

The Internet and democracy

Richard Hill, May 2016

As the Council of Europe has said¹: “As a tool and public space for democracy, Internet governance should enable dialogue and interaction between all segments of the population to promote respect, equality, tolerance, and living together thereby fostering engagement and participation in a democratic society. Above all, the Internet should remain universal and innovative, and continue to serve the interests of users. It is a global resource the integrity of which should be protected and managed in the public interest.”

Yet current Internet governance arrangements are based on a deeply pro-corporate ideology: one that holds that it is perfectly appropriate, nay optimal, that governance institutions are funded by the large companies they are supposed to govern. This view of the world is based on the idea that, since there is so much private wealth sloshing around our planet (thanks in very large part to the deregulation and privatization frenzy that the US has unleashed on the world), that every single problem on earth, no matter how large, can be solved by convincing rich companies to do the right things with their loose change.² The problem with this view of the world is structural: it is the way in which these profoundly enmeshed relationships – lubricated by the exchange of money, favors, status, and media attention – shape what gets proposed as policy in the first place. We are told that this is a win-win setup: governments look effective, corporations look righteous, and key spokespersons look serious.

But such is not the case. As the Council of Europe correctly says, there should “the full inclusion of all stakeholders, in their respective roles, in Internet governance”. Full inclusion, in their respective roles, means that “Policy authority for Internet-related public policy issues is the sovereign right of States. They have rights and responsibilities for international Internet-related public policy issues.”³

It is only this approach that ensures respect for the fundamental human right to democracy, as enshrined in Article 25 of the International Covenant on Civil and Political Rights: “Every citizen shall have the right and the opportunity ... to take part in the conduct of public affairs, directly or through freely chosen representatives.”

Yet this approach is blatantly violated in current Internet governance arrangements: private companies make binding decisions – without democratic – oversight, regarding the management and administration of Internet domain names and IP addresses, regarding terms and conditions in contracts of adhesion that result in the transfer of the rights to private data, regarding the takedown of material that allegedly infringes copyright, and regarding the pricing of international Internet connections, to name just a few examples.

Individual governments practice mass surveillance of the communications of citizens of other countries, without according any oversight rights to those foreign citizens. But each and every one of us is a foreigner with respect to some country, so our rights to due process with respect to violations of our privacy are being continually violated. Further, such surveillance is reportedly used to spy on the internal communications of heads of state and then used to destabilize governments and/or to guide efforts to influence the policies of foreign governments, thus violating the democratic rights of the citizens of the affected countries.

¹ https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016805c1b60

² This and the following two sentences are excerpted almost verbatim from Naomi Klein, “The Problem With Hillary Clinton Isn’t Just Her Corporate Cash. It’s Her Corporate Worldview”, *The Nation*, 6 April 2016, <http://www.thenation.com/article/the-problem-with-hillary-clinton-isnt-just-her-corporate-cash-its-her-corporate-worldview/>

³ Paragraph 35(a) of the Tunis Agenda

The result of current practices is well known. As the Just Net Coalition puts the matter⁴:

Opportunities for the many to participate in the very real benefits of the Internet, and to fully realize its enormous potential, are being thwarted by growing control of the Internet by those with power - large corporations and certain national governments. They use their central positions of influence to consolidate power and to establish a new global regime of control and exploitation; under the guise of favouring liberalization, they are in reality reinforcing the dominance and profitability of major corporations at the expense of the public interest, and the overarching position of certain national interests at the expense of global interests and well being.

Existing governance arrangements for the global Internet are inadequate. They suffer from a lack of democracy; an absence of legitimacy, accountability and transparency; excessive corporate influence and regulatory capture; and too few opportunities for effective participation by people, especially from developing countries. The situation can be remedied only through fundamental changes to the current governance arrangements.

The changes that are required are not to move towards governmental control of the Internet. No, what is required is proper implementation best practices in multi-stakeholder governance models.

A well known proponent of multi-stakeholder models proposes specific criteria that a body should follow in order to ensure meaningful stakeholder inclusion in global Internet governance processes⁵:

- The body should have access to the perspectives of all those with significant interests in a policy problem or its possible solutions.
- There must be mechanisms to balance the power of stakeholders to facilitate them reaching a consensus on policies that are in the public interest.
- Mechanisms of accountability must exist between the body and its stakeholders to demonstrate the legitimacy of their authority and participation respectively.
- For each stage involved in governance, the body should either be directly empowered to execute it, or linked to external institutions that have the authority to do so, as appropriate.

Another well known proponent takes a critical stance with regard to the sole reliance on the multiplicity of stakeholders rather than focusing on the heterogeneity of stakeholders' interests. As he puts the matter⁶:

... stakeholder participation should be seen as a way of supplementing and enhancing democratic processes rather than substituting them. Indeed, the potential paradox of stakeholder involvement is that 'the claims of expertise, seniority, experience, and special talents may override the claims of democracy as a way of constituting authority' and stakeholderism may become a shortcut to avoid the 'excess of democracy [which] means a deficit in governability.'

... the underlying assumption seems to be that the participation of predefined stakeholder-groups to a given internet governance process may not only provide inputs from different

⁴ <http://www.justnetcoalition.org/delhi-declaration>

⁵ Malcolm, J. 2015. "Criteria of Meaningful Stakeholder Inclusion in Internet Governance." *Internet Policy Review*. Vol. 4, no. 4

⁶ Belli, L. 2015. "A Heterostakeholder Cooperation for Sustainable Internet Policymaking." *Internet Policy Review*. Vol. 4, no. 2

standpoints but also guarantee the representation of heterogeneous interests. Such an assumption may be overconfident for two main reasons. First of all, it is possible that members of different stakeholder groups may have almost-identical interests or may even financially support each other. ... differently from representative systems where individuals elect other individuals to represent their interests, multistakeholder processes are based on voluntary participation rather than representation. This leads to the second type of concern, according to which entities affiliated to the same stakeholder group may have very different – and, frequently, divergent – interests but only few members of a given stakeholder group may have the resources necessary to participate to a multistakeholder process. ... It is indeed important to highlight that few participants to voluntary multistakeholder efforts do actually participate to such processes on a pure voluntary basis, for such participation may often be part of their work duties.

... participatory democracy and representative democracy are complementary. It would be unreasonable to assume that all individuals or entities having a stake in the decision-making process of a given social organisation may have at their disposal the information and knowledge as well as the economic and time resources necessary to contribute to such process. This is why liberal democracies combine citizen representation and direct participation – e.g. through open consultations and referenda – in order to guarantee the full enjoyment of the individuals' fundamental right 'to take part in the conduct of public affairs, directly or through freely chosen representatives.' (ICCPR, art 25.a)

The same points have been made by other authors⁷: multi-stakeholder consultations must be transparent, open, and inclusive, allowing all interested parties to participate on an equal footing. But decisions involving public policy matters must be made by democratic bodies that ensure the representation of all concerned citizens. That is, multi-stakeholder processes must be embedded in, and complement rather than replace, traditional democratic governance processes.

Current trends in the governance and development of the Internet threaten democracy⁸, create economic problems⁹, favor the interests of one country¹⁰, and are unsustainable¹¹.

These issues will be addressed in the forthcoming Internet Social Forum, see:

<http://internetsocialforum.net/isf/>

⁷ Bollow N., and Hill R. 2014. *Thoughts on Best Practices for Multistakeholder Participation Mechanisms*. http://www.apig.ch/best_practices.pdf and Bollow N., and Hill R. 2015. *Reflections on Making Internet Governance Democratic and Participative*. http://www.apig.ch/democratic_and_participative.pdf. Accessed 15 February 2016

⁸ McChesney, R. W. 2013. *Digital Disconnect: How Capitalism is Turning the Internet Against Democracy*. New York: The New Press. Reviewed at: <http://boundary2.org/2015/04/08/the-internet-vs-democracy/>

⁹ Schiller, D. 2014. *Digital Depression: Information Technology and Information Crisis*. Urbana: University of Illinois Press. Reviewed at: <http://www.newsclick.in/international/review-schiller-dan-2014-digital-depression-information-technology-and-economic-crisis>

¹⁰ Powers S. M. And Jablonksi M. 2015. *The Real Cyber War: The Political Economy of Internet Freedom*. Urbana: University of Illinois Press. Reviewed at: <http://boundary2.org/2015/04/29/dissecting-the-internet-freedom-agenda/>

¹¹ McChesney, R. W. and Nichols, J. 2016. *People Get Ready: The Fight Against a Jobless Economy and a Citizenless Democracy*. Nation