**Internet Governance: proposals for reform**

\*\*\*Contributors: Access, Article 19, CDT, CTS/FGV, GPD, Internet Democracy Project\*\*\*

In an effort to work towards a joint civil society proposal for internet governance reform - with the aim of feeding into the upcoming Brazilian Global Multistakeholder Meeting on the Future of Internet Governance and other relevant forums – Global Partners Digital and Article 19 coordinated a small group of civil society organisations.

In order to brainstorm and report back as clearly as possible, the group worked through four stages in considering both the Best Bits survey responses and the most prominent civil society proposals for reforming the IG institutional framework that the contributors were aware of:

1. What is the case for reform of IG and do we have a common understanding of what the problems with the existing arrangements are?
2. If there is a case for reform what are the criteria for a reformed system of IG that should be applied, assuming we have a basic commitment to human rights and social justice?
3. How do the various proposals for reform stack up against these criteria – what are their strengths and weaknesses and what potential risks and benefits.
4. What are the crucial elements of a reformed IG system and what are those which we desire but would be willing to compromise around. Considering the previous questions, is there a rough consensus among the group present that we could share with the wider BB community to enrich the approach?

The below draft represents a summary of the group analysis and discussion.

**1) Case for reform**

Reviewing and building on the survey responses, the group identified the following criticisms of the current IG arrangements:

* There is an imbalance of power with many people and groups, particularly from the global south, feeling marginalised.
* There is insufficient diversity of voices, including gender and language.
* Development issues, as set out in the original Tunis Agenda, have not been adequately tackled.
* The IGF has not satisfactorily delivered on all elements of its mandate.
* Multistakeholderism remains poorly defined which creates difficulty in its implementation and evaluation. The term is seen to be increasingly used as a cover by those resisting change.
* There are jurisdictional issues which remain unresolved. This also often leaves powerful ICT companies to take important human rights/public interest decisions.
* There is an absence of forums where jurisdictional issues or global public policies relating to the internet can be thrashed out. This means governments are falling back on different national laws and technical responses which encroach on the global and distributed functioning of the internet.
* Furthermore because of the issues with the current regime, many governments are pursuing/establishing separate international initiatives to tackle important issues (such as cybersecurity) which are not sufficiently transparent, open, multi-stakeholder or global.
* Some governments are increasingly asserting a doctrine of “state sovereignty” on the global internet.
* There is a lack of clarity about how or where decisions are made – there is a plurality of forums with unclear relationships between them.
* The internet is unusual as a communication tool, it has developed from the beginning as an international medium, and its international character and the benefits of free expression and access to information that it brings need to be preserved.
* There is a unique property to the internet that requires global cooperation and coordination to make it effective.

**2) Criteria for Internet Governance**

NB - The group recognised that there was an overlap with the BB second Workstream looking at high level principles. The current suggested baseline for Workstream 2 are the Brazilian CGI.br principles. Depending on the outcome of Workstream 2, there could be potential to unite around a core set of principles.

After some discussion, the group set out criteria that they felt were an essential element of any democratic international governance system. The aim was to find criteria that could apply to any system of international governance rather than looking for criteria that only applied to the internet – in order to avoid the pitfalls of “internet exceptionalism”. Rather, in a globalised world, where there are generally very weak lines of accountability between a government's positions on the international stage and its electorate back at home, open international spaces with broad-based participation can be important opportunities for bringing international decisions much closer to citizens across the world. In this context, the group found that the international IG regime, if developed appropriately, could have implications for wider international governance systems (beyond the Internet). The group recognised that these criteria are aspirational and that any proposed reform would probably not meet all the criteria. Nonetheless it was found that they provide a useful framework for assessing any proposed changes.

The following mutually-supporting criteria were found necessary for the governance of complex global phenomena:

**a)** **Processes**

* Transparent and comprehensible: it should be possible for anyone to understand how it works and how things happen/decisions are made;
* Accountable: internal and external accountability process should exist, including a way of challenging decisions;
* Effective: in that it can deliver whatever it is meant to deliver
* Adaptable: so that it can take account of new innovations and developments in the field.

**b) Participation**

* Inclusive and open: not be a small exclusive club, but open to many.
* All necessary points of view are included in order to arrive at good decisions/agreements
* Possessing the necessary expertise to make informed decisions
* Meaningful participation: anybody affected by decision should be able to impact upon decision-making processes. The group recognised that this would likely involve mechanisms for consensus based decision making. But where consensus was not possible there may need to be alternative supplementary frameworks, such as decision-making by majority vote.

**c) Underlying Values**

* Human rights values should be at the core of any governance process and outcomes.
* Driven by global public interest (motivated by an understanding of the internet as a global public good).

**3) Evaluating Proposals for Reform**

The next stage was to look at various suggested reforms to the current system, drawn from the survey and other sources. The list of models analysed below is not exhaustive. Please forgive the brevity and crudeness of the model titles and their descriptions - they are indicative only. More details about the proposals can be found in the sources listed at the end of the document.

***UN Committee Model***

*Model proposed by the Indian government for a new UN Committee made up of 50 member states, with four advisory committees made up of different stakeholder groups. The Committee would have mandate over global internet-related public policy issues, and oversight of the technical bodies. IT for Change has also promoted this model with the exception that oversight of the technical bodies would reside in a separate Technical Oversight and Advisory Board formed of technical experts nominated by governments.*

***Multi-stakeholder Internet Policy Council (as proposed by Jeremy Malcolm)***

*A new multi-stakeholder internet policy council (MIPC) under the auspices of the IGF. MIPC would be made up of equal numbers from civil society, private sector, government and technical/academic communities, and observers from international organisations). The MIPC would take up issues forwarded to it by rough consensus in IGF plenaries. The MIPC would attempt to agree, by rough consensus, an IGF recommendation on that issue. The recommendations would be non-binding, but could call for the development of binding rules by other institutions where appropriate, which would generally be at the national level.*

***Multi-stakeholder Internet Policy Council (as proposed by Wolfgang Kleinwachter)***

*A new multi-stakeholder internet policy council (MIPOC) attached to the IGF. MIPOC could be composed similarly to the WG on Enhanced Cooperation. The MIPOC would be a coordinating body – identifying issues raised at the IGF and recommending an appropriate mechanism to address those issues, either a pre-existing mechanism (e.g. an intergovernmental organisation, a technical organisation, a combination) or a new one. New mechanisms could be ad hoc multistakeholder working groups with mandates to address specific issues by rough consensus.*

***Distributed Multi-stakeholder Processes Model (as proposed by Internet Democracy Project)***

*This model also envisions a coordinating body on the lines of the MIPOC model above, however the coordinating body would be housed in the CSTD instead of the IGF. The function of the IGF would in this model be one of a clearing house only. In addition, this model suggests that, where possible, the WSIS action lines should be taken as a guideline for deciding which pre-existing institution has a mandate covering a specific internet issue. Once an appropriate institution is identified, this institution would then be responsible for developing an appropriate multi-stakeholder process to respond to that issue.*

***Self-forming multi-stakeholder issue processes (as demonstrated by Internet & Jurisdiction Project)***

*Processes can self-create to develop voluntary solutions to specific internet issues. Similarly to the model for adoption of technical standards: the better a solution the more likely it is to be adopted. For higher likelihood of voluntary adoption, these processes should involve experts and powerful players, such as key governments. However, the Internet & Jurisdiction Project’s model appears to be more of a ‘proof of concept’ that could feasibly be institutionalized within one of the models outlined above.*

Looking at the UN Committee model and applying the criteria above, the model has real strengths in the clarity of process and therefore enabling anyone to understand how it works and how things happen/decisions are made. It could also meet the effectiveness criteria in terms of coming up with detailed policy recommendations. On the other hand, its proposed mandate seemed very broad and more clarification is needed about potential clashes with existing mandates, such as that of the ITU or UNESCO. As a UN Committee with a central role for governments, and based on experience of similar bodies, there is a real risk it would be dominated by geo-political interests. As a single body with oversight – potentially – of all public policy issues related to the internet, the group felt there was a risk that the body would not have the requisite expertise to make informed decisions across all issues. While it could draw upon the work of advisory groups, it was unclear how they would be composed and whether any fixed group of people would have the capability to tackle a wide range of policy issues. The advisory nature of the stakeholder groups would also create risks that those impacted by decisions would not necessarily be able to help shape them. Furthermore there was a question over the feasibility (time-wise) of a single group responding to all issues, particularly as it is envisaged meeting just a few times per year.

Other proposals for reform, while varied in their level of centralisation, suggest a greater role for non-governmental stakeholder groups. All of these models seem to envision the IGF playing a more or less central role as a clearing house for identifying issues which need tackling and for each issue process to inform, engage and be accountable to a wider Internet community. One advantage of these models was seen to be the possibility for enabling pathways from the national through regional to global level discussion and back down by tying all processes to a wider discussion at the IGFs. Another advantage was seen to be that building on the strengths of the IGF could foster openness, inclusivity and accountability to the wider internet community. There were, however, concerns given that the IGF hasn’t satisfactorily delivered on all elements of its mandate. For example, should the MIPC/MIPOC models derive their mandate and agenda from IGF discussions – this would require a more output-oriented IGF. Thus, improving the IGF was seen as critical to instituting these models.

A key feature of most of the above models, which the group strongly supported, was the introduction of a new coordinating function in the current internet governance regime. The multi-stakeholder makeup of the coordinating body was also strongly supported by the group. The advantage of these models was seen to be the fact that they would provide greater clarity (compared to the current situation) about how public policy issues are addressed.

In looking at these models, they also all maintain a distributed approach where many institutions are involved in different aspects of internet-related public policy. The group specifically supported the concept of maintaining/instituting separate processes for separate issues for several reasons. Distributing power was seen as protection against power-grabs, which many saw as the main concern with the more centralised approach in the UN Committee model – and to a lesser extent Jeremy’s MIPC model.

A distributed model was seen as having the advantage of drawing in expertise as necessary based on the issue at hand, and of being more dynamic and adaptable given the fast-changing internet environment. However, a degree of institutionalisation of any distributed model was seen to be essential to counteract power imbalances. For example, self-forming multi-stakeholder processes are likely to disadvantage those without power and resources.

There were, however, questions about the effectiveness of the distributed models as they retain some of the challenges of the current regime. The UN Committee model was more similar to existing governance frameworks making it easier to understand. The other models involve new and innovative ways of working. The group felt that the Internet & Jurisdiction project may be a useful test bed for the modalities of such an approach.

**4) Existing Institutions**

The group looked at a strand of suggestions around sustaining the current structures, particularly the IGF and ICANN, but reforming them to an extent that would allow issues with the current system to be sufficiently addressed. NB these reforms could happen alongside the ideas above considering the overall governance regime.

**IGF**

The group looked at proposals for improving the IGF (see list of sources below). There were a number of areas where necessary reforms were identified:

* Providing stronger leadership;
* A better funded and supported secretariat;
* Stronger links between the IGF (and discussions at the IGF) and all spaces involved in the dispersed internet governance system;
* Clearing house function;
* More output-orientated;
* Connecting the global annual IGF to a more structured series of national and regional IGFs to ensure that this is a clear path for issues of concern raised at a national and regional level finding their way to global consideration and back down to the regional and national levels;
* Widening participation (esp. unrepresented e.g. global south governments and civil society, high level policy-makers, staff of all institutions involved in internet-related policy making, small to medium businesses);
* Reforming the Multistakeholder Advisory Group.

**ICANN**

In the case of ICANN, the group felt that globalising ICANN (including removing the privilege of the US which was seen as important though largely symbolic) remains an issue to be resolved as it might involve both location and structure. However, the group felt that it was necessary to examine closely the different options - and timeframes - for doing so in order to determine their potential risks and suggest appropriate solutions. Article 19 agreed to co-ordinate further work on this issue.

**5) Preliminary conclusions**

From the response to the survey and by analysing various alternative models using the criteria set out above, there seems to be potential to come to a rough consensus combining a number of ideas commanding broad support among civil society.

Dispersed vs. centralised

A key point was whether a single decision making space would be more appropriate versus a dispersed system whereby the right kind of expertise could be assembled issue by issue. A centralised system could be easier to navigate but a dispersed system had fewer risks for political or corporate capture and enabled issue-based expertise (including from civil society) to engage on specific issues. **On balance we felt the risk/benefit of both approaches weighed more on the side of a dispersed model of governance**.

Broad participation & role of reformed IGF

Another key point of agreement was in looking for ways to involve as broad as possible communities in internet governance. The IGF was seen as an important space for achieving this. For instance, a reformed IGF could act as a central space for learning about and feeding into all internet-related public policies within a dispersed system. **The reform could entail: a stronger leadership, a better supported secretariat, stronger links between the IGF and all other internet-related policy-making spaces, a strong link to national and regional IGFs, more output-orientated, widening participation and reforming the MAG.**

A new co-ordinating function

There was general interest in the idea of creating a new coordinating function to facilitate the coherence and effectiveness of internet-related policy making within a distributed model. All agreed that the coordinating group should be multi-stakeholder but there was no decision on where that group should be constituted (e.g. at the CSTD or attached to the IGF). **A new coordinating function is needed. More discussion is needed about the form, location and processes by which that function is exercised.**

Issue-specific multistakeholder working groups

When a new issue arises that needs a policy response, there was broad agreement that these should be resolved through ad hoc multi-stakeholder working groups were developed to deal with specific issues. There wasn’t a decision yet on where/how those working groups should be formed (i.e. by different institutions with mandate over different issues, by a working group tied to CSTD, by a working group tied to IGF). Also, on decision making there was broad agreement that the groups would ideally work by consensus with the option to shift to another process where necessary and appropriate (including multilateral processes, e.g. to draft a treaty). **New internet policy issues should be dealt with through ad hoc multi-stakeholder working groups which are issue specific.** **More discussion is needed about the form, location and processes of those multi-stakeholder working groups.**

ICANN reform

**A reformed ICANN – details to be worked on further.**

**6) List of Sources**

<http://internetdemocracy.in/reports/a-third-way-proposal-for-a-decentralised-democratic-internet-governance-involving-all-stakeholders/>

<http://www.internetjurisdiction.net/>

<http://www.itforchange.net/sites/default/files/ITfC/%20%20Dev%20agenda%20in%20IG%20200412.pdf>

<http://cis-india.org/internet-governance/blog/india-statement-un-cirp>

<http://www.thehindu.com/sci-tech/technology/internet/india-to-push-for-freeing-internet-from-us-control/article5434095.ece?homepage=true>

<http://www.intgovforum.org/contributions/IETF-as-model.pdf>

<http://unctad.org/meetings/en/SessionalDocuments/a67d65_en.pdf>

<http://unctad.org/Sections/un_cstd/docs/cstd2011d22_Major_EN.pdf>

<http://bestbits.net/notes-on-an-igf-plus/>

<http://www.internetgovernance.org/2013/10/16/a-blueprint-for-the-future-oversight-of-icann/>

<http://igfwatch.org/discussion-board/my-proposal-to-the-cstd-working-group-on-enhanced-cooperation#-8xHg3pRMAMtJ2UVoZcsOg>

<http://www.diplomacy.edu/sites/default/files/May%202013%20IG%20webinar%20PDF%20-%20Dr%20Jeremy%20Malcolm.pdf>

<http://unctad.org/en/Pages/CSTD/WGEC-Responses.aspx>