

Multistakeholderism: Moving Past “Miracle Remedy” Status?

Francesca Musiani – Associate Research Professor & Deputy Director of Centre for Internet and Society, CNRS, France¹

In its early days, the Internet has been experienced and self-administered by peers, most of them American computer experts. The United States government, which largely funded its creation, claims historic responsibility for its management and development - from which its businesses have benefited greatly. But since the Internet of pioneers became the backbone of contemporary economies and societies, the challenges of the “information society” burst into the field of public policy. The United Nations General Assembly thus decided, in the early 2000s, to dedicate to such challenges a new world summit – the WSIS – which, unlike its predecessors, was to encourage intergovernmental organizations, including international and regional institutions, NGOs, civil society and the private sector, to contribute and actively participate in Internet governance processes. Its organization was entrusted to the International Telecommunication Union (ITU), but the legitimacy of this structure - a multilateral agency created for governing telegraph networks in the 19th century - and its missions were immediately contested in the name of newly acquired positions, of a liberal-libertarian ideology and a management model – primarily embodied by ICANN – which had proven itself during the early rapid expansion of the Internet. Varied geometry alliance games between states and companies, between government delegations and civil society, between technical and academic experts, then unfolded, with a vagueness of roles and interests which was at times strategically nurtured. The failure of the summit at a functional level led to the creation of the IGF to “continue the dialogue” between different stakeholders in international internet governance, “on an equal footing”, but without power of recommendation or decision.

A “new form of political community”

The vision which presides over this new form of political community, as Milton Mueller described it, where decision is disconnected from debates, stumbles on an absence of clear definition of the process and a reality *de facto* much less rebellious to the stakes of power.

For example, the nonprofit Californian private law association, ICANN, immediately presented itself as the epitome of a multistakeholder operation, by virtue of its structure – a set of entities and advisory committees, including one for governments and one for users – and of its procedures – the board of directors only supposed to approve the consensus decisions of the community, and the staff limiting its role to carrying out the decisions of the board. But in practice, the council has always tended to become autonomous and take decisions that did not originate in the multi-stakeholder development process, without being accountable to any representative body. However, all members of the board have always vigorously defended the ability of the multistakeholder model to bring the point of view of Internet users to the world level.

¹ Ver también:

Musiani, F. (2013). “WSIS+10: the self-praising feast of multi-stakeholderism in internet governance”. *Internet Policy Review*, 2(2). DOI: 10.14763/2013.2.121: <https://policyreview.info/articles/analysis/wsis10-self-praising-feast-multi-stakeholderism-internet-governance>

Musiani, F. & Pohle, J. (2014). “NETmundial: only a landmark event if 'Digital Cold War' rhetoric abandoned”. *Internet Policy Review*, 3(1). DOI: 10.14763/2014.1.251: <https://policyreview.info/articles/analysis/netmundial-only-landmark-event-if-digital-cold-war-rhetoric-abandoned>

The IGF, on its end, is a non-decision-making body overseen by the United Nations. Within this organization, the promotion of multistakeholder processes is a structural requirement at the same time as an act of faith. However, its most fervent defender, civil society, oscillates between enthusiasm and disillusionment. Admittedly, since the WSIS, it has been incorporated within an intervention framework that is more or less respected, and its contribution to discussions is widely recognized. But after nearly fifteen annual meetings in different parts of the world and the emergence of regional and national IGFs, the unresolved problems are only piling up, the forum still cannot issue official recommendations and, despite an increase in attendance numbers, the volatility of the participants is combined with the quasi-“professionalization” of a certain number of them. Finally, and above all, the synthesis of the debates mostly escapes “at large” civil society: it happens behind closed doors, first within the Multistakeholder Advisory Group (MAG), which represents a kind of IGF board of directors, then swims through the sinews of the UN commissions and councils mostly without visible practical consequences.

Among the missions of these different instances is a wish to ensure the security and stability of the Internet, organize the participation of all stakeholders, keep the “network of networks” neutral and open, and above all guide its development in accordance with fundamental rights. But the ambiguity has only grown.

A problematic history

At the end of the two phases of WSIS (2003 and 2005), civil society, although officially a “stakeholder”, had produced separate “statements”. During the opening session of NETmundial (2014), the speech of his representative had been applauded. But the method of preparation of this “alternative” summit – by governments only, in the last instance – and the content of the final document remained vague on issues that were essential, such as net neutrality or mass electronic surveillance, and lacked a timetable for action. Thus, they received a lot of criticism from many organizations (e.g. BestBits).

Much more problematic has been the mission, attributed to ICANN, to provide itself with suitable solutions to implement the end of the administration of the United States government over its activities. For a long time, the organization projected for itself an image of both judge and party, soliciting “independent” experts known to have previously collaborated in one or another of its activities. Furthermore, it was very careful to respect the injunction of the National Telecommunications and Information Administration (NTIA) to operate “outside of any intergovernmental solution” the transition to the privatization and internationalization of the IANA function.

Additional proof of the debate being seized by the most powerful actors was given by the NETmundial Initiative between 2014 and 2016, jointly carried by the President of ICANN and the organizers of the Davos World Economic Forum. At the time, the spectre of Dubai was looming large: in December 2012, an ITU conference had proposed to renegotiate a set of regulations on international telecommunications to adapt them to the new realities of the sector². Fearing that this would strengthen the role of the agency on global internet governance, the United States and its allies had refused to sign the final agreement, on the grounds that authoritarian states (Russia, China and several Arab countries) were going to

² Conferência Mundial sobre Telecomunicações Internacionais (WCIT-12), Dubai, 3-4 de dezembro de 2012: <https://www.itu.int/en/wcit-12/Pages/default.aspx>

take advantage of this to strengthen state control over the internet and thereby reaffirm an obsolete concept of sovereignty.

However, the “digital cold war” did not take place, and multi-stakeholderism garnered new political justifications: a decentralized but inclusive regime, a networked power where rights, duties and responsibilities are shared. Its supporters present it as a middle way between opposing visions of internet governance: neither fully self-regulating, nor exclusively privatized, nor entirely subject to state control. This ambition seems out of reach, due to a lack of will, framework and instruments to build a global consensus and to avoid a scenario where some are “more equal” than others. But has something evolved for stakeholders in multistakeholderism, and in particular, for the heterogeneous actor called “civil society”?

“Civil society” at work

The involvement of civil society in debates on Internet governance is part of a long-standing movement of non-state actors’ “participation in public affairs”. According to Pierre-Jean Roca, the relations that the United Nations has maintained with civil society for several decades are based on three visions: functionalism, where the emphasis is on actors’ thematic expertise (in terms of climate, health, diversity linguistic and cultural, freedom of expression, etc.); neo-corporatism, which favors co-management, in development programs for example; and global democracy, emphasizing participation and pluralism.

Within the framework of the WSIS, the UN-civil society relationship involved a mobilization of the expertise of the “technical community”, fighting against the North-South digital divide, and building consensus for a “more democratic” international governance of the Internet. However, civil society at WSIS has mostly oscillated between different levels of institutional coherence, between the quality of an open space and that of a well-organized actor among other actors – as pointed out by Jeanette Hofmann.

Researchers such as Françoise Massit-Folléa and Amar Lakel were able to highlight the positive role played by civil society in this context, stressing that heterogeneity has indeed posed various problems relating to organizational logistics, and also to the substance of the debates, but members of civil society have undoubtedly made it possible to enrich the latter by insisting, more than other actors, on openness, transparency, bottom-up consensus-building, and commitment to universal principles such as human rights. These demands have continued to be apparent in successive IGF meetings, in the creation of regional forums, during Netmundial, and in discussions that take place in multiple forums - UNESCO, Council of Europe, national parliaments, but also at ICANN. However, civil society is itself marked by endless power shifts and controversies, because it fails to resolve the two major problems of representativeness and legitimacy.

For many, it is not particularly problematic that allegedly “civil society” members wear several hats, e.g., engineer of a large company and NGO activist, or researcher who is at once member of a think tank and of a government delegation. However, two camps have emerged, in support or opposition to the leadership of the United States, which initially covered two types of expertise: that of Internet veterans, focused on techno-economic questions and favorable to a minimal regulation, and WSIS-native NGO members, more familiar with negotiation procedures. Through a regular production of well documented analyses and points of view (on the history of the internet, on ICANN, on WSIS), some have become extremely qualified assistants in the organization of WSIS, then the designers and co-managers of the

IGF, physically and conceptually embodying the participative objective of these bodies. Civil society thus self-legitimizes according to two main criteria: a system of values which claims to be universal, and the competence and efficiency of some of its members who have become “semi-professionals” of the UN process. They rely on a juxtaposition of equally worthwhile causes and expertises – at times explicitly recognizing that the unity of “civil society” is complicated to demonstrate.

In international meetings on internet governance, the participation of emerging countries, or least developed countries, has generally increased despite language or resource barriers. However, three problems persist: within the same country, civil society is divided as to the priority problems and the solutions to be provided; at the multilateral level, many governments are sometimes fickle, and this confuses issues for their citizens; finally, skills development for non-Western stakeholders requires human and financial resources (travel grants, training sessions, advisory missions, etc.) which are largely provided by the beneficiaries of the *status quo*.

Seeking legitimization (and coherent strategies)

The question of the political legitimization of international civil society remains a problem. Several authors, for example Marc Raboy, believe that the very organization of the WSIS has provided external legitimacy to the civil society involved in Internet governance – a fragile legitimacy that cannot be compensated for by the law of numbers, hence its permanent exclusion of the decision-making process. Also, the members of civil society at WSIS did not all come from existing NGOs: many, in particular among technical and academic experts, joined it by self-proclamation.

The range and types of action with which civil society is equipped are generally the result of contradictory strategic choices, and Internet governance is not immune to this. Unlike those who accept the game of participation, some activists choose either to counter it or to abstain from it. The first case is illustrated by the existence of alternative forums, when a meeting is held in a country with little or no respect for human rights: this was the case for the WSIS of Tunis in 2005, and more recently with initiatives such as the Internet Ungovernance Forum³, which IGF registrants joined. These names highlight the contradiction between the peaceful quest for an international regime of governance and the concrete situation of Internet users in a particular country. The other, more radical, position is that of cyberactivists who, refusing a debate they deem sterile, challenge it not at the discursive level, but on that of the architecture and applications of the Internet, as Stefania Milan’s work has explored. Promoters and developers of solutions such as free software, peer-to-peer architecture, open roots, encryption and anonymization techniques, propose these as alternatives to the monitoring of Internet users and the capture of their personal data by state security services and the “giants of the Net”, the flagship companies of today’s digital economy.

Several studies have examined the ability of the Internet to empower individuals and groups to seek, share and disseminate information, to create new convergences and new solidarities. Networks have even been understood as new political forms, which would replace representation with temporary and voluntary forms of collaboration around communities of interest. But at the same time, the internet promotes the expansion of a globalized economy that is potentially destructive of cultural diversity and indifferent to the common good. And the increasingly widely shared contestation of current global governance bodies is leading to a

3 https://en.wikipedia.org/wiki/Internet_Ungovernance_Forum

return to issues of national sovereignty, at the risk of the fragmentation of a network that claims to be global.

The concept of multistakeholderism allowed the emergence of civil society as a partner in debates on international internet governance, according to a model based on vague notions of participation and deliberation, oscillating between realism and utopia, and not exempt of conflicts of interest (in the economic and financial senses). But there is evidence – for example in Arne Hintz’s work – that while civil society groups invested in the IGF support the multistakeholder process and plead for its continuation, external activists affirm that civil society is not able to significantly inform an agenda dominated by interests diametrically opposed to his own, except to grant the agenda a legitimacy which it often does not deserve.

To sum up, civil society’s involvement in multistakeholder arrangements suffers from a number of recurring problems: lack of shared vision and inclusion, representativeness based on a form of meritocracy, absence of political legitimacy potentially excluding collaboration in decision-making. This can lead to civil society being more of a symbolic space than a full-fledged political actor. The incongruence of its strategic choices, beyond its attachment to the fundamental principles of human rights, can lead to a weakness of its position in the proposed multistakeholder model, as the current mechanisms and the governing bodies do not actually aim at a redistribution of powers but in fact increase the weight of economic actors on public policies. Furthermore, this model, which has claimed with some reason to be a post-democratic innovation more adapted to the challenges of our century, sometimes confuses the means with the goals. Supposed to raise transnational, non-state actors to the same level as governments, it often ends up reaffirming, with echoes of Barlow, that “the inhabitants of cyberspace need a nation of their own”. Unfortunately, this type of discourse removes the necessity to weigh on the concrete powers of technical and political governance, to the point that it can sometimes be considered a manipulation – voluntary for some, involuntary for others – rather than a positive reconfiguration of the Internet policy public space, despite all the energies and good wills who invest in it. However, at the conclusion of this essay, I wish to suggest a possible way in which the mantra of multistakeholderism can be revisited.

(Multistakeholder) Internet governance as a plural social ordering

The considerable development of the Internet since the 1980s, thanks to the success of the Web, has been of unprecedented speed, which surprisingly has not compromised its structural stability despite nearly 3 billion users and a great diversification of connection tools. It still supports manifold expectations and promises, even if there is a recent tendency to emphasize above all the threats it poses to the functioning of our societies. Its strong growth has led neither to the abolition of borders, nor to the end of inequalities.

It should therefore be recalled that “the Internet” in reality constitutes a complex socio-technical system, whose different components (architecture, infrastructures, computer languages, applications and uses) are the responsibility of various actors, who are forced to collaborate but also compete with each other, and equally diverse modes of regulation, including jurisdictions, contractual links, technological choices, community self-discipline and corporate responsibility. To deal with governance, we must therefore speak to, and for, its plurality. This implies making distinctions: between formal and informal authorities; between their fields of action, operational or normative; between their different levels of openness and accountability, prescribed or voluntary. It is also important to consider that the field of actors concerned by Internet governance actually extends to other international organizations which

manage complex, worldwide socio-technical systems: trade, standardization, intellectual property ... and the environment! It is then a (vast, and complex, but necessary) question to determine which principles and which modalities of action are appropriate for different actors in their relation to the others, to articulate and to order them, in order to determine their effectiveness in a plural reality.

Multistakeholderism may find its place in this perspective, once we downplay its status as a miracle remedy to the crisis of confidence between Internet technical managers and users on the one hand, and between users and national and international political institutions on the other. But to do this, we must begin to distinguish the ways and means to regulate a complex technical system in perpetual evolution, an innovative medium of economic, cultural and social exchanges, and a new vehicle of political relations.

References

- Barlow, J. P. (original 1996, reprint. 2019). "A Declaration of the Independence of Cyberspace". *Duke Law & Technology Review*, 18(1), 5-7.
- Hintz, A. (2014). "Forums on Internet Governance Reveal Tensions Over How the Web Should Be Regulated". *Information Policy*: <https://www.i-policy.org/2014/09/forums-on-internet-governance-reveal-tensions-over-how-the-web-should-be-regulated.html>
- Lakel, A. & Massit-Folléa, F. (2007). "Société civile et gouvernance de l'internet : la construction d'une légitimité ambiguë", *Hermès, La Revue* 2007/1 (n. 47): <https://www.cairn.info/revue-hermes-la-revue-2007-1-page-167.htm#>
- Milan, S. (2013). *Social movements and their technologies: Wiring social change*. Springer.
- Mueller, M. (2014). "Internet nation?" Speech at IGF 2014, Istanbul.
- Raboy, M. (2004). "The World Summit on the Information Society and its Legacy for Global Governance", *The International Journal of Communications*, vol. 66, n° 3-4.
- Roca, P.J. (2001). "Des mandats ambigus, Société civile mondiale. La montée en puissance". N. 63: <http://archives.courrierdelaplanete.org/63/article5.html>