. (2011). *Where is the governance in internet governance?* Unpublished manuscript.

Raboy, M., & Landry, N. (2005). *Civil society, communication, and global governance: Issues from the World Summit on Information Society*. New York, NY: Peter Lang Publishing. Retrieved from http://www.peterlang.com/index.cfm?event=cmp.ccc.seitenstruktur.detailseiten&seitentyp=produkt&pk=54123&cid=537

Raboy, M., Landry, N., & Shtern, J. (2010). *Digital solidarities, communication policy and multi-stakeholder global governance*. New York, NY: Peter Lang Publishing. Retrieved from http://www.peterlang.com/index.cfm?event=cmp.ccc.seitenstruktur.detailseiten&seitentyp=produkt&pk=54123&cid=537

Shahin, J. (2006). A European history of the Internet. *Science & Public Policy (SPP)*, *33*(9), 681–693.

Shahin, J. (2007). The reassertion of the state: Governance and the information revolution. In M. Dunn, S. F. Krishna-Hensel, & V. Mauer (Eds.), *The Resurgence of the State: Trend and Processes in Cyberspace Governance* (pp. 9–34). Burlington, VT: Ashgate Publishing, Ltd.

Singh, J. P. (2008). *Negotiation and the global information economy* (1st ed.). Cambridge, UK: Cambridge University Press.

The World Summit on Information Society. (2003a). *Geneva plan of action* (No. WSIS-03/GENEVA/DOC/0005). Geneva, Switzerland. Retrieved from http://www.itu.int/wsis/documents/doc_multi.asp?lang=en&id=2266|2267

The World Summit on Information Society. (2003b). *Geneva declaration of principles* (No. WSIS-03/GENEVA/DOC/4-E). Geneva, Switzerland. Retrieved from http://www.itu.int/wsis/documents/doc_multi.asp?lang=en&id=1161|0

The World Summit on Information Society. (2005a). *Tunis commitment* (No. WSIS-05/TUNIS/DOC/7 -E). Retrieved from http://www.itu.int/wsis/documents/doc_multi.asp?lang=en&id=2266|0

The World Summit on Information Society. (2005b). *Tunis agenda for the information society* (No. WSIS-05/TUNIS/DOC/6(Rev.1)-E). Tunis. Retrieved from http://www.itu.int/wsis/documents/doc_multi.asp?lang=en&id=2266|2267

Uimonen, P. (2003). Networks of global interaction. *Cambridge Review of International Affairs*, *16*(2), 273–286.

Working Group on Internet Governance. (2005). *Report of the working group on Internet Governance*. Château de Bossey. Retrieved from http://www.wgig.org/docs/WGIGREPORT.pdf

Zittrain, J. (2009). *The future of the internet and how to stop it*. New Haven, CT: Yale Univ Press.

BOXES

Box 1: The mandate of the Working Group on Internet Governance

13.b) We ask the Secretary General of the United Nations to set up a working group on Internet governance, in an open and inclusive process that ensures a mechanism for the full and active participation of governments, the private sector and civil society from both developing and developed countries, involving relevant intergovernmental and international organizations and forums, to investigate and make proposals for action, as appropriate, on the governance of the Internet by 2005. The group should, inter alia:

i) develop a working definition of Internet governance;
ii) identify the public policy issues that are relevant to Internet governance;
iii) develop a common understanding of the respective roles and responsibilities of governments, existing intergovernmental and international organizations and other forums as well as the private sector and civil society from both developing and developed countries;
iv) prepare a report on the results of this activity to be presented for consideration and appropriate action for the second phase of WSIS in Tunis in 2005.

Box 2: The mandate of the Internet Governance Forum

72. We ask the UN Secretary-General, in an open and inclusive process, to convene, by the second quarter of 2006, a meeting of the new forum for multi-stakeholder policy dialogue—called the Internet Governance Forum (IGF).The mandate of the Forum is to:

a. Discuss public policy issues related to key elements of Internet governance in order to foster the sustainability, robustness, security, stability and development of the Internet;
b. Facilitate discourse between bodies dealing with different cross-cutting international public policies regarding the Internet and discuss issues that do not fall within the scope of any existing body;
c. Interface with appropriate inter-governmental organizations and other institutions on matters under their purview;
d. Facilitate the exchange of information and best practices, and in this regard make full use of the expertise of the academic, scientific and technical communities;
e. Advise all stakeholders in proposing ways and means to accelerate the availability and affordability of the Internet in the developing world;
f. Strengthen and enhance the engagement of stakeholders in existing and/or future Internet governance mechanisms, particularly those from developing countries;
g. Identify emerging issues, bring them to the attention of the relevant bodies and the general public, and, where appropriate, make recommendations;
h. Contribute to capacity building for Internet governance in developing countries, drawing fully on local sources of knowledge and expertise;
i. Promote and assess, on an ongoing basis, the embodiment of WSIS principles in Internet governance processes;
j. Discuss, inter alia, issues relating to critical Internet resources;
k. Help to find solutions to the issues arising from the use and misuse of the Internet, of particular concern to everyday users;
l. Publish its proceedings.

BIOGRAPHY

Dmitry Epstein is a Postdoctoral Fellow with Cornell eRulemaking Initiative at the Cornell Law School. His research focuses on Internet governance, information policy, and multistakeholder policymaking processes. He conducted extensive field work within a number of Internet policy deliberation spaces in both national and international settings including the ITU, ICANN, and IGF. Dmitry has worked as a Research Assistant at the Berkman Center for Internet and Society at Harvard University and a research fellow at the Information + Innovation Policy Research Centre, Lee Kuan Yew School of Public Policy. He earned his PhD from Cornell University Department of Communication, MA (cum laude) from the Ben-Gurion University of the Negev, and BA from Tel-Aviv University.