

Global Commission on Internet Governance

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Rapporteur Report:

First Meeting of the Global Commission on Internet Governance

Stockholm, Sweden

May 26–27, 2014

The inaugural meeting of the Global Commission on Internet Governance (GCIG) convened on May 27, 2014 in Stockholm, Sweden. Carl Bildt, Foreign Minister of Sweden, chaired the meeting, with 25 Commissioners present. The event was held under the Chatham House Rule, which precludes attribution of any specific points to any specific person. The following summarizes the main themes that emerged from the meeting. The inclusion of topics does not indicate consensus, only that the issue was raised during the meeting.

Session 1: Critical Internet Governance Issues

During the first session, Commissioners expressed their personal views about the most pressing Internet governance concerns for the next five years. The issues are presented thematically — the order is not indicative of an issue’s prominence, but reflects its sequential appearance in the discussion.

The Interaction between Internet Policy and Society

Commissioners noted that the rapid evolution of technology and the Internet is affecting how society is organized, managed and governed. Internet policies are shaped by differing social norms, which condition the efficacy and desirability of these policies. For example, even Western nations have different views of net neutrality regulations, with European nations generally more supportive than North American countries. Greater policy differences exist between Western and non-Western countries, particularly over issues such as the control of free expression online. Social norms, therefore, can underpin an alignment of interests on Internet governance questions, but can also serve as the basis of conflicts of interest. Societal interests also constrain what for-profit companies and others are allowed to do with the Internet in a particular jurisdiction.

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Multi-stakeholder Models of Internet Governance and the Role of the State

The Commission also observed that Internet governance is not a monolithic practice. It is marked instead by a patchwork of various actors and issue areas. Different issue areas are more or less conducive to cooperation in the future, depending upon the degree of common interest that nation-states and other Internet stakeholders have in finding cooperative solutions. Some areas, such as online criminal activity, could see additional cooperation. Other areas, such as state espionage, are less likely to be conducive to cooperation. A one-size-fits-all policy is not likely to be effective or possible when it comes to Internet governance.

The Commission also stressed that Internet governance is complicated by the number and types of actors that have an ability to affect outcomes. While the state plays a dominant role in the governance of most other issue areas, its role in governing the Internet is far less dominant and still being defined. Some nations prefer a very large role for the state. Other nations prefer the current so-called multi-stakeholder model of governance, in which the state, private actors, the Internet technical community, civil society, and international and non-governmental organizations all play a role. Concerns about the definition of multi-stakeholder Internet governance raise a number of questions: What is the role of the state in Internet governance? How central to Internet governance should the state be? What does governance entail in this space? What does the multi-stakeholder model for Internet governance really mean and how do we define the various governance roles of different actors online? Regardless of the answers to these questions, the Commission noted that the growing involvement of the state in Internet governance brings with it both challenges and opportunities.

Human Rights Online

The Commissioners highlighted the tension between human rights online and other interests, such as national security and corporate incentives. With the backdrop of expansive government surveillance, it was noted that there needs to be a discussion of what the appropriate balance might be between state surveillance and the individual's right to privacy. Likewise, other socio-political rights, such as freedom of opinion and expression, need to be guaranteed. However, these rights also need to be balanced against the state's responsibility to maintain security and order in society. Finally, the Commission noted that the jurisdictional boundaries of the physical world complicate balancing the rights and interests of various actors online.

The Commission also expressed concerns regarding rights related to "big data" collection, retention, aggregation and sharing. The discussion included the right to be forgotten, which is particularly a concern in Europe, and questions of transparency around a user's rights to information about what data is collected and held by information intermediaries, as well as data ownership.

The discussion highlighted the need for a clearer understanding about what rights and responsibilities individuals, corporations and states hold online, as well as how such rights are both enforced and balanced within and across jurisdictions. Such a clarification is necessary for illuminating the meaning of some of the core elements of Internet governance.

Economic Growth and Development

The ongoing economic growth potential of the Internet was discussed, but it was noted that the market power of large telecommunication companies and content intermediaries poses risks for consumers, both economically and in terms of the protection of individual rights that can be undermined by opaque and constantly changing terms of service. Indeed, many Internet and telecommunication corporations, as well as new Internet start-ups, rely upon business models that monetize subscriber information, behaviour, location and metadata.

The Internet's economic potential for developing countries is of particular concern. Its potential is not always realized in emerging markets given the current structure of their economies. Even more prevalent than the developed-developing world divide is the digital divide. Unlike most cleavages in history, the digital divide is sometimes a generational division within families (between young and old) and within societies (those that use the Internet and those that do not) rather than a divide between nations. This division has unique economic and social ramifications.

Net Neutrality

The Commissioners consider net neutrality to be a particular concern, and fear that the erosion in norms of net neutrality could result in a two-tiered Internet, with fast lanes reserved for content and services companies that have the resources to pay for faster speed, with a slower, lower quality speed reserved for all others. This erosion of the principle of net neutrality is potentially problematic, both economically and socially, because it could undermine the high level of innovation that the single speed Internet has fostered thus far. If start-up firms are discouraged from entering markets because they cannot compete with larger companies, then innovation could be hampered. The erosion of net neutrality works against the reduction of transaction costs, which is one of the economic benefits of the Internet, and can inhibit social innovation and freedom of expression. On this point, the Commission noted that it would be useful to have detailed research on the effects of net neutrality.

Internet Fragmentation

The fragmentation of the Internet could take a number of forms. Given the current technical, jurisdictional and linguistic structure of the Internet and the geopolitics of Internet governance, Internet fragmentation already exists to some degree. It is possible, however, that the fragmentation of the Internet could become even more prevalent as additional countries demand that data be kept within their

geographical borders (data localization). It is also possible that an alternative domain name system could be established, which would effectively fracture the single Internet into two (or more) largely unconnected entities. Fragmentation to any significant degree is likely to come with high social and economic costs, even if the precise scope of these costs is not yet known, since such barriers would inhibit trade, commerce and communication.

Cyber Security

Cyber security is clearly an issue of great importance to the Commission. The Internet can be used both by protestors as an organizational tool for political dissent and by states as a tool of repression. Jurisdictional boundaries complicate this issue when an individual in one country undertakes actions online that cause political unrest in another country without crossing any territorial borders. Cybercrime is also on the rise, as criminal activity increasingly moves online.

Cyber threats are growing in both scope and frequency, but the precise nature of many cyber threats is not clearly understood. Problems of attribution abound, as it is difficult to trace a cyber attack to the correct person or even a country. New technologies, such as crypto-currencies like Bitcoin, also make law enforcement more difficult, while simultaneously encouraging illegal activity. There are also challenges for protecting the Internet's critical infrastructure from attacks in both the physical and digital worlds. Damage to the Internet's physical and virtual infrastructure would result in extensive disruption, economic cost and hardship. In addition, the Internet is becoming embedded into the underpinnings of all aspects of society. Such an "Internet of things" leads to increased vulnerabilities in state and private infrastructure, as well as individual property.

Critical Internet Resources and the IANA Transition

The Commission discussed the technical infrastructure and governance framework supporting the critical Internet resources of Internet names and numbers. In particular, the forthcoming Internet Assigned Number Authority (IANA) transition was discussed broadly in this session and again in further detail during the second session.

Many Commissioners also expressed their concerns about the global need to migrate from IPv4 to IPv6 and whether the Commission could make recommendations about what incentives, economic or otherwise, could facilitate this technical transition.

Commissioners stressed the importance of distinguishing between the various "layers" of the Internet, with one taxonomy distinguishing between the physical layer, the protocol layer, the content layer and the social layer. Each layer presents unique possibilities and challenges, with the technical aspects of the Internet clustered in the transit and protocol layers (which does not imply that activity on the content and

social layers is not technically intertwined). Some of the sharpest political battles are likely to be fought (as they often are) over the actual content of the Internet and how content can be used appropriately.

Session 2: Internet Assigned Numbers Authority (IANA) Transition

The second session discussed the announcement of the US Commerce Department's National Telecommunications and Information Administration (NTIA) to transition key domain name functions to the global multistakeholder community. Discussion focused on the technical elements of IANA's mandate, the stewardship role of the Department of Commerce in IANA functionality, and the role that the Commission could play in this debate.

One of the most contentious issues in Internet governance has involved IANA's ties to the US government through a contract with the Internet Corporation for Assigned Names and Numbers (ICANN). The US Department of Commerce also assumes the procedural role of authorizing changes to the root zone file. Some in the session noted that the United States has never actually refused to authorize a change to the root zone file.

It was noted that the topic of the IANA transition is not particularly new, but has been an ongoing Internet governance issue since the formation of ICANN. For the current transition to be approved, the US Department of Commerce has laid out six conditions that need to be satisfied before it will be accepted by the NTIA. At the same time, ICANN has also announced that it is doing a new accountability review.

Although the issue is often framed around the relationship between ICANN and the US government, it was argued that it is important to remember that the Internet is a global entity and the components underlying the Internet's functionality should not belong to any one country, but the Internet community as a whole.

When discussing the GCIG's potential role with regard to the IANA transition, the Commission noted that the idea of reform or transition has been well studied. In this regard, the dominant question was where the Commission could add value to this particular area. The ensuing discussion was, for the most part, a debate about governance and an avoidance of some of the more technical elements of the IANA transition. While some expressed the opinion that avoiding the IANA issue entirely could allow the Commission to focus on other areas where the Commission's impact would be greater, others maintained the Commission could use this as opportunity to comment on the IANA transition as an example of governance and governance reform in particular.

Similarly, the Commission articulated that it should focus on ways to enhance the current multi-stakeholder model of Internet governance, of which both ICANN accountability and the IANA transition are crucial components. The IANA transition specifically, and ICANN governance functions in general,

provide a focal point for the Commission to consider and comment on broad thematic issues, such as who governs, why govern and what to govern. It also raises larger questions about legitimacy in this governance space, whether the model is truly multi-stakeholder, who are the relevant communities, and how to ensure transparent and accountable governance.

Commissioners expressed numerous perspectives during this second session, carefully considering the prospect of ICANN reform and potential roles for the Commission. Ultimately, the Commission determined that the Secretariat will keep the Commission apprised of the situation, but that focusing on the ICANN/IANA transition would not be desirable.

Session 3: GCIG Work Agenda

During the final session of the meeting, the Commission synthesized the preceding discussion into an immediate work plan and thematic strategy for forthcoming Commission meetings. The Commission will focus on the social, political and economic elements of various forms of Internet fragmentation at its next meeting.

Prior to delving into the substantive question of the GCIG's work agenda, the Commission reviewed the upcoming meetings of the GCIG. The first one will take place in Seoul, Korea on October 13–15, 2014 to coincide with the World Knowledge Forum (October 14–16). The second meeting will take place in Ottawa, Canada on November 23–25, 2014.

To summarize, the content of the first session of the day was divided into six thematic areas: 1) ICANN reform and the IANA transition, with the potential for the Commission to provide guidance on this issue in the short term; 2) Internet governance modalities such as the multi-stakeholder model and issues of law and jurisdictional boundaries; 3) cyber security and cyber threats, including critical infrastructure protection, cybercrime, cyber conflict, securing economic and social systems, securing systems of Internet governance and developing cooperative responses to threats; 4) human rights online, including privacy, data protection and freedom of expression; 5) the role of the Internet in promoting innovation, economic development and global growth, including topics such as cryptographic currencies, global innovation and growth, net neutrality and traffic prioritization issues, private intermediaries and terms of service, intellectual property rights, the spread of the Internet to developing countries and digital divide issues; and 6) infrastructure stability and other technical issues such as Internet fragmentation, the IPv6 transition and standards openness.

The Commission's deliberation about possible topics for the next GCIG meeting in Korea was broad, including a discussion of Commission goals, an assessment of the possibility of establishing (or endorsing existing) recommendations for foundational Internet governance principles, and consideration

of human rights online, jurisdiction and law, or Internet fragmentation as prospective topics for the next meeting.

Several times the Commission discussed the need to specify clear goals. Some Commissioners emphasized the need for the Commission's work to contribute clear policy recommendations. Others noted that a focus on analysis and mechanisms of change would be useful. Finding issue areas where the Commission could have a substantial effect on the outcome was also a suggested goal. The Commission also debated whether the GCIG was fundamentally a norm-sharing or norm-shaping project, as well as the utility of providing a clear definition of the meaning of Internet governance.

A rough consensus emerged around the idea that the Commission's main goal is to influence state-based policy makers. The Commission also noted that a final report as the ultimate product of the GCIG would not be sufficient. Rather, the GCIG should actively engage civil society and decision makers throughout the Commission process. Commissioners expressed a variety of opinions about whether the GCIG should focus only on areas that fall within the purview of the state (and therefore policy makers) or whether a focus on the broad multi-stakeholder nature of the project should be central.

The Commissioners further considered the utility of establishing (or using other previously developed) principles to guide the analysis and work of the GCIG. Establishing principles could help guide and demarcate the Commission's ultimate policy recommendations. The difficulty in establishing principles is in reaching clear principles upon which all can agree. It was agreed that any principles used to guide the Commission's work must provide a basis for resolving differences rather than serving as a source of contention.

The conversation turned to thematic topics for the next meeting of the GCIG. Commissioners noted that disaggregating and clarifying the multi-stakeholder model would likely take the GCIG into a difficult conceptual space. At the same time, failing to disaggregate and assess various governance models ignores concerns that some actors are excluded or under-represented. Ignoring or failing to identify these concerns could undermine the widespread applicability of the Commission's work. Disaggregating the concept of governance would provide a clear view of the areas in which global Internet governance is functioning versus areas that are problematic. Commissioners noted that issues of legitimacy and "rules of the road" for governance were both potentially important tracks to pursue.

Another possible way forward would be to find a way to balance human rights and other interests online. Balancing rights and interests is difficult because the units of comparison are distinct (rights are not the same thing as economic interests, for example). However, this issue of balance is central to the whole question of Internet governance. Moreover, balance is not just between states and citizens, but also between citizens and private, often for-profit, actors.

A distinct, but related, topic to the issue of balancing rights and interests online is the question of law and jurisdiction, which the Commission could consider going forward. The Commission noted that answering questions about the applicability of national and international laws is crucial for finding clear Internet governance solutions. It is not always clear where data physically resides or what national laws apply to data in transit. Also, as Internet penetration rates continue to rise and billions more people come online, there is likely to be a shift in the dominant rules of the system, which the Commission felt could be usefully considered.

Finally, the Commission decided to focus the next meeting on the issue of Internet fragmentation and its social, economic and geopolitical ramifications. The Commission raised the idea that it could be useful to consider fragmentation scenarios that explain the possible ways in which the Internet could fragment. This course of action would allow for a better understanding of the effects of different forms of fragmentation and their impact on areas such as human rights, economic growth and security. It would also allow for a clearer, more specific set of policy recommendations. Ultimately, at the end of the final session, the Commission decided to focus on the issue of Internet fragmentation at the next meeting of the GCIG in Seoul, through scenarios and threat assessment techniques.