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IOs and the Transforming Global Internet Policy Architectures: From Discourse to Concepts to Instruments

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Abstract

Ten years ago, the United Nations World Summit on the Information Society (WSIS) adopted the concept of Internet governance (IG) and formalized its working definition of this process. In addition to giving it the widest substantive dimension, encompassing any and all normative issues related to the online environment, the WSIS defined the main actors involved in the Internet governance process, namely governments, the private sector and civil society.

However, Intergovernmental Organizations (IOs), whether regional (such as the OECD or the Council of Europe) or global (such as some UN agencies like the ITU and UNESCO), also are crafting roles for themselves as stakeholders. Underlining the need for their invaluable experience, capacity and mandate to co-elaborate binding and non binding standards, they have been trying – with varying degrees of success - to establish themselves as the appropriate settings to deal with the cross-border nature of the network in an effective way.

With a particular focus on a regional organization (the Council of Europe or CoE) and a global UN agency (the UNESCO), explored through a set of interviews of their key leaders and personnel and through the analysis of their main produced outcomes, this paper identifies and assesses the role IOs have been playing in the development of global Internet policy network architectures, through their own actions and outcomes, as well as through their interactions with other stakeholders.

Keywords

International Organizations; Internet Governance; Non State Actors; Global Governance; Multstakeholderism; UNESCO; Council of Europe.

Introduction

A trend today in international relations is the increasing presence of transnational public-private partnerships (Schaferhoff, et. al., 2009; Borzel and Risse, 2005). This reflects the role of Non State actors becoming involved with governance functions that formerly were functions of nation-states or organizations of nation-states. Such partnerships constitute “continuing and relatively institutionalized transboundary interactions, which include public actors, such as governments and international organizations, and private actors” (business and/or civil society actors) (Schaferhoff, et. al., p. 455). In recent years, much work on such partnerships comes from studies of governance and international organizations, especially as it relates to energy, environment and water. (See, for example, the editorial on “Global Water Governance”, (Gupta and Pahl-Wostl, 2013) or the work of Schubert and Gupta (2013) in the same issue that compares three international organization (United Nations) coordination mechanisms, UN Environmental Management Group, UN-Energy and UN-Water.

These mechanisms, while there are differences within each mechanism, coordinate across the UN system and play general, ‘light touch’ roles including agenda setting, knowledge sharing, forum providing, and stakeholders or experts’ convening. The Schubert and Gupta (2013) study focuses primarily on comparing the mechanisms within the UN system rather than focusing in an in-depth way on interactions among non-UN and UN actors. Highlighting the vacuum in formal governance processes in these arenas, the authors argue that ad hoc processes have arisen in order to meet some of these challenges, often leading to missing governance links (such as that between climate change and water governance).

Much less attention, especially when it comes to international organizations, has been paid to a similarly complex and multifaceted arena, that of internet governance. Non State actors and, indeed, a multistakeholder approach are present in the global internet governance ecosystem arena. There is an increasing and multidisciplinary (international law, political science, sociology, communication, computer science, anthropology) literature discussing internet governance challenges and its ecosystem continuities and changes. (See, for example, DeNardis (2014), Radu et. al. (2013), Brousseau, Marzouki, and Méadel (2012), Mueller, (2002, 2010)). Ad hoc processes also abound. Within the United Nations system, several organizations are playing lead roles (UNESCO, the ITU, and also CSTD) while there is also a UN-crafted institutional innovation, the Internet Governance Forum (IGF), a multistakeholder entity with a provision for fostering multistakeholder dialogue and not decision-making. The IGF, now in its ninth year, is only one part of the fuzzy internet governance ecosystem, characterized by multiple entities at multiple governance levels and multiple mandates.

The ecosystem itself also includes local, national and regional governments; standards setting bodies (usually composed of technical experts from a range of countries); international organizations most of which have operated in the internet governance space for many years; representatives of the private sector and especially the relatively new and dramatically growing internet domain name registry sector; ICANN (the Internet Corporation for Assigned Names and Numbers), a

private organization with a public and global purpose- now in the process of reinventing itself with multistakeholder input after sixteen or so years directly under the purview of the US Department of Commerce; and a wide range of NGOs from around the world.

Against this complex and changing policy and practice architecture and against the dynamic panorama of broader global governance, this study specifically focuses on a less-researched topic, international organizations as actors in the internet governance ecosystem, especially in reference to other ecosystem actors. Reporting on research involving several international organizations, each with differing mandates and each with at least some responsibilities related to the internet governance ecosystem (UNESCO and Council of Europe), our study goes beyond structure and characteristics to probe knowledge flow patterns, tracking internet governance related ideas and issues.

It uses Gupta and Pahl- Wostl's (2013, 54) definition of governance as "the exercise of authority, by different social actors in a society, through the development and implementation of explicit and implicit substantive and procedural rules to manage resources for the social good...however, only a small part of the governance spectrum has the authority and legitimacy to make regulatory decisions." Our research notes the blurry interconnections among governance actors and regulatory mechanisms in an uneven, embedded internet governance ecosystem. Indeed, it looks at these less studied 'corners' of the ecosystem—the intersections of international organizations and other ecosystem actors —using a multidirectional stance.

As Orsini et. al. (2013) point out, global governance today is increasingly 'dense'; it involves nuanced, interconnected regime complexes. Building on a definition of regime complex as an "array of partially overlapping and non-hierarchical institutions governing a particular issue area" (Raustiala and Victor, 2004), these authors examine regime complexes primarily related to trade and environmental governance and highlight complex institutional interactions and linkages. Other scholars (Zelli and van Asselt, 2013) identify similar 'dense' qualities in global environmental governance arenas and argue that it is more powerful to focus on interinstitutional linkages; they prefer to use the term 'institutional complexes' rather than regime complexes.

This density and 'messiness' of interinstitutional linkages within environmental governance also applies to internet governance. Moreover, institutions that may be involved in other domains especially those of the environment, health, trade and, increasingly, security or defense arenas also deal with portions of internet governance-related issues. While the earlier-cited environmental governance researchers discuss their own domains, there is great potential in tracing idea and practice flow across domains as well as within interinstitutional policy spaces (Levinson, 2012; Levinson and Cogburn, 2011).

The work of Barnett and Finnemore (2005) established our understanding of international organizations as actors in their own right. Turning to the environmental

governance arena, Keohane and Victor (2011) argue that the presence of regime complexes aids flexibility and adaptation. Schemel (2013) provides compelling arguments that international organizations are, indeed, proactive and resilient entities, which adapt and evolve and even shape their own survival in transformative times and under conditions of resource uncertainty. In sum, he argues that international organizations are adaptive organizations, today partnering with Non State actors for multiple purposes.

Providing additional support and using a database of international organizations covering a twenty-five year period, Tallberg and Colleagues (2014) cogently write of the 'opening up' of international organizations to what they term transnational actors such as civil society organizations. While they do not deal with the internet governance arena, their data do demonstrate international organizations' growing openness to transnational actors over time and in certain issue arenas (human rights, trade and development as opposed to finance and security); there is, they report, no sign of this abating! In sum, Tallberg and colleagues (2014) argue that international organizations today are actually 'political opportunity structures' with, of course, varied opportunity patterns. (See here also the work of Kahler and Lake, 2003 and Avant, 2010.)

In our view, the Tallberg study is very significant but is primarily unidirectional in outlook, focusing on access for transnational actors. We concur with Schemel's work that goes beyond openness or access and reminds us that IOs can be proactive in their own right, reshaping themselves and, indeed, their environments, including interacting proactively with civil society.

There are, indeed, studies that focus directly on other actors such as civil society. Focusing on the United Nations, Weiss and colleagues (2009) craft the argument for a 'third' UN; this third segment refers to those Non State actors partnering and engaging with the UN. Pallas and Uhlin (2014) examine how and when civil society organizations use state actors to influence international organizations rather than or as a higher priority than interacting directly with the international organization. They argue that one needs to understand all points of what we call the ecosystem triangle—the civil society organization, the state, and the international organization and ask the question as to when civil society organizations use the state/state actors to influence international organizations. (Our work actually extends beyond that of the triangle to the ecosystem rectangle—including private forms and associations of firms as well.) Their answer is that civil society will be strategic and use the channel (either through state actors or directly) with which they have the best contacts. (Actually, they identify four elements that are present when civil society has direct contact with an international organization: the porousness or degree of political opportunity structure of a state, the availability of contacts, the possibility for interests alignment, and the relative power of state and international organization contacts. Again, this study does not focus specifically on the internet governance arena.

This paper provides evidence in support of international organizations as strategic actors vis- a-vis Non State actors: we demonstrate that international organizations today are attempting to craft key roles, interacting with Non State actors in the internet governance policy space or arena. International organizations, according to

our data, are organizations that today can demonstrate agility, especially in idea generation and diffusion. Further, we argue that the ambiguity surrounding regime complexes contributes to both the messiness and the adaptation of the Internet governance ecosystem over time. This ambiguity stems from a characteristic of governance systems today, institutional fragmentation, also highlighted clearly by the environmental governance–rooted work of Zelli and van Asselt (2013) or Feiock (2013).

While Bohmelt and colleagues (2014) study civil society in the context of environmental politics and Scholte (2012) researches civil society and the IMF in the context of development, there is very little research focusing directly on international organizations in the current internet governance ecosystem. However, Rogerson (2004), dealt directly with international organizations and internet governance a decade ago. Rogerson (2004) finds that the international organizations he studied were grappling with internet policy as it related then to the developing world. Using content analysis of documents and charters, his work provides a historical foundation for our discussion. Rapidly changing contemporary events (from internet-related security revelations and cybersecurity challenges at local and global levels to increases in regional and national IGFs and global meetings highlighting multistakeholderism and possible structural transitions for ICANN) during the years 2012-2014 have catalyzed the internet governance ecosystem and its actors, providing a dramatic and important setting for our current research.

To capture best the rapidly changing, vibrant Internet governance ecosystem and explore a specific corner of that ecosystem, the intersections of international organizations as organizational actors with a special focus on their relations with civil society, this research uses multiple methods. Interviews with those individuals charged with Internet related policy functions at the international organizations we studied constitute a major data gathering function. Additionally, content analysis of documents and archival analysis amplifies and provides a foundation for interview findings. Finally, observation and participant observation at key meetings adds to data gathering and data analysis.

IOs in IG: Part of government sector or a stakeholder on its own?

Given the period on which this paper focuses (from WSIS First phase PrepCom1 in July 2002 in Geneva to the present), the two IOs we study here (UNESCO and the Council of Europe) have been involved only progressively over time. Moreover, this involvement in Internet governance was by no mean framed as such when they began participating in this policy landscape. Three main reasons can explain this relatively late appearance as actors on the Internet policy stage.

The first reason is general, as it relates to the identification, specification and adoption of the very concept of Internet Governance in its broad sense by all the concerned actors, even beyond the sole IOs.

Paragraph 34 of the Tunis Agenda¹, one of the official outcome of WSIS Second

¹ WSIS Tunis Agenda for the Information Society, WSIS-05/TUNIS/DOC/6(Rev.1) (2005). All WSIS-related documents can be found at <http://www.itu.int/wsis>

phase, provides a formally agreed upon definition that: “*Internet governance is the development and application by Governments, the private sector and civil society, in their respective roles, of shared principles, norms, rules, decision-making procedures, and programmes that shape the evolution and use of the Internet.*” However, the scope of Internet Governance still varies according to the background and objectives of those referring to it, as detailed by Brousseau and Marzouki (2012: 368-371). These diverse understandings relate in particular to *what* is exactly governed, in other words to whether Internet governance field should be restricted to the management of critical Internet resources (mainly infrastructure and protocols) or should embrace any and all Internet policy issues.

The second reason, not limited only to the IOs we studied, is that IOs are not always identified as stakeholders in their own rights in all Internet governance processes, at least not as clearly as other stakeholder categories, such as governments, civil society and the private sector.

The WSIS Geneva Declaration of Principles² shows in its Para. 49 a classical UN understanding of IOs having “*a facilitating role in the coordination of Internet-related public policy issues*”, clearly different from that of other stakeholders, who are, in this understanding, governments, the private sector and civil society: “*The management of the Internet (...) should involve all stakeholders and relevant intergovernmental and international organizations*”. The WSIS Geneva Plan of Action³, adopted the same year, identifies “International and regional Institutions” as a stakeholder in the same way as governments, the private sector and civil society (Para. 3). The WSIS Tunis Commitment⁴ in 2005 (Para. 37) confirms this latter understanding, while the WSIS Tunis Agenda adopted the same year oscillates between both categorizations of IOs (Paras. 29, 33, 35, 61, 72). The WSIS Rules of Procedures⁵, both written and unwritten (so-called “WSIS practice”), also illustrates this fuzziness of categorization.

The IGF, by definition and mandate, has been much more flexible in its practical organization and proceedings since 2006, although the Multistakeholder Advisory Group (MAG), whose purpose is to advise the UN Secretary General on the program and schedule of the IGF (and, in practice, to decide on these), is officially composed of “*Members from governments, the private sector and civil society, including representatives from the academic and technical communities*”⁶. However, the current IGF MAG lists intergovernmental organizations together with the European Commission as a separate MAG category.

Interestingly, the *NetMundial* meeting⁷ convened by the Brazilian government in April 2014, had its multistakeholder Committees composed of representatives of the following stakeholder categories, in addition to governments: civil society, private sector, academia, and the technical community. While two international organizations

² WSIS Geneva Declaration of Principles, WSIS-03/GENEVA/DOC/4-E (2003)

³ WSIS Geneva Plan of Action. WSIS-03/GENEVA/DOC/5-E (2003)

⁴ WSIS Tunis Commitment. WSIS-05/TUNIS/DOC/7-E (2005)

⁵ The multi-stakeholder participation in WSIS and its written and unwritten rules. WSIS document available at <<http://www.itu.int/wsis/basic/multistakeholder.html>>

⁶ “About the MAG”. IGF document available at <<http://www.intgovforum.org/cms/magabout>>

⁷ Global Multistakeholder Meeting on the Future of Internet Governance. Sao Paulo, 23-24 April 2014. <<http://netmundial.br>>

were also part of these structures, they were appointed by the UN Secretary General and were by no means considered as representative of a stakeholder group. Moreover, during the event sessions, speaking rules were such that speakers stood in line, with one line per recognized stakeholder group, speaking in turn: IOs and governments; civil society; private sector; academic and technical communities. The Chair of Working Session One⁸ even confirmed this official division when the representative of the Organization of American States took the floor, telling her that she was mistakenly standing in the civil society line, “*while IOs are part of the government sector*”.

Finally, at ICANN, another part of the complex Internet governance ecosystem, the GAC or Governmental Advisory Committee originally had some international organizations (ITU, WIPO, OECD, the European Commission) as voting members, in the same way as individual governments represented in the GAC. As one interviewee in this study indicates, IOs have only observer status since 2004, following a change in the GAC operating principles. Both IOs that we are studying joined the GAC after this change⁹.

The third reason of relatively late appearance of the two IOs we are studying in this paper as actors on the Internet policy stage relates to their structures, mandates and internal strategies. The two cases of UNESCO and CoE thus need to be addressed separately.

The UNESCO and ‘Internet Universality’: a post-WSIS struggle to “go back in the game”

UNESCO has been involved in Internet governance since the early WSIS days. However, it continues to face the strong competition of the ITU, which was the official UN Agency organizing the Summit. This situation was analyzed as a paradox by many observers, as shown by Raboy and Landry (2006), considering that UNESCO was more appropriate than ITU to take the lead on information and communication issues. However, Brousseau and Marzouki (2012) argue that this alleged paradox proceeds mainly from erroneous analysis, as these observers don’t take into account the historical antecedents of the WSIS. The idea of a high-level international meeting aimed at “reducing the digital divide” was indeed proposed at the ITU’s 1998 plenipotentiary conference, and the meeting purpose was to discuss and find solutions to the global issues of deploying and financing the infrastructure for digital networks and, in particular, the problem of international interconnection costs and of interconnection agreements between intercontinental network operators. However, the idea broadened from an ITU-level meeting to address operational objectives, into a much more ambitious proposal for a World Summit on the Information Society, adopted by the UN General Assembly in December 2001. Almost at the same time, the United Nations adopted its declaration concerning the Millennium Development Goals (MDGs). Although the concept of an “information society” was not mentioned, its main elements – an “emancipatory” vision of technical progress and an instrumental vision of the “information society” – were emphasized. As a matter of fact, almost all stakeholders often referred to the MDGs during the WSIS process as

⁸ Transcripts of working sessions are available on the NetMundial website, see supra note 7.

⁹ See <<https://gacweb.icann.org/display/gacweb/GAC+Observers>>

key issues, motivations, decisions and actions of the Summit.

In this situation, and given the UN rules and agency system, not to mention the strength of ITU among the UN agencies, UNESCO realized that its role could not be that of the WSIS leading organization. During the second phase of the Summit, it thus concentrated on its exclusive domain, namely at that time the discussion and adoption, in its own remit and on its own auspices, of the Convention on the Protection and Promotion of the Diversity of Cultural Expressions¹⁰. In summary, during WSIS, “UNESCO was marginalized by other UN agencies”, as one of our UNESCO interviewees recognized. One of the WSIS main outcome was the creation of the Summit implementation mechanism at the international level, through a number of Action Lines to be moderated and facilitated by UN agencies. This “allowed UNESCO to keep some presence, although the IGF was more relevant and influential” on the post-WSIS scene, according to the same source. The UNESCO was indeed assigned the responsibility of 5 out of the 11 defined Action Lines¹¹, and thus played a lead role - together with ITU, UNDP, UNCTAD and UNDESA - in the UNGIS¹², the United Nations Group on the Information Society, created as an inter-agency coordination body. UNESCO had no particular role in the IGF as created by the WSIS Tunis Agenda.

While UNESCO and other UN agencies kept quiet on the Internet governance scene dominated by the IGF and its multistakeholder structures and participation, a first slight upturn resulted from the creation of the WSIS Forum in 2009, designed to give better visibility to the yearly review of achievements of the WSIS implementation Action lines, as acknowledged in Souter (2010:24-25). The 1st WSIS Forum was held on the same year as the 4th IGF, adopting more or less the same format and “placing Action Line meetings within a context of high-level panels and thematic workshops, which address the ‘big picture’ issues of the Information Society” (Souter 2010). Though rather soft, this first move by UN agencies can clearly be interpreted as a way “to get back in the game”, as one of our UNESCO interviewees put it. This presaged on the one hand future main steps in view of the WSIS+10 Review process¹³, and on the other hand, further positions and initiatives developed by individual UN agencies to regain focus on the Internet governance scene.

In the case of UNESCO, such evolution can be traced through Decisions adopted by its subsequent General Conferences, such as the decision “to strengthen UNESCO’s involvement in the international debate on Internet governance” at the 35th session of its General Conference in 2009¹⁴, “to participate actively in, and contribute substantively to the global debate on Internet governance in the fields of UNESCO’s competence” at the 36th session in 2011¹⁵. By end of 2013, it finally led to the 37th

¹⁰ More information on this convention, which was adopted in 2005, is available on the UNESCO website: <www.unesco.org/new/en/unesco/themes/2005-convention>

¹¹ C3: Access to information and knowledge 30; C7: ICT applications (2 out of 8 sub-lines: e-Learning and e-Science); C8: Cultural and linguistic diversity, and local content; C9: Media ; and C10: The ethical dimension of the Information Society.

¹² See details on UNGIS at : <<http://www.ungis.org/>>

¹³ See details on WSIS+10 at <<http://www.itu.int/wsis/review/2014.html>>

¹⁴ Resolution 62, in Records of the UNESCO General Conference, 35th Session (Vol. 1 – Resolutions). 2009. Available at <<http://www.unesco.org/education/institutes/35cresolutions.pdf>>

¹⁵ Resolution 57, in Records of the UNESCO General Conference, 36th Session (Vol. 1 – Resolutions). 2012. Available at <<http://unesdoc.unesco.org/images/0021/002150/215084e.pdf>>

General Conference to “requests the Director-General to prepare a comprehensive study of the Internet-related issues within the mandate of UNESCO, including access to information and knowledge, freedom of expression, privacy, and ethical dimensions of the information society, containing possible options for future actions through convening an inclusive multi-stakeholder process which includes governments, private sector, civil society, international organizations and the technical community, to inform her report to the General Conference at its 38th session on the implementation of the World Summit on the Information Society (WSIS) outcomes¹⁶”.

This latter Resolution provided the UNESCO Secretariat the green light it wished to present publicly and disseminate its framing concept of “Internet Universality”.

Focusing on UNESCO and one concept, that of internet universality, allows for an examination of IOs crafting an idea that can be called an idea with multi-tasking modalities. The multi-tasking elements refer to the following tasks faced by IOs in the Internet governance space today: the task of innovatively crafting organizational identity, the task of strategically ensuring organizational survivability, and the task of a stakeholder shaping the internet governance ecosystem and its outcomes.

As noted earlier in the discussion of the increased roles for IOs over time, UNESCO as an IO was in danger of being marginalized in the internet governance ecosystem. The ITU (although it is not the subject of direct study in this paper) found itself in a similar situation. These challenges reflect the challenge of what can be termed ecosystem policy space; the possible jockeying for power within the UN system itself as well as with actors outside the UN system. What our document analyses and interview data indicate is the UNESCO creation of an idea, 'Internet universality', its strategic internal dissemination, and its external dissemination and beginning institutionalization. Reviewing the data also helps us understand the policy space issues within the UN system and the related IO identity issues.

In their 2013 report for UNESCO, Mansell and Tremblay recommend in #8: *“UNESCO should take a leading role in all the areas covered by its mandate, encouraging collaborations among those in and outside the UN System with resources to host information portals, to foster measures which support open data initiatives and make information more accessible and provide guidance about how to link data and interpret it in ways that are meaningful to those whose interests are often neglected”*. The report itself does not use the term ‘internet universality’.

On April 18-19, 2011, the CoE held a conference on Internet freedom. As a part of this conference, its Ad Hoc Advisory Group on Cross-Border Internet presented a proposal on the *“Protection and Promotion of Internet’s Universality, Integrity and Openness”*. Indeed, UNESCO speakers in listing other existing initiatives related to the concept of ‘Internet universality’ list this CoE Recommendation¹⁷.

¹⁶ Resolution 52, in Records of the UNESCO General Conference, 37th Session (Vol. 1 – Resolutions). 2014. Available at <<http://unesdoc.unesco.org/images/0022/002261/226162e.pdf>>

¹⁷ Available at <<https://wcd.coe.int/ViewDoc.jsp?id=1835707>>

UNESCO itself reports that the process of discussing 'internet universality' began at the WSIS+10 review meeting in February 2013. This appears to refer to external discussion. They collected feedback on this idea at, as they report here, eight international fora (including the IGF) or by another count, ten fora. (See ITU SIS Newslog, 8 September 2013.) Stating that the concept of 'internet universality' helps to frame much of UNESCO's overall work (not just in the ICT arena), UNESCO highlights this concept's centrality to its work in education, culture, science, social science and communication-information from now until 2021 as well as the concept's ability to create synergies among these areas. Further, and this supports this paper's argument of a 'multi-tasking' concept, UNESCO notes that use of this concepts helps UNESCO in its role of promoting international multistakeholder cooperation with reference to the Internet plus underlines what UNESCO itself can bring to the table for the post-2015 millennium development goals. (Note that the Division of Freedom of Expression and Media Development at UNESCO is the part of the organization appearing to have primary responsibility for creating and collecting feedback first internally and then externally on the concept as well as its dissemination.)

This division utilized the normal UNESCO process of gathering external feedback, once internal support had been garnered, and of ultimately disseminating the concept. Thus, there was a first version in 2013 as well as the more recent second version of "Internet Universality: A Means Toward Building Knowledge Societies and the Post-2015 Development Agenda", opened for further feedback from all stakeholders. Resolution 52 at UNESCO's 37th general conference held in November 2013 utilized this concept as core to the 'Comprehensive Study of Internet Issues' it mandated. (It also mandated the multistakeholder involvement in discussions of this study, leading to UNESCO calls for input in finalizing the study design.)

The UNESCO website presents both internal and external visions of the concept. The internal vision graphic, "*Internet Universality in UNESCO context*" vibrantly portrays 6 dimensions of UNESCO work, showing the integral connection with the concept and surrounding 5 core elements of its UNESCO-wide work: "*a laboratory of ideas, standard-setting, capacity-building, catalyst of international cooperation, and a clearinghouse*".

Presenting the external vision with regard to players in the internet governance ecosystem, UNESCO uses another circular graphic with the concept at the center ("Internet universality: Free, right-based, open and accessible for all") surrounded by 5 circles, each depicting a category as follows: IOs including all the UN system; business community; civil society including NGOs, citizens; Technical and academic communities; and states and national governments. Notice that IOs are listed as a separate category/circle next to the category/circle of states and national governments.

Secretariat officials have been presenting the concept at talks at universities as well as international fora. The UNESCO Press office has also worked on disseminating the concept through its usual means. Additionally, the concept has been promoted in

the twitter-sphere. Throughout, there has been a focus on facilitating feedback and building support, thus solidifying its purview in the internet governance ecosystem.

Putting human rights (and the CoE!) at the center of IG debates

Contrarily to UNESCO, the Council of Europe is not part of the UN system, but rather a regional Treaty organization. As such, it took part in WSIS as an invited observer organization, and had no special role in its secretariat. It is mentioned by the ITU as one of the IOs that “*took a keen interest in WSIS*”¹⁸, with the mention that it “*enforced the Cybercrime Convention in 2004*”. Actually, while the CoE obviously promoted this Convention at WSIS as it does in any relevant forum since its adoption, the core CoE participation to WSIS was not organized around this instrument.

CoE participation at WSIS was rather coordinated internally through two successive “Integrated Projects”, first the one on “Making democratic institutions work”¹⁹ (until 2004), then the one on “The Good Governance in the Information Society”²⁰ (until 2005-2006). These Integrated Projects (IP), both formed under the then Directorate General of Political Affairs, were acting as Secretariat task forces on a given topic. Depending on the project, an IP could involve inter-sectoral and interdisciplinary teams from different Directorates. That was specifically the case of the second IP, where “*the media sector gained of course importance*”, as one of our CoE interviewees underlined, and as we will later develop this growing importance of the media sector in the field led to a major turn in the CoE perspectives on Internet governance.

WSIS first phase and early steps of the its second phase have thus seen a CoE involvement mainly directed at the respect for democracy and the rule of law, two of the three pillars of the CoE, the third one being human rights. As our above cited interviewee told us, “*they are two different communities*”, with slightly different priorities. Both the level of involvement of the Council of Europe and the substance of its contributions to WSIS reflected this situation.

The involvement period coordinated by the “Making democratic institutions work” IP served mainly, as a way to raise internal awareness on WSIS, its issues and its various participating stakeholders (in terms of networking with new external communities). It also led to a comprehensive “Political message from the Council of Europe Committee of Ministers to the World Summit on the Information Society”, a formal document²¹ adopted in June 2003 which served as the CoE official contribution to WSIS first phase in December 2003. While the document starts with a section on “*Human rights and sustainable development*”, human rights are far from constituting the core framing of the message. Other sections, of same importance, include provisions on “*Democracy and citizenship*”, “*Creating trust by the rule of law*”, and “*Cultural diversity and educational empowerment*”. These four declarative sections are then followed by an envisaged “*Action plan*”, which very much reflects possible contributions, within the CoE activities and mandate, to the WSIS Geneva

¹⁸ See <<http://www.itu.int/wsis/basic/actors.html>>

¹⁹ See <http://www.coe.int/t/dgap/democracy/activities/previous%20projects/default_EN.asp>

²⁰ See <http://www.coe.int/t/dgap/democracy/Activities/GGIS/Default_en.asp>

²¹ See <<https://wcd.coe.int/ViewDoc.jsp?id=45673>>

Action Plan. In many aspects, the declarative part of the “Political message” also tried to cope with the diversity of CoE issues as envisioned in the WSIS Geneva Declaration of Principles. Obviously, it also reflects the main scope of the CoE Directorate in charge of its preparation, that is, the then Directorate of Political Affairs. The document includes an appendix with the list of key CoE texts relevant to it, and, interestingly enough, the “*Declaration of the Committee of Ministers on freedom of communication on the Internet*”²², adopted just one month before the “Political message” but prepared separately by the Directorate of Human Rights, is simply listed as a generally relevant text and not even as a key text related to the “*Human rights and sustainable development*” of the Political message.

In summary, the involvement and outcomes of the CoE in this first period until 2004, coordinated by the “Making democratic institutions work” IP, was reflecting a vision of Internet governance as mainly the governance of political affairs using the Internet rather than as the governance of the Internet itself as integral part of the political affairs. This was, after all, coherent with the other activities and outcomes of this Integrated Project, for instance the work on public participation or the outcome Recommendations related to electronic voting.

However, this first involvement of CoE in WSIS greatly helped to raising the awareness of the Council and its other Directorates to increase the importance of its work in the information society field and to open up its work to external participants, which proved in the subsequent years to be a major strength of the Council of Europe over all other IOs in the field. It led to the creation by the CoE of a new Committee, the “Multidisciplinary Ad-Hoc Committee of Experts on the Information Society” (CAHSI²³) in 2004, with duration of one year. The CAHSI mandate was: to “review how the use of Information and Communication Technologies, in particular the Internet and other electronic means of communication, can affect, positively or negatively, human rights and their protection”, in almost all fields related to the three pillars of the CoE, with, this time, a clear insistence on human rights; to prepare draft political Declarations of the Committee of Ministers to be used as its contribution to both the 2005 Summit of Heads of State and Government of the Council of Europe and the WSIS second phase in 2005 as well. At this point, one can note that the Committee of Ministers also targeted the CoE own Summit, which means a clear willing to bring Internet governance issues on its own agenda and that of its Member States. Also worth noting is the CAHSI membership which extends to, besides representatives of Member States and a large number of Council of Europe bodies explicitly listed, two other categories of organizations, beyond the officially recognized observers of the Council of Europe: other IOs, including UN agencies and WSIS secretariat; and civil society and private sector organizations. While only Member States were guaranteed voting rights, as usual and normal, the working methods of the CAHSI allowed non-voting members to participate substantively to the discussions. This choice was a founding format for the subsequent Committees of Experts dealing with information society and Internet governance issues.

Finally, the importance WSIS issues took for the CoE thanks to this first experience was also reflected in the creation of the second Integrated Project on “Good

²² See <<https://wcd.coe.int/ViewDoc.jsp?id=37031>>

²³ See CAHSI terms of references available at <<https://wcd.coe.int/ViewDoc.jsp?id=803697>>

Governance in the Information Society”, starting from 2004 as mentioned above. In addition to the continuation of the work on participation in political affairs (inter alia e-democracy, e-governance, e-voting), that lasted until the end of the duration of the Integrated project in 2010, the cross-Directorate CoE Secretariat task force worked on “Public participation in Internet governance”, as documented in the related CoE webpage²⁴. But regarding this latter issue, there are clearly two moments to be distinguished in this period, attested by our documents analysis, participant observation and interviews we conducted with CoE representatives.

The first moment is the period 2004-2005, where the cross-Directorate CoE task force mainly worked, through the CAHSI, towards the “Declaration of the Committee of Ministers on human rights and the rule of law in the Information Society²⁵” adopted on May 2005, that constituted main CoE contribution to WSIS second phase in Tunis. By many aspects, this document was substantially more advanced and detailed than the “Political message” of 2003. It consists in two parts. The first part, entitled “Human rights in the information society”, details in 8 sections the rights enshrined in the European Convention on Human Rights found relevant to the information society: (1) The right to freedom of expression, information and communication; (2) The right to respect for private life and correspondence; (3) The right to education and the importance of encouraging access to the new information technologies and their use by all without discrimination; (4) The prohibition of slavery and forced labour, and the prohibition of trafficking in human beings; (5) The right to a fair trial and to no punishment without law; (6) The protection of property; (7) The right to free elections; (8) Freedom of assembly. The second part of the document, comprehensive as well, constitutes the first CoE definition of “roles and responsibilities of stakeholders in a multi-stakeholder governance approach for building the Information Society”. The identified stakeholders are, in relation with the CoE: its Member States, civil society, the private sector, and the Council of Europe itself as an IO.

The format of this document, its substance, the way it addresses the different stakeholders and, as earlier mentioned in the paper, the methodology of its preparation through an ad hoc committee of experts (here, the CAHSI) are foundational to subsequent work of the Council of Europe on issues related to Internet governance, focused on a human rights approach, that led to a number of Recommendations which, though being non binding instruments, are the second level under the Convention or Treaty in the CoE hierarchy of legal standards. Moreover, the section related to the Council of Europe in the part on the role of stakeholders sets the agenda for the CoE work program in subsequent years, till this day. Consequently, from this point on, the Council of Europe became the major, inescapable actor of any and all Internet governance arena, fighting hard to put human rights at the center of any Internet governance arrangement, as well as practicing and encouraging the participation of all stakeholders in these debates and their outcomes. Obviously, there could be and there have been critical views, sometimes strongly expressed on the detailed provisions or one or the other document²⁶. However, in addition to the fact that this discussion is not the purpose of

²⁴ See <http://www.coe.int/t/dgap/democracy/Activities/GGIS/Public_participation_internet_governance/Default_en.asp>

²⁵ See <<https://wcd.coe.int/ViewDoc.jsp?id=849061>>

²⁶ See for instance the petition campaign of the European Digital Rights NGO against the Council of Europe Recommendation on promoting freedom of expression and information in the new information and communications environment (2007) <<http://edri.org/coerec200711/>>

this paper, the fact is that the satisfaction with the CoE participation to the global Internet governance discussion is attested and largely shared, especially in civil society circles, including those organizations that are sometimes critical. As a matter of fact, one of our interviewees was proud to mention that people tells them: *“the CoE is the most advanced IO in Internet governance in the world”*.

This major turn of the Council of Europe vision after 2004, which “puts back on its feet” the concept of Internet governance as the governance of the Internet itself, its actors and its usages finds its main explanation in the institutional interplay inside the CoE Secretariat, as the interviews we conducted and the observations we made have shown. First of all, as we mentioned earlier in the paper, *“the media sector gained of course importance”* with the establishment of the second Integrated Project on “Good governance in the information society” and our interviewees acknowledged that, inside the Council of Europe Secretariat, *“there is a competition between departments, which is not unique to the CoE since it happens everywhere”*, and especially in all administrations, including that of IOs. Each department tries then to flesh out the common project with its own concerns and visions. This is what happened with the media division involvement in the project since 2004, bearing in mind that the media division was part of the Directorate of Human Rights at that time²⁷, and it *“took over”* the responsibility of CoE Internet governance post-WSIS. As other interviewees from the CoE told us: *“when we wanted to work on human rights in the information society, we were told that the world out there is that there is nothing more to discuss about human rights. Then we strategized.”* The first result of this internal dynamics which started early 2005 was the strong human rights orientation of the CoE contribution to WSIS Tunis second phase, as discussed above.

After 2005, the CoE involvement in the Internet governance arena rapidly increased, in such a way that it has become the inescapable actor as we mentioned earlier: at the global level a growing power at the IGFs attested by the growing number of workshops and main sessions organized, co-organized, or showing its participation, from the first one in Athens in 2006 to the last one to date in Bali in 2013; at the regional level the launching in Strasbourg in 2009 of the first European dialogue on Internet governance (EuroDIG²⁸), which acts yearly since then as a regional IGF with the CoE being the focal organizer of the event; and even at the national level, since the CoE tries to participate, even if with a single representative, to each national IGF organized in Europe and its neighborhood. The CoE also participates in the ICANN Governmental Advisory Committee (GAC) as an observer (given its IO status). Internet governance also gained a high profile internally to the Council of Europe since 2005. The *“strategized”* vision of an information society and an Internet governance concept founded on human rights led to the adoption by the Committee of Ministers of no less than 9 Declarations between 2008 and 2013, and 12 Recommendations between 2006 and 2014, to only mention documents adopted so far and directly related to human rights in Internet governance. These documents were successively drafted by 4 Committees of experts established after the CAHSI: The Group of Specialists on Human Rights in the Information Society (MC-S-IS,

²⁷ A major restructuring of the Council of Europe Secretariat organigram occurred in 2012, leading inter alia to the creation of the Directorate General 1 on Human Rights and the Rule of Law, under which media, information society, and Internet governance works are conducted since then.

²⁸ See <<http://www.eurodig.org>>

2005-2008); the Committee of Experts on New Media (MC-NM, 2009-2011), the Ad hoc Advisory Group on Cross-border Internet (MC-S-CI, 2010-2011); The Committee of Experts on Rights of Internet Users (MSI-DUI, 2012-2013). Finally, the main achievement of the “strategized” vision culminated with the adoption in 2012 of the “Council of Europe Internet Governance Strategy 2012-2015²⁹”. The CoE Internet governance strategy is described in a very comprehensive document that articulates the works of the different CoE sectors around *“a coherent vision for a sustainable long-term approach to the Internet. Its success will depend greatly on multi-stakeholder dialogue and support”*. It is *“implemented using existing Council of Europe resources, establishing necessary links between activities and actors, using available tools to address specific issues and establishing strategic partnerships”*. *“At programme level, internal and external co-operation will be ensured by the Council of Europe’s Directorate General on Human Rights and Rule of Law which will lead the strategic planning, implementation and evaluation of the strategy”*. And, as one expects in terms of objectives, the CoE Internet governance strategy *“identifies priorities and sets goals (...) to advance the protection and respect for human rights, the rule of law and democracy on the Internet”*.

Conclusion

The Internet governance arena is one characterized by dramatic change in almost all of its dimensions and it is still evolving. Whether the complexity of its ecosystem or the rapidity of technological change, the research reported here illustrates the related change in one set of ecosystem actors, the International organizations. From residing in the periphery, the IOs we are studying and the two case presented here illustrate that these IOS have proactively promulgated identities and ideas to re energize their organizations and move more toward the core, also demonstrating the importance of approaching IOs as organizations and not just as entities created by nation states to carry out their work.

The creation, dissemination, and utilization of ‘Internet universality’ amplify Tallberg et al. (2014) work on international organizations as ‘political opportunity structures’. While Tallberg et al. did not examine the internet governance ecosystem per se in their study, the findings reported here clearly demonstrate how UNESCO, as an IO in a time of technological transformation and in a contested UN system wide policy space, carved out and continues to demarcate a strategic piece of the internet governance policy ‘pie’, linked it to its own distinctive mission, and build support for its dissemination through its stakeholder feedback/consultation process. Thus, the ‘internet universality’ case study supports through its findings this paper’s analysis of the reinvention of the two IOs studied, enabling their movement from periphery to a more core position with regard to the internet governance policy ecosystem.

Moreover, discussing the empowerment of IOs in the information field, Schemel (2012) identifies in addition four strategies that weak or jeopardized organizations may develop towards external partners or adversaries: mandate enlargement, coalition and controlled overlap, nesting and mutual recognition. It further shows that, internally, IOs have no choice but to adopt two deliberating systems: the duplication of decision-making into formal and informal processes, on the one hand,

²⁹ See <<http://tinyurl.com/puogxgj>>

and cross-regulation between bureaucratic and political circuits, on the other hand. The case of the Council of Europe strategizing to put human rights at the center of Internet governance debates and, at the same time, to make itself an inescapable actor in the field, fully supports this analysis.

Future research needs to examine additional international organizations, using a range of research tools calibrated to capture these nuanced and changing roles, as they continue to evolve. It also needs to examine in detail international organization interaction with other stakeholder groups with a focus on internet governance outcomes.

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