Centre for International Governance Innovation

Stanford | Global Digital Policy Incubator
CDDRL

Governance Innovation for a Connected World

Protecting Free Expression, Diversity and Civic Engagement in the Global Digital Ecosystem

International Working Meeting

Governance Innovation for a Connected World

Protecting Free Expression, Diversity and Civic Engagement in the Global Digital Ecosystem

International Working Meeting

Rapporteur Bill Graham

CIGI Masthead

Executive

President Rohinton P. Medhora
Deputy Director, International Intellectual Property Law and Innovation Bassem Awad
Chief Financial Officer and Director of Operations Shelley Boettger
Director of the Global Economy Program Robert Fay
Director of the International Law Research Program Oonagh Fitzgerald
Director of the Global Security & Politics Program Fen Osler Hampson
Director of Human Resources Laura Kacur
Deputy Director, International Environmental Law Silvia Maciunas
Deputy Director, International Economic Law Hugo Perezcano Díaz
Director, Evaluation and Partnerships Erica Shaw
Managing Director and General Counsel Aaron Shull
Director of Communications and Digital Media Spencer Tripp

Publications

Publisher Carol Bonnett
Senior Publications Editor Jennifer Goyder
Publications Editor Susan Bubak
Publications Editor Patricia Holmes
Publications Editor Nicole Langlois
Publications Editor Lynn Schellenberg
Graphic Designer Melodie Wakefield

For publications enquiries, please contact publications@cigionline.org.

Communications

For media enquiries, please contact communications@cigionline.org.

🐦 @cigionline

Centre for International
Governance Innovation

67 Erb Street West
Waterloo, ON, Canada N2L 6C2
www.cigionline.org

Table of Contents

About CIGI

We are the Centre for International Governance Innovation: an independent, non-partisan think tank with an objective and uniquely global perspective. Our research, opinions and public voice make a difference in today's world by bringing clarity and innovative thinking to global policy making. By working across disciplines and in partnership with the best peers and experts, we are the benchmark for influential research and trusted analysis.

Our research programs focus on governance of the global economy, global security and politics, and international law in collaboration with a range of strategic partners and support from the Government of Canada, the Government of Ontario, as well as founder Jim Balsillie.

À propos du CIGI

Au Centre pour l'innovation dans la gouvernance internationale (CIGI), nous formons un groupe de réflexion indépendant et non partisan doté d'un point de vue objectif et unique de portée mondiale. Nos recherches, nos avis et nos interventions publiques ont des effets réels sur le monde d'aujourd'hui car ils apportent de la clarté et une réflexion novatrice pour l'élaboration des politiques à l'échelle internationale. En raison des travaux accomplis en collaboration et en partenariat avec des pairs et des spécialistes interdisciplinaires des plus compétents, nous sommes devenus une référence grâce à l'influence de nos recherches et à la fiabilité de nos analyses.

Nos programmes de recherche ont trait à la gouvernance dans les domaines suivants : l'économie mondiale, la sécurité et les politiques mondiales, et le droit international, et nous les exécutons avec la collaboration de nombreux partenaires stratégiques et le soutien des gouvernements du Canada et de l'Ontario ainsi que du fondateur du CIGI, Jim Balsillie.

About the Global Security & Politics Program

The Global Security & Politics Program at CIGI focuses on a range of issues in global security, conflict management and international governance — a landscape that continues to change dramatically. Such changes are widely evident in the growing rivalry between China and the United States in the Asia-Pacific and the emergence of new economic powers in the region, such as Indonesia; the divergent ways Canada, Russia and the United States perceive Arctic security as melting ice opens up the Northwest Passage; continuing debates about the humanitarian imperative as the world confronts new crises in Africa and the Middle East; and new areas of concern such as cyber warfare and the security of the internet.

With experts from academia, national agencies, international institutions and the private sector, the Global Security & Politics Program supports research in the following areas: Arctic governance; Asia and the Pacific; fixing climate governance; governance of conflict management, with a focus on Africa; global politics and foreign policy; and internet governance.

Acknowledgements

About the Rapporteur

Bill Graham is a senior fellow with the Centre for International Governance Innovation, contributing to the Global Security & Politics Program research on internet governance. Most recently, Bill was a contributing author of the Global Commission on Internet Governance report *One Internet*. Bill served on the board of the Internet Corporation for Assigned Names and Numbers from 2011 to 2014. From 2007 to 2011, he was a senior executive with the Internet Society (ISOC), responsible for expanding its engagement in international organizations involved in internet policy and technical issues, including the United Nations, the Organisation for Economic Co-operation and Development, the World Intellectual Property Organization and the International Telecommunication Union. Bill was a founding member of the Internet Governance Forum's Multistakeholder Advisory Group from 2006 to 2012. Previous to joining ISOC, Bill was director of international telecommunications policy in the Government of Canada, heading Canada's delegation to the UN World Summits on the Information Society, and leading Canada's participation in a range of bilateral, regional and international telecommunication policy organizations. He holds a master's degree in public administration and a B.A. in Pacific studies from the University of Victoria.

Introduction

There can be no doubt that, worldwide, the internet has assumed an extraordinary and powerful role in people's lives. People depend on it for employment as well as for information, news and entertainment. It is where they meet with their friends and pursue cultural activities. And, to a great extent, the internet is where their opinions are shaped and where they engage in politics. The internet and the increasingly important applications running on it have become defining features of present-day life. What is more, the pervasive nature of the social media and content platforms and applications running over (and, to an extent, obscuring) the underlying internet means that it is now essential to speak of the global digital *ecosystem* rather than of a singular network.

The internet has created immeasurable benefits for free expression, social and cultural exchange, and economic progress. Yet, the impacts of this global ecosystem, and the easy access to content it provides, have not all been either foreseeable or desirable, as even a cursory scan of the daily news will show.

Some perceive a growing crisis in democracies, caused by social media and content platforms. Hardly a day passes without the discovery of a new problem or the publication of a new analysis of its consequences. The impacts affect citizens' abilities to exercise freedom of expression and to trust what they read, hear and watch. They raise concerns about privacy, about promoting a diversity of content and voices, and about the possibility of healthy civic engagement. Increasingly, citizens fear that their personal data is mishandled or misused by internet platform companies; they express concerns over perceived unfair competition practices and taxation issues related to global internet platforms; and they worry about the implications of social media in election security. The growing market dominance of a few global giants exacerbates these concerns.

Some problems recently identified include threats to freedom of expression through third parties' efforts to restrict access to social media. Access may be denied through political repression and censorship, or curtailed through prohibitive costs, users' lack of skills or inadequate internet infrastructure in rural and remote areas. Access can also be threatened in less obvious ways, through aggressive silencing techniques such as hate speech, trolling or doxing. Both trust and civic engagement are threatened by the ease of spreading propaganda or fake news online, and by so-called filter bubbles or echo chambers — that is, the intellectual isolation people experience when, as a result of algorithmic assumption, they are exposed overwhelmingly to other people, ideas or information (accurate or not) that reinforce their own biases or ideology.

Diversity of content in the digital ecosystem is threatened by the fact that platforms — search engines, social networking sites, media platforms — now curate much of users' online social, cultural and economic lives. Access to the full spectrum of local, national and international news, cultural content and entertainment is mediated by privately owned platforms (such as Google, Facebook, Twitter and others) whose algorithms rank, filter and recommend how citizens discover and access online content. These practices, and the market dominance of a small number of digital platforms, introduce the danger of unconscious cultural bias, which can skew or limit the opinions and content readily discoverable by users.

Furthermore, to ensure the continued creation and availability of diverse content — including local news and content — digital business models must support fair remuneration to creators. A current illustration of this problem can be seen in the way social media and search platforms draw advertising dollars and customers away from traditional print, radio or television news outlets, thus challenging the sustainability of a diverse and professional creation and dissemination ecosystem.

Complicating these factors are revelations that users' personal data is being sold, traded or stolen, and then used in attempts to manipulate their behaviour, all without their awareness or permission (as in the Cambridge Analytica scandal). Such breaches have led to intensified calls for legal or regulatory action. Users are left in a bind: they either accept the risks that their data may be used without their knowledge or consent, or choose to withdraw from using the platforms altogether, which would mean isolating themselves from the use of important tools and social facilitators.

As awareness of these challenges has grown, so have concerns about whether the long-standing laissez-faire approach of limiting internet regulation

is still appropriate. Citizens and governments are increasingly debating whether the time has come to impose restrictions or rules on internet platforms and other players who use the internet to conduct their business or advance their causes.

In this environment, the Global Digital Policy Incubator (GDPi) at Stanford University and the Centre for International Governance Innovation (CIGI), in cooperation with the Department of Canadian Heritage, invited government, business, academic and civil society experts to an international working meeting to explore governance innovations aimed at protecting free expression, diversity of content and voices, and civic engagement in the global digital ecosystem. The discussions were held under the Chatham House Rule to encourage open and frank exchanges among the participants.[1] One of the goals of the meeting was to bring different players and perspectives together to explore their similarities within a comparative public policy context.

The meeting took place in early March 2018, just a few days before the public revelations of Cambridge Analytica's acquiring and use of many millions of Facebook users' personal data. The subsequent worldwide debate about how to avoid similar incidents in future highlights the relevance of the question about what governance mechanisms might best be suited to preventing similar kinds of abuse. Meeting participants clearly were aware of the issues around privacy and the extensive use of big data, as well as governance issues, even before the whistle-blower's revelations galvanized public attention.

The meeting began by looking at the challenges in protecting free expression, access to diverse information and democratic engagement online. Participants then focussed on discussing the strengths and weaknesses of three models of governance to promote free expression, diversity of content and voices, and civic engagement in the digital ecosystem: governmental approaches, private sector innovations and multi-stakeholder innovations.

Challenges in Protecting Free Expression, Access to Diverse Information and Democratic Engagement Online

The rapid evolution of the digital ecosystem has created immense opportunity for free expression, access to content of all types, and many other social and economic benefits. At the same time, participants noted an increasing awareness of the serious risks also facing the ecosystem. Several of these risks were discussed during the first session.

The lack of gatekeepers makes it practically impossible to monitor or maintain an acceptable quality of online content, given the unprecedented volume and velocity of communication on the internet. Studies have shown that undesirable or outright false content tends to "go viral" on social media, spreading faster and more widely than factual content. Governments' attempts to declare some forms of expression off limits are known to have resulted in shutdowns of the entire internet or repression of certain sources of information. Efforts by liberal democratic governments to block illegal content can then be used by repressive states to justify their censorship of content they do not like. Increasingly, some governments are requiring internet platforms to act as censors or as proxies for law enforcement — roles that they are ill-equipped to play. At the same time, platforms have immense power to use or misuse the information they collect, create or transmit. Users, too, have immense power to spread false, illegal and polarizing information, and even to effectively silence other users through the use of harassment and hate speech. Social media users can become isolated in filter bubbles or echo chambers encouraged by the platforms' designs, which makes civic engagement across ideological lines improbable, if not impossible. There is no easy way to know what other platform users are seeing or reading.

Diversity of content and voices is threatened by the dominance of a small number of platforms that rank, filter and recommend the content and entertainment that users discover, access and buy. Currently, the platforms have no incentive

---

to consider their services' impact on the health of local cultures and languages. That there is often a lack of gender and cultural diversity among the small pool of technical experts responsible for the major internet platforms, business models and algorithms is in itself a threat to broader inclusiveness. There is little or no transparency about how platforms operate, in part because the companies insist their methods are proprietary, but also because few users would have the expertise needed to understand their complex workings, even if they were made public.

Participants agreed that it is difficult to find solutions to the complex challenges such problems pose for protecting human rights. At the heart of these challenges is the need to cultivate shared responsibility among governments, platform companies and civil society in the search for effective tools. Transparency and user education will be key. Platforms should be encouraged to offer tools to the public to help them protect themselves by understanding who is using their data, what is being facilitated and distributed, and how the system can be gamed by "bad actors." The near-monopoly power of different platforms serving different purposes needs to be checked, perhaps by looking at approaches taken in other industries. Monopolistic or oligopolistic behaviour on the part of tech giants may require anti-trust-like remedies.

Participants agreed generally that regulation is inevitable. Commercial entities, such as those of the digital ecosystem, are not designed to achieve the public good. The non-digital world widely accepts that government legitimately sets ground rules in many sectors, for example, telecommunications common carrier regulation, transportation safety rules, broadcasting regulation, and radio frequency allocation and spectrum management rules, among others. The challenges now being identified resulting from the widespread use of digital platforms are analogous to the problems that necessitated regulation and legislation in non-digital sectors.

In this environment, civil society will need to get over its long-standing aversion to having government intervene to control the behaviour of internet platforms and users. Acceptance may be difficult to achieve because of fears that regulators may not take sufficient care to understand the fast-moving internet environment. The concern is that government may regulate to solve today's (or yesterday's) problems without considering that

today's dominant players can be replaced, which would rapidly make those regulations obsolete and could even work to impede innovation. The question is really how to avoid undesirable or unintended outcomes. Several participants said they believe the best solutions are likely to come by empowering informed users and activists concerned with human rights to take action in their own countries. Supports for local media, local content and local languages can also be strong supports for maintaining human rights. In addition, participants identified advertisers as having immense economic power to direct where content is placed and in what languages, thereby providing valuable support to diversity.

Current and Potential Government Initiatives

Governments are facing a difficult problem as they try to deal with the challenges arising from the digital ecosystem in protecting free expression, democratic security, diversity and civic engagement online. Driven by the need to protect the public interest, governments are looking at a range of options to address these challenges, including both regulatory and non-regulatory approaches. It is clear, however, that the issues are complex and pose real obstacles for government policy processes, as the pace of technological developments outstrips that of law making.

A key theme running through all discussions in this session was the need to strike the right balance between, on the one hand, addressing platforms' lack of cooperation and effective, timely response to governments' and citizens' concerns and, on the other hand, allaying concern over governments taking too-broad regulatory steps that might restrict internet freedoms. Participants agreed that the solution will not be found by governments responding to problems in a piecemeal fashion. A broad underlying strategy will be required.

Some participants noted that, in the past, social media and content platforms have lobbied against regulation of any kind, citing the risk not only of government regulation impeding free speech and human rights online, but also of regulation by democratic governments being used by

repressive states to justify censorship. Some participants pointed out that the rising global concern related to hate speech, democratic security and privacy means that the question now is not *whether* to regulate, but *how* best to regulate. For many, the tipping point was the lack of timely or effective action by companies, alongside increased concern by governments and citizens about online privacy, security and competition.

Because awareness of these problems is still emerging, there are few instances of legislation or regulation that attempt to control illegal or undesirable use of these platforms or the design of the platforms themselves; however, some efforts have been made in Europe. The recent implementation of German legislation known in brief as NetzDG ("Act to Improve Enforcement of the Law in Social Networks," in English) is one example. It was passed as a response to a wave of hate speech being spread in reaction to the influx of refugees into Germany in 2015 and 2016. The law requires social media networks with more than two million users to remove content that is "clearly illegal" under German law within 24 hours after receiving a user complaint, although extensions to that deadline are permissible under defined circumstances. A social media network that intentionally or negligently violates its obligations may be fined up to €50 million. The law has been criticized for several reasons, for example, concern that the harshness of the penalty could cause platforms to overreact, blocking content out of fear of the fines. There are also concerns about transferring to private companies the responsibility for making and enforcing human rights decisions. At the same time, some participants noted that these private companies already mediate, rank and filter speech and content through their algorithms and services, and through their community standards and terms of service. In the absence of regulation, there is little requirement for transparency, accountability and oversight as to how the companies decide to limit, rank and filter. Some participants noted that under the NetzDG law, these decisions would at least be subject to oversight by democratically elected officials.

Some speakers decried the fact that Russia has begun to copy the approach taken by the German law makers, using the example to justify political repression. Others emphasized that any approach to regulation needs to be based on principles that can be applied to platforms' many roles (as search engines, advertising vehicles, news sources and social media). Those principles should also be coordinated internationally. Otherwise, companies could face many different regulations in different countries, which would lead to fragmentation of the platforms and perhaps of the internet itself.

Other participants acknowledged that different jurisdictions use different lenses through which to view these issues. For example, some noted that platforms typically view the issue of free speech from the very liberal US perspective. Others pointed out that not every jurisdiction sees free speech as an issue that can be separated from the important topics of diversity, tolerance and inclusion, or from linguistic diversity online.

The issue of jurisdiction was raised as a fundamental challenge to governments' ability to act in their citizens' interests to deal with the effects of internet platforms. For example, countries other than the United States have traditionally used the regulation of their domestic broadcast industries as an instrument of cultural protection. In many cases, however, those industries are being supplanted by internet-based over-the-top media platforms such as Netflix or Spotify, and by social media platforms such as YouTube. Even the boundaries between different types of platforms are disappearing as, for example, YouTube begins producing its own scripted content and offering paid music streaming services. These new content providers are impacting broadcasters in countries far beyond the United States, yet non-US governments face jurisdictional challenges when it comes to regulating platforms. These cross-border jurisdictional issues continue to pose challenges to countries' abilities to promote national content and to ensure that it is discoverable in domestic and international markets.

Other participants suggested that the adoption of solutions based on international agreements could avoid some of the problems being experienced by Germany's NetzDG. One such agreement is the International Covenant on Civil and Political Rights (ICCPR), which proposes a test that ought to be applied when considering regulation to restrict speech. The ICCPR test would require that any restriction must be provided for in a clear law, be demonstrably necessary and use the least intrusive means. Adherence to these principles would reduce the risk of impinging on free expression and democratic values. Participants agreed that solutions should be

based on widely accepted international norms or principles that are transparent and allow for a range of national implementations.

Another solution is to empower users. Governments around the world have engaged with non-governmental organizations in educational efforts to enhance digital media awareness. Recently, these efforts have broadened from teaching about digital security hygiene to the more subtle and difficult area of teaching techniques for differentiating between factual and fake news. This latter task is being made harder by the financial collapse of the business model of traditional media, in particular print media, as advertising revenue moves to platforms. In the absence of new models to sustain responsible journalism, some governments, including the Government of Canada, are experimenting with novel approaches to address the issue. Recent initiatives include providing funding for professional journalism and working with media platforms to encourage local production of local content for the global market. The design of such approaches requires care, because governmental involvement may be seen as threatening independence or as threatening to entrenched policy approaches and those dependent upon them.

While many participants agreed that information and media literacy are important safeguards against fake news and misinformation, the group also acknowledged that literacy programs are only part of the solution and will not address all of the near-term concerns related to election integrity, the systemic issues related to privacy, and the impacts of monopolistic practices and advertising business models on news and content.

Another approach to empowerment is through legislation. For example, the European Union's new General Data Protection Regulation is an attempt to impose strong protections for citizens' privacy and to ensure that citizens are informed when their personal data has been revealed. Such legislated remedies need to build in openness to innovation if they are to be successful. If an appreciation of innovation is built into the legislation, it will help to counter resistance by companies and encourage them to comply.

Private Sector Product Innovations to Protect Quality of Discourse, Diversity of Content and Civic Engagement on Digital Platforms and Social Media

The private sector is also working to come to terms with the impacts their services are having on society. Many of these impacts were not foreseen when internet platforms were developed, but public and government pressures are making it increasingly clear that response is needed now. The meeting heard of several initiatives that different companies have launched to protect the quality of discourse, diversity of content and civic engagement on digital platforms and social media.

One private sector participant acknowledged that American jurisprudence around the First Amendment colours companies' attitudes about the importance of protecting free speech. Nonetheless, as global players, the companies recognize the need to achieve a balance between protecting freedom of expression and protecting privacy, diversity and other values that may be more important for other countries. Their challenge is to find ways to modify their approach for other jurisdictions without having to completely reinvent their services to comply with the rules in those other jurisdictions. Overall, meeting participants agreed that recent experiences, such as the use of social media to meddle in democratic processes and the increasing visibility of hate speech, have shown that the world is at a pivotal point for democracy, and that action is required.

Several initiatives being undertaken by social media and networking platforms are in line with the kinds of solutions suggested earlier in the meeting. Collaboration with partners is becoming widespread. Some companies are working with traditional news media to make it easier for users to find and identify reliable and local content, whether in search results or on social media. Others are working directly with publishers, or

with independent non-profit initiatives such as the Patterson Foundation's Journalism Accelerator program, to foster innovation in the sector so that publishers may find ways to regain economic sustainability. Other companies are reaching into journalism schools and offering residency programs with platforms, access to fact checkers and other journalistic tools (including how to use social media in news gathering and production) to develop a pool of committed local journalists.

Most participants highlighted the important role some companies are playing to improve user education. Examples include making material available to explain how the platforms work, showing how citizens can protect themselves and their data when using search and social media, and expanding opportunities for feedback and reporting of problems. Many companies are involved with expanding media literacy campaigns.

Speakers from industry said that many platforms are making efforts to counter misinformation, to ensure the authenticity of their users' accounts and to increase transparency in advertising, much as is already the norm among pre-digital media. Steps include verifying the identity of advertising purchasers, revealing who has paid for advertisements and on whose behalf, and linking the different advertising materials placed by any one advertiser to help understand possible collective impacts. Companies make use of both human employees and machine learning/artificial intelligence to verify and rate the quality of content and to act as fact checkers. Most also work with external researchers to find ways to improve their services and to develop potential solutions to problems.

Other meeting participants not directly associated with the platforms agreed that improvements were being made but suggested that more action is needed. There was wide support for the development of programs to study and classify the attempts that have been made to use digital platforms to manipulate or harm democracy, discourse, engagement and diversity of content and voices. Enhancing society's understanding of the tactics being used is essential to the ability to shape a common response. Others recommended research to transparently document platforms' impacts on human rights and diversity, and to benchmark the effectiveness of efforts to defend against and counteract the harm that has been caused. Having good information in

these areas would permit the development of minimum standards for transparency about algorithms, how they are used and how to make disclosures. Having good indicators would make it possible to evaluate and compare companies' performance in responsibly making and meeting commitments to their users and to governments.

Discussion turned to the platforms' efforts to be transparent about their operations. Most platforms are seen as having robust mechanisms in place to report on governments' takedown requests and the reasons for those requests but as less transparent about their own enforcement of their terms of service against bad actors. Disclosure of these activities could reassure citizens that the platforms are not becoming de facto censors or using their power to unduly influence civic life.

While the company representatives at the meeting were able to highlight an increasing variety of efforts they are making to deal with problems as they become known, other participants felt there has not been enough collaboration with governments to find solutions. Even less discussion is going on between these two key stakeholders about what areas might be improved through regulation, or what type of regulation could be effective, while still permitting innovation and rapid development of new services. No one at the meeting was able to point to examples where these challenges have been addressed, or to identify any place where those discussions are taking place. One key recommendation from the group is that public and private sectors need to find ways to initiate an open exchange of information, not only about their respective responsibilities to citizens but also about how to jointly develop complementary solutions in their respective spheres.

The Potential for Multi-stakeholder Governance Processes and Innovations

The final session of the meeting looked at how broader multi-stakeholder processes might help to find effective policy approaches to the problems under discussion. Panellists in this session came from organizations incorporating a variety of

well-established multi-stakeholder processes in their policy-making efforts. Despite the differences among their approaches — including the openness of the organization to all stakeholders, the transparency of outcomes and the accessibility of processes — several common points emerged. Multi-stakeholder approaches were distinguished from consultations, in their aim to achieve a shared, consensus outcome. Broad inclusion and transparency help to overcome the first barrier to acceptance of the outcome of a multi-stakeholder process, which is to establish the legitimacy of employing this kind of approach. To work well, participants in the process must have agreed on the goal of the process and be committed to finding a solution. Participants acknowledged that these processes are not well suited to addressing problems that are large, complex and global, especially if the goal has not been well defined.

With a few exceptions, such as the new laws in Germany and the European Union, governments are not yet taking action to address the challenges posed by the fast-moving, constantly changing digital ecosystem. One reason for the lag is that many of the problems affecting free expression, diversity of content and voices, and civic engagement in the digital ecosystem exist in a grey area. They do not involve matters that are illegal but, rather, activities that challenge the shared values of liberal democracies. As such, dealing with them using a strictly legalistic approach is difficult. On the one hand, different views of how to deal with challenging behaviour or content can lead to tension between governments, the private sector and civil society. On the other hand, private sector self-regulatory approaches are often not trusted because the companies are suspected of acting primarily in their own self-interest. Multi-stakeholder processes can often develop better rules and be better mechanisms for establishing norms because they create opportunities for more perspectives to be considered and allow for a better balancing of interests. The challenge lies in how to constitute an effective multi-stakeholder process. Participants offered a number of considerations.

The multi-stakeholder approach is not perfectly suited to all situations, yet multi-stakeholder processes are generally well regarded in the area of internet governance. The United Nations has recognized that it would be unrealistic and unwise to try to limit participation in developing policy governing the internet to governments alone. That

awareness has led to a variety of international organizations trying to include inputs from a broader range of stakeholders. The United Nations Educational, Scientific and Cultural Organization has published a report entitled *Principles for Governing the Internet: A Comparative Analysis*, which proposes four guiding principles, encapsulated in the acronym ROAM: human rights-based, open, accessible to all and governed through multi-stakeholder participation. Participants agreed that these are helpful recommendations, but some drew a distinction between multi-stakeholder participation and multi-stakeholder approaches. The latter go beyond having decision makers merely gather a range of views before making unilateral decisions to actually involving stakeholders in consensus decisions that can be implemented.

Participants who were experienced in working through multi-stakeholder approaches to deal with thorny policy questions said that there is no one best way to work in that environment. They acknowledged that the process can be time-consuming and difficult. It can be very hard for governments and regulators to implement a truly multi-stakeholder approach, because they face additional hurdles created by the need for legislation or approvals through a stratified system. Those with experience suggested that the greatest success has been achieved in areas where stakeholders agree that a solution must be found but not necessarily in a way that requires government action.

Discussion then focused on the conditions that can contribute to success. All agreed that it is important that participants be committed to finding a solution. They must be prepared to be flexible and to compromise, rather than take ideological stands. If those conditions are met, the approach can produce timely outcomes, often showing more creativity than could be achieved by means of more traditional approaches.

Many other barriers need to be addressed for a process to be successful. These include extensive preparatory work, overcoming language barriers, devoting the time required and finding resources to pay for a range of operating costs, including attendance at meetings and participants' time away from paid work. Often the work has to be done without any guarantee that the results will be enforceable. Yet, when the alternative is that nothing at all will happen, there is little to be lost in trying to get to a solution through a

multi-stakeholder approach. Another advantage of this approach is that it is much easier to fix or tweak multi-stakeholder outcomes than laws, which by their nature are rigid and difficult to change. Nonetheless, it can be challenging for stakeholders to achieve the fine balance among interests that will give governments sufficient confidence in the process to persuade them to be willing to stand behind an eventual solution, and to justify the cost, effort and risk of committing to a complex and difficult process.

Discussion turned to whether it would be possible for platforms, as part of their internal governance processes, to create opportunities for users to participate in developing norms and rules. Some platforms have done that successfully, but at a much smaller scale than that of the globally dominant platforms. Some speakers said that companies' attempts to find solutions through a multi-stakeholder process usually have occurred when there is already a crisis of legitimacy. These efforts have allowed companies to work with critical but constructive stakeholders to repair damage to their reputations, perhaps in the hope of avoiding heavy-handed regulatory action.

Closing Remarks

As the meeting drew to a close, four key players in convening the working meeting offered their assessments of the success of the day. Their comments are summarized below.

The first speaker thought the meeting represented a gigantic half-step, if only because it was clear that it did not bring in everyone who needs to be included in discussions about the kind of governance mechanisms needed to protect free expression, diversity and civic engagement in the global digital ecosystem. Nonetheless, this speaker highlighted several key points. First among those was that all of the issues discussed are interrelated, which will make it very challenging to find and implement solutions. It will be essential to tease out and differentiate the most important of these, in order to focus initial attention on the most pressing issues of concern.

This speaker also commented that legal frameworks are not going to be adequate to deal with the

issues, but neither are the companies trusted to make the necessary changes on their own. There obviously is tension between governments, the private sector and civil society, so a multi-stakeholder approach is needed. The problem for now is that no one knows with certainty how best to use that approach effectively. The meeting also identified some fundamental definitional issues — for example, how to characterize platforms in ways that are conducive to finding solutions — that will need to be worked out before progress can be made. It is also clear that the scale of the global platforms is a factor in understanding how best to approach the problems identified by speakers. How is it going to be possible to achieve nuance at scale and across so many jurisdictions?

This speaker noted that — despite the tensions between the different sectors and interests — the best hope for finding a shared language and a shared approach to problem solving rested with experts such as those gathered at this working meeting. The dialogue needs to continue, perhaps in smaller, more specialized groups. Alternatively, the process may need to focus on a problem that all participants could approach in a more concrete way. The discussion might begin with talking about how to address the problems being posed by Russian activity that spans all the major social media and networking platforms. The speaker expressed a conviction that collaborative work must continue, and willingness to participate again at the next opportunity.

The second speaker began by saying it is imperative to bring together those concerned about the future of the Western liberal democracies to have a discussion with the rest of the world about the challenges posed by the global digital ecosystem. This speaker stated that this first Stanford meeting had confirmed how important such a conversation would be. The discussion had exposed that there are many differences of approach: transatlantic differences; private versus public policy differences; and differences of emphasis on diversity. These differences highlighted that some issues are of greater relevance in some countries than in others; for example, Canada and Europe showed a greater concern about cultural diversity than did many other jurisdictions in the world.

A third speaker noted that there are many other important players from very different traditions that were not represented in the meeting. For example, Russia and China are globally powerful

countries with their own markedly different, yet clear, strategies for internet governance. It has to be recognized that their message resonates in a larger number of countries than many in the liberal democratic tradition would like to see. This speaker emphasized again that there are important definitional issues to be clarified, for example, do we all mean the same thing when we talk about transparency? Much work also has to be done to find the right tools for the right tasks, and that will hinge on coming to a shared understanding of the goals to achieve. The multi-stakeholder approach may be the best approach to addressing many of these problems. However, in order for governments to engage in these new processes, they will need to know who they are dealing with and to develop a sense of trust.

This speaker also mentioned other issues arising from American domination in the digital world and the market power of the major companies. For instance, it is obvious that there is a pressing need for a forum where these issues can be debated and solutions developed. The Stanford meeting was designed as a stand-alone event, but several participants proposed that similar discussions be convened in the future. This speaker encouraged participants to comment on whether the meeting offered a useful and constructive approach and to suggest what can be done to advance the discussions that participants said will be needed.

The final speaker remarked that the meeting had helped to clarify the issues and rights at stake. The meeting highlighted big questions about how to tackle low-quality information and disinformation while enabling free speech; questions about how to carve out a place for diverse local content and voices; questions about how to ensure the survival of local news, especially in local languages; and questions about the nature of the social contract on the internet. While Russia is trying to amplify divisions in Western liberal societies, it is essential to find ways that the internet can help to counter the impact of its efforts and to support democracy. Doing so will require that paradigms and models based in the analog world be re-examined and brought up to date. The marketplace of ideas and the concept of the public square as protections for democracy may no longer hold up. Governments will need to rethink legal frameworks, and companies will need to rethink how they can best meet their corporate social responsibilities.

The meeting showed the need for collective action, this speaker observed. Yet, there are, so far, no fora in which clear decisions can be made. Governments need to be engaged, as do the platforms. Governments are committed to a rules-based approach, but the challenge they face is the need to respond speedily. Governments are feeling strong pressure to deal with the issues discussed at the meeting. Many governments are committed to working with others to find solutions, but are uncertain regarding next steps. Someone will need to start and to provide leadership for the process to come to a common set of principles. Some Western governments believe that the next step would be to find those principles, and then to develop a values-based approach as a basis for eventually proposing a rules-based approach that can be picked up by liberal democracies. The survival of democracy and the stability of these countries are at stake.

The rise in populism, nationalism, fear and friction in Western democracies is due in part to inequality. That inequality results from the fact that the benefits of the digital economy are largely being captured by a few global players who are not subject to influence or control across national borders. The problem is at hand now, and needs to be dealt with. The speaker expressed hope that concerned citizens, companies and governments can continue to work on developing principles and then move forward with solutions. It is clear that the world is facing a new and very difficult set of issues, which, if they cannot be dealt with effectively, threaten the health of Western liberal democracies.

The experts participating in the working meeting came from a wide range of different backgrounds: the private sector, civil society, academia and government. Yet, despite their differing perspectives, they shared the broad recognition that the unprecedented influence exerted by social media and content platforms will require new governance models to protect the values of free expression, diversity and civic engagement. The meeting's conveners intend to continue facilitating research and cross-sectoral exploration of the impacts of internet-enabled platforms, in the search for innovative approaches to deal with these present and emerging challenges, in ways that do not impede the creativity and benefits that the internet can bring.

**Centre for International
Governance Innovation**

67 Erb Street West
Waterloo, ON, Canada N2L 6C2
www.cigionline.org

🐦 @cigionline

FSC
www.fsc.org

RECYCLED
Paper made from
recycled material
FSC® C023070