Global Internet governance : a brief historical and contemporary review from developing countries' point of view

The subject of Internet governance first got imported into the consciousness of most developing countries during the negotiations for the outcome texts of the World Summit on the Information Society (WSIS)[1] . The main issue, at that time, was the unilateral US oversight over the root of the Internet, which contains the names and numbers directory for the global Internet addressing system. This was considered unacceptable by almost all non-US countries. Expectedly, the interest in this subject was mostly of the foreign affairs ministries of developing countries, and came from a traditional geo-political standpoint.

On a different track, for some time since even before the WSIS, the IT ministries of developing countries had been engaging with the regional Internet registries and the ICANN[2], as the Internet was getting set up in these countries. The Internet Society, or ISOC, also helped many country with expertise in setting up networks. This work was of a brass-tacks nature. This was also the time when the telecom sector was being opened up the world over for private companies, which triggered the mobile telephony revolution. The Internet Service Providers sought even greater independence from regulation than telephony was being subject to. Most developing countries saw in IT, including the Internet, a new growth opportunity and went all-out to support their IT and Internet companies, viewing them fully as a part of global value chains. In the circumstances, the IT ministries, or their equivalents, largely took a apolitical view of global IG.

It was rather common, until quite recently, to find somewhat discordant views coming from foreign ministries and IT ministries at global IG forums. Only a very few countries, like, Brazil and China, had begun early to shape a coherent foreign policy stance for global IG. A considerable turf war was witnessed in many developing countries between IT and foreign ministries. This problem has only now started to get addressed, with more and more countries beginning to understand the nature of power and controls over the global Internet.

 US and other developed countries had initially envisioned the WSIS as an instrument to take forward their global 'digital opportunities' vision which had been articulated at the turn of the century in G 8 meetings[3]. These countries had resisted the claims of UNESCO to be the main entity for hosting WSIS, still mindful of the political tendencies of UNESCO in the informational arena, which had earlier precipitated the crisis around NWICO. They preferred ITU's technocratic approach. All the current distancing from ITU's role in information society governance notwithstanding, they were the ones who had pushed for ITU to take the lead for holding WSIS. Midway through the WSIS, when the US and its allies found that information society was becoming a highly geo-politicised issue, their enthusiasm for WSIS kind of global forums subsided drastically. At the end of the WSIS, developed countries did not agree to set up a new ECOSOC functional commission to look into WSIS follow up, as had been

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1   WSIS was held in two phases, with two summits, one in Geneva in 2003, and another in Tunisia, in 2005
2   Internet Corporation for Assigned Names and Numbers, which is responsible for the addressing system of the Internet.
3   See the Okinawa Charter on Global Information Society (200) at
     http://www.mofa.go.jp/policy/economy/summit/2000/documents/charter.html .

earlier done for many similar global summits. And the rebound continues, as these countries have recently been blocking even a ten yearly WSIS review summit which is very much the practice in most areas, and is also mandated in WSIS outcome documents.

An increasing understanding in developing countries of Internet governance as a highly political subject was matched by a growing keenness among the developed countries to withdraw this issue from UN's scope and mandate. However, such an understanding among developing countries is still very incipient. There exists no coherent developing world's vision of global IG. As mentioned, the line departments, IT and telecom ministries, are yet to frame the global political implications of their domains, in an appropriately holistic manner.

Apart from US' unilateral oversight of the Internet's root, the main issue from developing countries' side at the WSIS was of the market based inter-connectivity regime, where naked market power determined pricing. Since it was the developing countries who needed to access the Internet, whose content and services mostly resided in developed countries, chiefly the US, the ISPs[4] in developing countries were forced to pay for both up and down connectivity to the backbone networks based in developed countries. Whereas, developed countries subsidized developing countries connectivity infrastructure in the ITU run global telephony system, global Internet connectivity followed the exact opposite model. Developing countries subsidize the networks in developed countries. This paradigmatic shift from the erstwhile regulated global communication system *to a completely unregulated communications and informational global market*, which best serves the interests of the US based information and communications companies, underlies much of global IG contestations today. Outwardly, these contestations are framed as a struggle for an un-fragmented global Internet, and need to protect freedom of expression everywhere, whereby governments and regulations should be kept away from the Internet.

Post WSIS

The final days of negotiations for WSIS-2 outcomes documents were rather tense. Regarding the unilateral oversight of the US over Internet's root, almost all countries stood as one against the US. As for general information society governance, the divisions were more along the traditional North-South lines. The compromise outcome assured national sovereignty over country top level domains, like .cn and .br.[5] Discussions for establishing mechanisms for global Internet polices was to remain ongoing over what was identified as the 'enhanced cooperation' process. Meanwhile, it was agreed to set up a multistakeholder policy dialogue forum for Internet policy issues, the Internet Governance Forum (IGF). The IGF was *inter alia* mandated to give recommendations, where needed. US and its allies strongly resisted even the setting up of an IGF, and it is the developing countries that pushed for such a forum and got it.

As happens with many global policy events, the political temperatures came down quickly as soon as WSIS came to an end.. Even in the EU, there was very little appreciation of deep social and economic implications of global IG. Directions from the highest political quarters focused on staying closely on the US side of global geo-economic divisions meant that, occasional weak protests apart, EU has been

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4   Internet Service Providers
5   This assertion is largely symbolic and normative, as for instance shown by a recent US court case where some groups have sought seizure of country top level domains names of Iran and Syria, and the court seems to be responding favorably.

unwilling to upset the status quo apple cart.

Brazil and China were the two developing countries most active in the immediately post WSIS period. China brought a proposal for an international code of conduct in the cyberspace to the early IGFs, and sought wider engagement. Brazil was very active at the WSIS, and even informally broached the possibility of a 'framework convention on the Internet'. It also offered concrete alternatives for a truly global management of the Internet's root.

Meanwhile, as the very significant geo-political dimensions of the issue became apparent, a so-called 'global Internet governance community' had begun to take shape. It was very aggressively dominated by non state actors, backed strongly by the US and some of its closest allies,. ICANN, with its huge collection of monopoly fees – that can be called, taxes – from the global Internet users through domain name fees, was an important funder and provider of other resources for this group. This group was soon able to largely capture the IGF. This 'community' showed no interest in moving forward on addressing rapidly accumulating serious public policy issues regarding the Internet at a global level. It mostly played an obstructionist role, propping the status quo, of a continued US/ ICANN management of the techno-logical infrastructure and an unregulated market based evolution of the global Internet services. The promise of the IGF as a genuinely participatory institution for global governance of the Internet, the reason that developed countries supported it at the WSIS, was stemmed early by powerful statu-quoist forces.

With little possibility of any positive progress, China seemed to begun pulling its hand from the global stage since around 2008, focusing on domestic policies to manage its Internet. At the international level, its interest shifted to developing regional alliances, chiefly the Shanghai Cooperation Organization. These countries later came up with the an 'international code for conduct for information security' and presented it to the UN for voluntary adoption by other countries. Around this time, Brazil too begun to tone down its aggressive posture whereby it had been putting forward specific alternatives to the status quo global IG regime. It however kept up a high degree of engagement with post WSIS forums of the IGF and the Commission on Science and Technology for Development (CSTD)[6], and for quite some time was the lone developing country with a coherent strategy of engagement with global IG.

After a lull of about 3-4 years, the threads from the WSIS begun to be picked up by some floor level coordination among developing countries at CSTD's annual consideration of progress on WSIS outcomes. Developing countries got together to assert that the WSIS mandate of enhanced cooperation, which was to get operationalised in 2006, had shown no progress. They managed to get the UN Secretary General to hold open consultations on 'enhanced cooperation'. It was at these consultations, in December, 2010, that IBSA countries got together for the first time to issue a joint statement[7]. This statement sought a formal inter-governmental platform under the UN that should take up Internet-related public policy issues. This statement said that this platform should complement "the Internet Governance Forum, a multi-stakeholder forum for discussing, sharing experiences and networking on Internet governance". Importantly, this statement also raised some key social and economic issues like net neutrality and access to knowledge, in addition to the traditional ones like freedom and expression, privacy and security.

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6   CSTD, an existing ECOSOC commission, was mandated to conduct WSIS follow-up.
7http://www.itforchange.net/sites/default/files/ITfC/IBSA-statement_Enhanced_Cooperation_Consultation.pdf

From this point onwards, IBSA cooperation on the subject took some steam. On the initiative of the Brazilian government, and some civil society actors from Brazil and India, a meeting was held among IBSA governments' and IBSA civil society representatives on 'Global Internet Governance' in Rio de Janeiro, Brazil, in 2011. At the end of this meeting, the government representatives from the three IBSA countries drafted a set of 'Rio Recommendations'. These recommendations specifically sought a new UN body for global Internet governance. The 2011 IBSA summit later took note of the Rio Recommendations, and exhorted the three countries to keep working closely together on this key issue.

It was being felt for a long time that although the developing countries had been asking for a new UN forum to take up Internet policy issues, there was no concrete proposal on the table. Building on the momentum from the Rio meeting, and positive exhortations from the IBSA summit, India took the initiative to plug this gap. In late 2011, India made a proposal to the UN General Assembly to set up a Committee on Internet Related Policies (CIRP) attached to the UN General Assembly[8]. The proposal presented a detailed plan about the mandate and membership of the proposed Committee. It was also to have stakeholder advisory committees, patterned on similar committees for the OECD's Internet policy body[9].

WCIT and Snowden

Within six months of each other, two key global events made a most decisive impact on the perception in developing countries about global Internet governance. First was the ITU's World Conference on International Telecommunication (WCIT), which was to develop a new set of International Telecommunication Regulations (ITRs) to replace the existing set, negotiated 25 years back. The ITU (International Telecommunications Union) has been the key target of the liberal and neoliberal groups, supported by the US and its allies, as being the organization that 'plans to take over the Internet'. The US played on this sentiment, quite prominent in the global North, but also among developing country middle classes, and promoted WCIT as a battle for or against 'controlling the Internet'. The core contention at the WCIT was whether or not Internet should be recognized as a part of telecommunications and thus under ITRs and ITU's realm to regulate. Any such recognition, and its consequences, would clearly have come in the way of the *fully unregulated market approach to the global Internet*, of which we spoke earlier. (It must be noted that in almost all countries, including the US, telecom regulators do already regulate the Internet as well.) In the end, the ITR draft on the table had no mention of the Internet. Internet was taken to an attached resolution which (1) clearly did not have the authority of ITRs, and (2) just followed a well-established tradition at the ITU, whereby on numerous earlier occasions its resolutions dealt with Internet related issues.

There was very little excuse for the US not to sign the ITRs. In fact, its European allies were mostly ready to sign it. It appears that the US, along with its multi-national corporations, lead by Google, and its civil society, become a victim of their own excessive propaganda. On a very flimsy ground that the ITRs gave member countries a right not to be thrown off the global Internet, they walked out of the WCIT. The Europeans followed reluctantly, more to keep to the traditional geo-political alignments than anything else. The chimera of some kind of ae global consensus on the Internet was exposed.[10]

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8   *itforchange.net/Techgovernance/IndiaCIRP*
9   http://webnet.oecd.org/OECDGROUPS/Bodies/ShowBodyView.aspx?
     BodyID=1837&BodyPID=7425&Lang=en&Book=False
10 http://www.thehindu.com/opinion/lead/a-false-consensus-is-broken/article4222688.ece

Most developing country felt it as a betrayal by the US and its allies with regard to their long professed rhetoric of global Internet for development and a better world. Their self-interests were laid bare. It became evident that the US did not want a democratic global governance of the Internet, not because it could thwart the innovative potential of the Internet but because the US and its companies wanted a free run on and control over the Internet as a means for global economic, social, political and cultural control and exploitation. Such a control was threatened if any global governance body like the ITU included Internet related issues in its mandate.

As the world was still coming to terms with the WCIT shock, Snowden throughly exposed the manner in which the US employed the Internet for gaining intrusive social and personal access and controls across the world. In the global public's mind, the Internet lost its innocence for ever. The Internet is a such a potent social force, largely seen as having a very positive potential, that winning the hearts and minds of the public is of key importance in framing effective political positions in this area. Understanding this fact, strategies of US-based actors for resisting any move towards democratic global IG have most effectively been targeted at the 'global public sphere'. And they was winning this game, till Snowden came along and changed the situation so dramatically.

How is the Internet governed today

After intellectual property rights, and linked to it, control over the Internet is the biggest thing for establishing and sustaining global economic hegemony in the emerging world order[11]. Internet also enables considerable level of political, social and cultural dominations, and therefore its control and exploitation is seen as key by the US and its corporate allies. At this stage, their strategy is to fully keep at bay any possible global governance system that can interfere with the default global IG regime that they are shaping and establishing. It consists of the following four inter-related elements.

(1) Pursing an unregulated market approach at the global level so that US corporations can shape and control the global digital architecture, establish huge monopolies, and extract rents globally.
(2) In cases where the US finds it absolutely necessary to do so, getting US law to apply to the global Internet through the simple expedient that almost all these corporations are US based and subject to US jurisdiction. Consequently, the major techno-legal paradigms of the emerging digital age are today set by 'negotiations' between Internet's monopoly companies and US regulators like the Federal Communications Commission and Federal Trade Commission, and often directly with the executive or with the courts.
(3) Creating pro-developed countries global IG frameworks at pluri-lateral forums like the OECD and G 8 and pushing them globally on the basis of sheer economic muscle[12]. Further, using pluri-lateral forums like the Trans-Pacific Partnership and Transatlantic Trade and Investment Partnership to establish US's own vision as the default global regime.
(4) Relying on corporate-dominated/ -driven multistakeholder forums to shore up the rest, especially in the area of technical and logical infrastructure and standards, and of keeping a favorable global IG discourse going. The fact that even after the WCIT fiasco and Snowden revelations such a discourse continues to have a considerable number of followers can be considered a stupendous achievement.

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11 Control over capital and finance no doubt remains key, but these are the most significant new elements of the hegemonic global order that is being sought.
12 See for instance, http://usoecd.usmission.gov/june2011_internet2.html

The games status quo-ists play

As the US shapes the default regime for the global Internet, it may soon be too late to make any substantial changes to it, so deeply intertwined our economic and social structures will be with the Internet. The US based actors understand this well, and have put in place very well planned and well resourced strategies to buy time. Apart from supporting its MNCs, working in selected plurilateral forums, and propping up US corporates dominating multistakeholder governance structures, a good part of this strategy is focused directly on the global public opinion. Good sounding terms like 'Internet freedom' and 'multistakeholderism' have, more or less successfully till now, been backgrounded with the fear of 'UN take-over of the Internet' and splintering of the globally seamless Internet into national Internets. Huge amounts of funds have been ploughed into this space, in the name of building capacities in the South. Seldom before has such a sudden influx of huge funds by donors been witnessed in any field. And this is being done not only by the developed countries, and their donor agencies, but also by corporations like Google. Their combined impact is indeed daunting.

The strategy is extremely sophisticated, which points to the dominant actors' keen understanding of the importance of this issue (and the corresponding non-understanding among most developing countries, both governments and civil society). Even country level strategies have been employed to push back even the slightest movement towards seeking democratization of global IG. The best examples of this are with regard to the two countries – India and Brazil - which have been recognized as most 'dangerous' in being possibly able to take a legitimate leadership role globally towards shaping alternative visions for the global Internet.

After staying rather subdued post WSIS, when, in 2011, India suddenly put forward the CIRP proposal in the UN, shrill alarm bells rung for the status quoists. Almost immediately afterward, a strong IG initiative was launched in India by the representative of a US telecom company, employing the cover of an Indian industry association. This initiative gathered a rag tag coalition of corporate and civil society actors (also co-opting a few unsuspecting academics) to *inter alia* propose holding an India IGF, under the management of the concerned industry association[13]. Such an assemblage was to develop 'community views' to challenge what were seen as undemocratic global stances of the Indian government (read, the CIRP proposal). For quite some time, this strategy was extra-ordinarily successful and was able to make huge inroads into India's Internet policy establishment. It managed to make it appear that India was getting doubtful about its own CIRP proposal. It also had a strong role to play in India not signing the WCIT ITRs in Dubai, and reserving its opinion on the matter, which came as a big surprise to many. Snowden revelations, which named that particular US company as helping US government in foreign espionage[14], whose Indian representative lead the mentioned Indian IG initiative, , caused a considerable setback to the initiative, and it seems to be losing steam since then.

Even more successful was the strategy of the status-quoists with regard to containing Brazil's strong outrage over Snowden reports about bugging of Brazilian President's telephone, and snooping on commercially valuable information belonging to the state oil company, among many other things.

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13 Indian government however refused to allow the industry association to use the India IGF brand, and they held their meetings under different names.

14 A former Permanent Representative of India to the UN in New York, Hardeep Puri, has written about the extent of penetration by the representative of this company into India's Internet policy establishment. http://www.samachar.com/Time-India-woke-up-to-US-surveillance-oidgLFhgfbb.html

Brazilians were so livid that its President canceled a state visit to the US, and went to the UN to seek a new initiative for democratising global governance. Panic struck the relevant quarters in the US. It must go to their credit however that they came up with an outstanding counter strategy. ICANN's CEO went to meet President Dilma Rousseff and made all the right noises about how she gave words to what were the whole world's concerns, and that things must move on now. He exhorted the President to hold a global meeting on global Internet governance to chart out the road-map ahead. As could be expected, the President agreed, and such a meeting was announced. But from that announcement onwards, it was one sordid tale of a creeping capture of the meeting – now called, NetMundial – by the US status quo-ists, taking advantage of the diplomatic grace and politeness of the Brazilian hosts. In the end, instead of at all addressing any of the concerns arising from Snowden revelations, the NetMundial meeting actually came up with a set of principles and roadmap which provided a new legitimacy to corporate dominated multistakeholder form of global governance. At the meeting, for instance, representatives of top global MNCs like Cisco and Disneyland could be seen literally reading out texts to the drafting groups.

In order to make his initial invitation alluring, ICANN's CEO seems to have hinted to President Rousseff that US/ ICANN is ready to make some bold departures. It was then learnt in a few weeks that this departure was the readiness of the US to give up its oversight over ICANN. However, once the NetMundial meeting got underway, any substantive discussion/ consultations on this issue was withdrawn from the NetMundial process, or any such relatively representative global meeting. It has been taken to the narrow technical community around the ICANN, whose views on this issue are rather well known. It is now evident that the US will not shift its oversight role to another, globally representative, body but will simply abolish it. This leaves a very important global governance body, the ICANN, fully unsupervised, which is not at all what the non-US countries have been asking for. The US meanwhile knows that it still has enough legal, legislative and even executive levers of control over the ICANN, since the latter is incorporated in its jurisdiction.

Even after Snowden had so throughly rattled public perceptions about the Internet, and there has been an intense desire to 'get doing something', which is why the world initially rallied behind Brazil in its initiative, it is a pity that the status quo-ists were able to completely hijack the NetMundial event. It should p*rima facie* be considered strange that a meeting called to address a global horror unveiled by Snowden regarding the practices of the US government and its corporations ended in a manner that the meeting and its outcomes are being most celebrated by these very actors. Through the practices at the NetMundial, and its outcome document, they were able to lay out a road-map which points to exactly the opposite direction than in which the developing countries need to go. Little surprise then that the next stop of the 'NetMundial initiative' is the World Economic Forum, where a new 'NetMundial Alliance' being being cooked up right now. Such processes and meeting are sought to supplant and replace traditional, UN based, venues of global governance.

Similar containment strategies are being employed in many other countries, including in Africa, often leveraging the presence of US based MNCs or donor aid. The problem here is rather straight-forward. The US based status quo-ists understand how outstandingly important IG is to global economic, social, political and cultural domination. Developing countries mostly do not. They increasingly do keep getting a whiff or two of the enormousness of the issue, mostly from the daily flow of news on Internet issues. They, however, do not have a clear substantive understanding of the issues, much less an agenda that they should pursue in this important area of global governance.

A road map for developing countries

The default global trade and intellectual property frameworks were developed unilaterally by the North, which then got inscribed into global governance institutions of WTO and WIPO respectively. Developing countries have always been playing the catch-up game. The paradigm for global governance of the Internet however is now only being formed. It is still opportune time for the developing countries to work on a pro-active strategy to shape it, rather than just accept what is dished out by developed countries. Below is a very brief layout of the kind of areas in which developing countries should begin working together.

The first requirement is to develop deep substantial and strategic competence with regard to the subject of the global Internet and IG. The larger and more active developing countries must take a lead in this regard. The IBSA summit in 2011 had called for establishing an 'IG and development' observatory. BRICS has think-tank initiatives in many areas and should also take up similar work in the IG space. The South Centre in Geneva has already begun some work in this area, and its capacities should be strengthened.

One significant complication with regard to this area , especially for developing countries to work as one block, is that IG encompasses too large a swathe of issues. Many of them do not admit of similar treatment. Some of them, for instance, can attract much more commonality of perspectives and interests than others. It is important therefore to separate at least two streams of issues, and take them up separately, although they often do intersect. These are the fields of (1) freedom of expression, privacy and security, on one side, and (2) various economic, social and cultural issues, on the other. Developed countries have managed to keep the global IG ball firmly in the first of these fields. The second field – of economic, social and cultural issues,   has not even been identified clearly enough till now. This is a job for developing countries to do. BRICS could take the lead and set up a think-tank initiative on 'economic, social and cultural issues related to the Internet'.

Developing countries should have a well developed collective strategy for global forums, soundly supported by such knowledge resources as discussed above. After months of stalemate over WSIS plus 10 review, the UN General Assembly has recently announced that a high level review meeting will be held in December 2015, with a preparatory process commencing from June 2015. This will be the single most crucial stage on which the developing countries must come together and present clear and strong proposals. Internal preparations for it must start now. The ITU Plenipotentiary Conference in Oct-Nov 2014 is a good place to begin strategising together, although ITU looks at a relatively narrow segment of global IG issues.

It is however extremely unlikely that the US and its allies will yield any ground at global governance forums. Developing countries should simultaneously focus on South-South cooperation. The single most practical and effective approach today could be to announce some kind of an Internet Cooperation Platform or Forum at the BRICS, IBSA or G-77 level, possibly all of them. It is only when such a forum is launched, and practical work on cooperation on Internet policy issues begins to happen, that US and its allies could be moved to offer global responses and solutions. The latter know that a global free trade regime for its Internet MNCs is of basic importance to their global ambitions. If developing countries, especially the larger ones, begin working together on Internet issues, it could curtail the unrestricted global reach and play-field available today to these companies. Such a move by larger developing countries will be the single most important game changer in the area of global Internet

governance today. Just setting up a BRICS and / or IBSA Internet Cooperation Platform will, at a single stroke, transform the global IG landscape, and what follows thereafter.

It is useful to recognize that the tide is turning against an unregulated Internet even outside the developing countries. A recent French Senate report recognizes an urgent need to take far-reaching steps for stemming the US domination on the Internet[15]. Even within the US, civil society advocates have begun to realize that an unregulated Internet does not serve the public interest, and appropriate regulation of the Internet is needed[16]. The stage is therefore set for developing new paradigms for the governance of the Internet, based on (1) its commons nature, and (2) the need for at least some of its core functionalities to be made available as public utilities, even if possibly supplied by regulated private entities. Appropriate models of policies and regulation are required that can ensure people civil, political, economic social and cultural rights vis a vis the Internet. It is for developing countries to present such a new paradigm. They should stop playing the catch up game, and aim high this time around. There may still be time, although perhaps not too much, to reclaim the Internet for its egalitarian values.

15 http://www.domainmondo.com/2014/07/icann-and-internet-governance-french.html
16 https://www.eff.org/deeplinks/2014/07/deep-dive-defense-neutral-net