DRAFT

Chapter Six

(Global) Internet Governance and Its Discontents

M~~arianne~~ I. Franklin

[6.0] ENTRY POINTS: CONTINUITIES AND DISRUPTIONS

[6.1] Deliberations on the day-to-day running of the Internet that once took place in venues far removed from the public eye, presided over by technical and legal experts, now make the headline news around the world.[1] The amount of media attention currently being given to decisions about the Internet's design, access, and use is at a level unforeseen by those individuals and groups working to make what used to be referred to as *global media* policy agendas and that now go under the name of *Internet governance* more socioculturally inclusive and politically accountable. But it is only since 2013 when Edward Snowden, former contractor with the U.S. National Security Agency (NSA), leaked evidence of unlawful forms of mass online surveillance at the behest of the U.S., UK, and other governments that policy making at the nexus of human rights and the Internet have taken center stage.[2] These revelations and their political fallout around the world have provided an important impetus to efforts, from civil society as well as some intergovernmental organizations (IGOs), to see Internet policy making more consciously framed within international human rights law and norms.[3]

[6.2] What this shift from behind the scenes to front of house means is that socioculturally inflected priorities for Internet policy making are now part of the agendas that have been largely framed by the technical and economic priorities of computer engineers and Internet businesses. Nongovernmental organizations (NGOs), grassroots groups, and other sorts of civil society organizations (CSOs), or hybrid advocacy networks, have also been making their voices heard in settings dominated by a constellation of intergovern-

mental and quasi-nongovernmental bodies primarily concerned with the *technical* or *legal* dimensions of the Internet as an *economic* undertaking. This shift to more diverse participation and topics on the agenda has been taking place over the last decade in particular. Nonetheless the view that decisions about the Internet's design, access, and use are primarily technical questions, and thereby socially and politically neutral, remains strong amongst those communities of engineers and computer programmers who have been at the forefront of the Internet's development.[4] Once a narrow term for these informal networks of experts and technical decision making based predominately in the United States, the term *Internet governance* now covers the full spectrum of activities pertaining to how the Internet works; at the level of national legislatures, ~~there are~~ UN agencies such as the International Telecommunication Union (ITU) and UNESCO, and other sorts of standards-making bodies such as the Internet Engineering Task Force (IETF).[5] An added factor in this diversifying landscape of Internet-governance processes, and actors looking to steer these outcomes, is the incumbent power of corporations that own and control the lion's share of the Internet's current configuration of "Web 2.0" generation of *social media* products and services.[6]

[6.3] The increasingly proactive role of governments and ~~the~~ UN in promoting Internet governance as an international, and thereby geopolitical, undertaking collides in many respects with this way of doing business, based on the assumption that the Internet owes its existence to neoliberal, free market economics premised on minimal state intervention. Whilst others argue the converse, that the Internet owes its existence to government, research, and military funding, the arrival of civil society activists across the spectrum of Internet-governance venues underscores how these once expert-led and relatively inaccessible arenas for laypersons are now populated by technically and politically savvy participants looking to influence the terms of reference for a range of agendas. Civil society organizations and affiliated networks have become more organized, apparently better funded, and more visible in these intergovernmental and business-led settings.[7] The role and historical influence of civil society as a stakeholder of circumstance, as arbiter or co-accomplice in current and future decision-making, is a source of ~~intense debate~~ within these networks, fueling in turn scholarly debates about the past, present, and future of Internet governance as an implicitly *inclusive* and *participatory* rather than a predominately intergovernmental process.[8]

[6.4] Meanwhile the historical heartlands of the Internet—as an idea, way of life, and business—the United States first and foremost but also western Europe, face stiff competition from other contenders in setting the intergovernmental, that is, global, agenda for the future of the Internet's design, access, and use. Whilst these UN member states variously stake their claims on the agenda as primarily a matter of national sovereignty, day-to-day deci-

sions about the regulation of online content for commercial services such as Facebook or Twitter pay less heed to national boundaries. In addition, the incumbent powers in setting the agenda based in the United States, UK, and western Europe are facing increasing competition from major economies based in the Global South~~, namely,~~ Brazil, Russia, India, China, and South Africa (the so-called BRICS countries). These shifts were already in place before the events of 2013, the aforementioned "Snowden revelations" of mass surveillance online, saw human rights considerations come to the fore and so emerge as a "wild card into the mix" of Internet-governance geopolitics according to some observers.[9]

[6.5] In short, Internet governance is being increasingly regarded as an international human rights affair.[10] How—and when—this shift took place is beyond the means of this chapter.[11] Suffice it to say that debates over the human rights implications for Internet design, access, and use now encapsulate Internet governance and its discontents at this historical juncture. This shift in the form and substance of policy agendas, for human rights and other issues around cyberveillance,[12] has also accentuated a number of ongoing and emergent issues about the constitution of Internet governance in terms of main actors and processes: for example, who rings any changes in how the Internet is run through, say, decisions made at ICANN meetings around the world on Internet domain names and addresses,[13] or standards-making organizations such as the International Telecommunications Union (ITU) as their work straddles transnational and national jurisdictions at cross-sector and cross-border events that are variously open to "stakeholders."[14] This means that Internet governance, as it is currently construed and practiced as both process and outcome, challenges technocentric, state-centric and business-centric models for running the Internet simultaneously.[15] In this respect the involvement of civil society organizations has raised its own set of questions about accountability as these nonstate actors challenge, or affirm, ongoing "public-private partnerships" between government and business to roll out Internet access on a global level or provide content and other online services.[16]

[6.6] CHAPTER RATIONALE

[6.7] By now it should be apparent that the term *Internet governance* is the object of some debate as well as a set of hotly contested processes between diverse interests that both compete and cooperate with one another. This also means that like the history of the Internet itself, that of Internet governance is still being written. This chapter aims to pinpoint some of the most pressing issues that preoccupy the multisited (i.e., online and/or off line) cross-sector spaces in which agendas are set and decisions taken. It is a discussion that comes

from a particular point of view, namely~~,~~ that of longstanding participant-observation research into the Internet-politics-society nexus and more recently direct involvement in human rights advocacy in some of these venues and processes from an engaged critical scholarly and lay perspective.[17]

[6.8] First I provide some historical and definitional orientation points, in order to help the reader navigate the dizzying array of possible topics that jostle for attention ~~for~~ any discussion of Internet policy making. After a brief look at two milestones in the establishment of Internet governance as a global undertaking, we move to the participatory and conceptual issues that constitute different visions of Internet governance and the dynamics of agenda setting that fall under this rubric. For heuristic purposes, I will discuss these meta-level concerns in light of debates around *where* Internet governance takes place—or is seen to be taking place—*how* it is organized (as a conscious strategy, by convention, or in response to mobilization), and *who* gets to take part. This approach may seem counterintuitive in that identifying key issues usually starts with articulating these in substantive terms. But as Internet governance as a term takes leave of its once-narrow, engineering, and problem-solving definition and as its closed-shop, technophile, and expert-led venues go global, this undertaking becomes in itself an issue of some magnitude.[18]

[6.9] Decisions, and intense debates about who gets to call the shots that have been taking place behind the scenes, at the "back end" of the Internet's daily operations,[19] have direct and indirect consequences for how individuals and communities are able to access and use the Internet of the day. As the human rights–Internet nexus shows, claims that Internet governance is primarily a technical problem-solving exercise, disconnected from the immediate or wider socioeconomic or political context in which said problem arises, no longer holds sway. For example, changes in the "privacy settings" of major service providers such as Facebook and Google in recent years have highlighted that the repercussions for how millions of people socialize, maintain family relationships, or get their work done go far beyond the technical parameters of software "upgrades."[20]

NAVIGATING ~~HISTORICAL,~~ DEFINITIONAL, AND INSTITUTIONAL TERRAINS [6.10]

[6.11] This chapter started with problematizing rather than defining Internet governance. However, a working definition does exist, a much-cited albeit circular articulation of this process. Established during the UN-brokered World Summit on the Information Society, or WSIS (2003–2005), that ushered in Internet policy making as an intergovernmental undertaking, the

Working Group on Internet Governance set up as part of these meetings concluded that the term denoted

[6.12]

> 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. . . . This working definition reinforces the concept of inclusiveness of Governments, the private sector and civil society in the mechanisms of Internet governance.[21]

[6.13] It would not be exaggerating to note that a decade on, nearly every term in this working definition continues to be hotly contested; also debated is the extent of these "respective roles" in legal and technical terms, technological and commercial changes to the Internet since this working group's deliberations, which principles or norms are shared and by whom and in a so-called post-Snowden context, and who is responsible for restoring "trust" in this very model of governance.

[6.14] To grasp the intensity of these ensuing debates, we need to move past this rather functionalist definition however. For the purposes of this discussion, let me offer an additional conceptualization. ~~Namely,~~ Internet governance can be taken as a rubric for a set of techno-economically and ~~techno-~~socio-culturally constituted *political* processes that concern ownership and control of a planetary constellation of information and communication technologies (the Internet in short) and corollary service provisions that have transformed regulatory and conceptual conventions that separate pre-Internet media and telecommunications from computer-mediated ones. The way people, states and businesses use the Internet in turn is in the process of transforming conventional understandings of national jurisdiction, sovereignty and with that the constitution of multilateral institutions such as the UN as ipso facto intergovernmental organizations.[22]

[6.15] Getting to grips with struggles over the form and substance of *global* Internet governance at this historical juncture also means tackling those around the impact of Internet-dependent media and communications on "traditional" broadcasting and print media on the one hand and, on the other, telecommunications. In this respect the Internet, broadly defined, emerges in the scholarly and policy literature in various ways, for example, construed as "new media."[23] In practical terms, the converging of traditional media sectors with computing and Internet communications has had major repercussions for longstanding administrative and disciplinary separations between media policy and law on the one hand and, on the other, Internet policy and law.[24] Moreover, the Internet, and struggles over how it has been governed, alongside shifts in debates about how it should be governed, concerns a particular historical conjuncture of predominately computer-dependent modes of communication, knowledge exchange, human association, and

sociopolitical organization that are now being put in place by design as much as they are unintended consequences.[25]

[6.16] The terms of access and use and then the content that is produced online and then circulated as not only substantive material (words, images, and sounds) but also statistics of use, known as *metadata management* (the storage and use of digital information about where and how people, users, access the Internet as they produce both traffic and content), are important distinctions under the common use of the term *the Internet*. This has become a catchall term for what are planetary computerized communications with quite local, personalized characteristics that indicate who and what individual users are doing whilst they are online, and how and when they are online. All these data accrue though the ability of software applications to track, store, and process these burgeoning databases of our "digital imagination,"[26] without which the Internet as a globally distributed "thinking machine"[27] and imaginary would not be thinkable. From the World Wide Web applications that arguably turned the Internet from a computer geek tool to a mass medium and to the Google (search engine and allied services such as YouTube) dominance of how people surf/search the web and the social-networking tools such as Facebook (and allied mobile services such as WhatsApp), there is an intimate albeit noncontingent interrelationship between its physical and digital design and ways the people use its products and services. The shift in terminology from "the Internet" to "the World Wide Web" and to "social media" belies the fact that today's Internet still runs on early generations of software codes, computer communications protocols, and the physical (cable and satellite) networks that link computers with each other across a room, a floor, and now around the world. Whether or not it is written with a capital *I* or not, the Internet is much more than the sum of its parts, made up of software and hardware combinations that straddle the microscopic and the planetary. However defined, the Internet has well and truly left the ivory towers of its early years and has become the "mass media" of the early twenty-first century.[28]

[6.17] As to where formalized processes of Internet-governance decisions take place when not occurring within national borders and legal jurisdictions, there are a number of organizations and corollary venues engaged. Some are part of emerging "multistakeholder" institutions, such as the Internet Governance Forum, whilst other venues are based at older UN agencies in the process of reinventing themselves as custodians of the Internet as a global or public good to varying degrees, such as UNESCO. Intergovernmental bodies such as the International Telecommunications Union (ITU), UNESCO, and the UN Conference on Trade and Development (UNCTAD), or the newest UN venue, the Internet Governance Forum (IGF), have divided their "roles and responsibilities" along the aforementioned divide between the technical, sociocultural, and legal dimensions to agenda setting for the

Internet at the international level. For instance, ITU works with treaty-making powers; UNESCO has been charged with a caretaker role of education, development, and freedom of expression; and IGF is premised on being the UN host for consultations that aim to "build global consensus"[29] around the panoply of issues laid out in the Declarations of Principles and Action Plans of preceding UN initiatives.[30]

[6.18] As more explicitly sociocultural agendas for running the Internet gather momentum, those focusing on human rights–based frameworks in particular, we can see how Internet governance has become a term and a locus for a range of competing visions for the future design, access, and use of the Internet for different interests. This pits supporters of pre-Internet notions of national sovereignty and corollary legal jurisdictions against the real-time power of corporate service providers and their copyright powers.

[6.19] RECENT MILESTONES AT THE INTERNATIONAL LEVEL

[6.20] To recall, public awareness and rise in the political and economic stakes of questions around who does, or should, run the Internet took off in 2013 and in the wake of the Internet's role in social unrest and political mobilization in recent years. These major events have unfurled alongside successive waves of furore over commercial service providers' overreaches (e.g., by tracking and archiving of metadata through implicit rather than fully informed consent). Given the impetus provided by the Snowden revelations, it may seem surprising to hear that human rights for the Internet continue to be a contested priority for Internet-governance consultations within technical communities as well as governmental sectors. In the case of rights-based policy agendas for the online environment, how to implement human rights norms, in the relative absence of case law to draw from,[31] and the centrifugal forces of national jurisdiction that pull away from fully fledged global governance institutions are debates that take place in a number of competing venues. These forces are evident within longstanding Internet-governance (IG) organizations such as ICANN, as opponents of national, government-led processes vie with UN agencies for precedence in setting both the agenda and the terms of reference at any given moment. Within this intense reshuffle of intergovernmental and international advocacy priorities and intensifying scholarly debates are those engaged in a range of human rights mobilization for agenda setting around Internet design, access, and use. Here the last few years have seen some substantial progress in the form of official, that is, intergovernmental, recognition that international human rights law and norms and Internet-governance agendas are mutually dependent.

[6.21] Two events at the international level stand out in this regard. Their historical legacy is at time of writing still moot, but the intention of both initiatives

provide two signposts for the future of Internet-governance institutions. First, as noted above, is high-level, intergovernmental recognition of human rights as a foundational, not just an add-on, element to how the Internet should be governed, Second is the official, that is, ostensible, recognition from major intergovernmental bodies such as ITU or UNESCO that Internet governance is also an inherently *multistakeholder* enterprise (more on this term below). The first milestone in this regard is the UN Human Rights Council Resolution of 2012.[32] Entitled "The Promotion, Protection and Enjoyment of Human Rights on the Internet," this resolution encapsulates efforts that both preceded and benefitted from the Snowden revelations of mass online surveillance in 2013 on behalf of putting human rights frameworks for the Internet on the agenda at the highest echelons of UN Human Rights agencies. Resolution A/HRC/RES/20/8

1. *Affirms* that the same rights that people have offline must also be protected online, in particular freedom of expression, which is applicable regardless of frontiers and through any media of one's choice, in accordance with articles 19 of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights; **[6.22]**
2. *Recognizes* the global and open nature of the Internet as a driving force in accelerating progress towards development in its various forms; **[6.23]**
3. *Calls upon* all States to promote and facilitate access to the Internet and international cooperation aimed at the development of media and information and communications facilities in all countries."[33] **[6.24]**

This resolution seals the commitment, in principle at least and in the most general of language, of those signatories to the premise that the online environment also falls under the international human rights law and norms. The ethical and legal issue that arises, however, is that these same states as custodians and generators of human rights under the UN system are also perpetrators of human rights abuses, again online and on the ground.[34] This conflict of interests affects moves by government agencies to prioritize state actors in the Internet-governance domain given their "roles and responsibilities" in enforcing human rights off line and ipso facto online according to international law. **[6.25]**

A second milestone of another sort was the inaugural NETmundial, co-hosted by the Brazilian government and ICANN in April 2014, in São Paulo, Brazil. The outcome of this meeting was the finalization of ~~a draft statement entitled~~ the "NETmundial Multistakeholder Outcome Document."[35] Whilst some of the wording in the final text remains ~~hotly debated~~ amongst civil society participants active in these negotiations,[36] two substantive aspects bear mentioning in terms of what they suggest about how prominent actors **[6.26]**

engaged in molding the "global Internet-governance" agenda see the future. Cohosts of this meeting, Brazil and ICANN, count as key actors in this regard. First, in stronger terms than the UN 2012 Resolution discussed above, this Outcome Document underscores the formative, not simply corollary, role that international human rights law and norms have in this statement's articulation of a "set of common principles and important values" that "should underpin Internet governance principles."[37] The second aspect is the prominent place given to nonstate actors as playing a potentially *equal* role in decision making on Internet design, access, and use. A third point of note is the claim in the statement preamble that this meeting was "a bottom-up, open, and participatory process involving thousands of people from governments, private sector, civil society, technical community, and academia from around the world . . . the first of its kind."[38]

[6.27] The provenance, organization, and eventual outcome of this meeting, one that took place outside the auspices of the UN's Internet Governance Forum and other UN agencies looking to set the agenda (UNESCO and ITU being two cases in point), deserves its own treatment.[39] Moreover fuller research into the power dynamics that became evident in the decisions taken in preparing for this event, and those emerging since participants at the conference agreed to this version as a "nonbinding" undertaking,[40] has yet to emerge. The point I want to make on going to press is that the future of the 2014 NETmundial participatory model as a serious contender to the one pioneered at the UN Internet Governance Forum is a moot point.[41] That said, so is the future of the IGF itself as its continued existence is up for renewal at the UN WSIS+10 meeting in New York, in December 2015.

[6.28] It bears repeating that the first of these milestones was passed before the Snowden revelations ~~of~~ 2013~~.~~ ~~Whilst debates continue, ongoing revelations are revealed~~ of governmental surveillance ~~tools that have been deployed online or~~ deep within the Internet's operational infrastructure without the knowledge let alone full consent of ordinary Internet users, ~~and~~ with the legal compliance of Internet companies~~;~~ ~~this is the first UN resolution that addresses the Internet and human rights together~~. Critics note that high-level resolutions such as these, for all their symbolic power, only scratch the surface. They are far removed from the techno-legal and political practicalities of bringing human rights law and norms to bear on the complex, dense policy domain that encompasses both formal and informal decision making about how the Internet is run, or should be run, on the one hand and, on the other, on how people interact, present themselves, and produce content in public and private "cyberspaces."[42] These issues around implementation (how exactly) and the lack of feasible or affordable legal remedies remain unaddressed. However this first UN acknowledgment that human rights apply to the online environment is now public record, even if its substantive contribution to the implementation of human rights frameworks across the

spectrum of Internet-governance agendas is unclear.[43] It thereby takes its place as part of the long trail of discourses and undertakings that the UN system as a whole and its respective agencies develop as they "frame the world,"[44] in this case in response to "increasing public concern at the national and international levels about the protection and enjoyment of human rights online as well as offline."[45]

[6.29] For this reason, understanding how key issues divide and unite actors engaging across the spectrum of Internet governance as an emergent set of institutions can be divided into two streams: (1) those who take these processes to be a particular sort of inclusive process that sets out to achieve so-called concrete outcomes, and (2) those who focus on steering the discursive, policy-framing, and agenda-setting dimensions to these gatherings. Whether an IT engineer or IT lawyer, politician or career diplomat, or hactivist/activist or Internet policy director of an international NGO or think tank, both dimensions are increasingly important to balance; it is essential to engage in decisions that generate outcomes—policy and official undertakings—whether or not these are legally binding, and intervene in the narrative, larger and specific to any given issue area (e.g., net neutrality, cyberveillance).

RECURRING CONCEPTUAL AND PARTICIPATORY CONUNDRUMS [6.30]

[6.31] There is a paradox at the heart of the term *Internet governance* in that it implies the Internet needs governing at all, that is, formal forms of political oversight that go beyond the informal, expert-run networks responsible for upgrading and maintaining the software codes on the one hand and, on the other, the physical, computer-mediated communications networks comprising successive generations of the Internet's design, access, and use. The aforementioned official definition of Internet governance states, despite evidence to the contrary, that there is a "common understanding of the Internet," whilst "there is not yet a shared view of Internet governance."[46] The latter differences mark out significant differentials in political and legal power over how decisions are taken, who takes those decisions, and on whose behalf.[47]

[6.32] For instance, when it comes to participation in agenda setting, if not decision making, the remit of the Internet Governance Forum, called into being at the 2005 Tunis Summit of the World Summit on the Information Society, explicitly notes that this is to be a "forum for multistakeholder policy dialogue ~~M~~that is~~M~~ *multilateral*, *multistakeholder*, democratic *and* transparent."[48] The term "multistakeholder" has become increasingly politicized in Internet-governance deliberations and agenda setting for the future. For some, this term denotes an emergent form of global democracy whereby governments can be called to account for policy decisions that impact how

the Internet works or is used. For others the same term is a euphemism for legitimating corporate ownership and control of Internet-dependent public services.[49] On this point government representatives differ as well, for such differences of policy and working principles are also differences in political ideology and worldview.

[6.33] The other term—*multilateralism*—which once designated intergovernmental initiatives, or undertakings dependent upon governments' role in law-making (such as human rights), has become positioned as the polar opposite of multistakeholderism, for better or for worse and, again, depending on the point of view. However, as the Tunis agenda cited above shows, the historical record confirms that both terms have their place in these "founding documents" of the UN's establishment of the Internet Governance Forum as a place where member states are one rather than the only constituency. Scholars and activists will continue to wrangle over these two terms for some time to come because, when it comes to human rights, as a legal obligation of UN member states to protect citizens under international law, and businesses to respect these laws when providing goods and services, the tripartite issues of accountability, access to legal remedy (promised but yet to be delivered in web-saturated settings), and enforcement remain under-elucidated areas for consideration and action.

[6.34] Whilst conceptualizing the "Internet" and its governance according to these contested criteria of participation and decision-making responsibilities continues to be grist to the mill for debates, those for whom these struggles are taking place point to the next issue around participation, ~~namely,~~ the one-third of the world's population who are not yet online and who are positioned as either an inferior state of nonconnectivity or aspiring to go online. "Connecting the next billion"[50] is a catchphrase based in the very last of the UN Millennium Development Goals (MDGs) in which the UN undertakes in "cooperation with the private sector, [to] make available benefits of new technologies, especially information and communications" to the Global South.[51]

[6.35] This project to connect the whole world has been reiterated in the last decade of Internet-governance events at the international level, the NETmundial included.[52] But as critics—including from the Global South—note, this emphasis on information and communication technologies (ICT), viz. *the Internet*, as a hi-tech solution for endemic socioeconomic equalities within the Global South as well as between Internet-"rich" and Internet-"poor" parts of the Global North, begs the question of the troubled historical legacy of international development programs that lean heavily on technological solutions.[53] In a year in which the UN Millennium Development Goals are being reviewed fifteen years later, the 1995 UN Beijing Conference on the Status of Women is twenty years on, and the World Summit on the Information Society undergoes its ten-year review, and with the future of the Internet

Governance Forum itself up for renewal, a range of issues queue up to be taken into consideration, for example, around sustainable development, gender rights, access for persons with disability and young people, and increasingly the environmental costs of the electricity-dependent Internet servers and use of nonrenewable resources in the construction of computers and other hardware components. At the heart of these debates, about the viability of multilateral versus multistakeholder models for Internet-governance decision-making processes on the one hand and, on the other, the efficacy of Western, hi-tech modernization imperatives that position the Internet as the answer to global poverty, gender inequalities, and all other social injustices, is the role of governments—or to put it another way, the role of the private sector in providing essential goods and services, of which Internet access is now considered primary.

[6.36] In the meantime, Internet-dependent societies have become mobilized by the human rights implications of both government-sponsored and commercially facilitated forms of mass surveillance and data mining. Internet for Development priorities, referred to as ICT for Development (ICT4D), and its environmental costs, still have some way to go. As such, these issues within or distinct from human rights frameworks for the Internet[54] call upon, indeed require, by international law the active rather than the passive role of governments in setting the rules, enforcing them, and being accountable. They also imply the cooperation of the same governments at the highest level about the key terms of reference of human rights and the Internet in practical terms, on content regulation and terms of use, for instance. And here, as is the case within civil society, intense disagreement is the rule. Moreover, there are powerful lobbies—involving those involved in the earlier prototypes of Internet technologies and the online communities that emerged in the Internet's earliest iterations as part of the U.S. West Coast IT-enthusiast countercultures in the 1980s—that would disagree with any need for regulation apart from technical maintenance. When the adjective "global" is included in the mix, particularly in the context of UN-hosted consultations, this paradox becomes a geopolitical bone of contention, not just a technical problem to solve.

[6.37] This brings us to how participation is linked to location, for the term "global Internet governance" posits a process, a venue, and a constituency that operates in ways that are neither reducible nor confined to national institutions, jurisdictions, or citizenries.[55] Whilst national media and policy-making models continue to operate within pre-Internet-age imaginaries, as nation-based media discourses and electoral priorities, when it comes to Internet governance state actors do not dominate. How the Internet is run has meant a shift in venue, register, and forms of attendance. And these shifts affect how any given Internet-governance issue is understood, conveyed, and contested.

[6.38] WHAT COUNTS AS A KEY ISSUE IS POLITICAL

[6.39] Before concluding let me link the above conundrums to the equally vexed question of what counts as a key issue and who decides when it comes to setting these agendas, for example, (1) how decisions that appear to be purely technical, standard-setting face arguments that they have a role to play in the skewed geographies of Internet access and use; (2) when public services are pitted against for-profit business priorities in decisions where copyright law is involved; or (3) the ongoing standoff between advocates of open-source software and the proprietary software licenses of major corporate players such as Microsoft or Apple. All of these areas have implications for how people access the Internet and use the web as they produce, find, and then share content online.

[6.40] Contentions about which issues are paramount and who decides on past, present, and future decisions about the Internet's design, access, and use have played a constitutive rather than a mimetic role in the history of Internet governance as a relatively new institutional process and, with that, an object of scholarly analysis. Right from the outset, if we were to date the origins of intergovernmental initiatives to institutionalize Internet governance in the ITU-hosted WSIS in 2003–2005,[56] we have seen in the official record debates taking place behind the scenes about the terms and participatory parameters of agenda setting.[57] In current Internet governance speak, the conventional term for these different positions is "stakeholders," according to three broad categories: public (governmental), private (business), and civil society (i.e., nongovernmental organizations).

[6.41] As noted above, the term that encapsulates the notion of Internet governance as an inclusive process of consultation if not decision making, rather than one reserved for governmental representatives alone, is "multistakeholder participation,"[58] *multistakeholderism* for short. The way in which the latter term has been positioned at the opposite end of the spectrum to multilateralism is arguably one of the most contentious issues of Internet governance today—not just who *can* participate but also who gets to decide at the end of the day who *does* take part and consequently who can be called to account and by what means. With human rights now a clear fixture on the agenda, the "roles and responsibilities" of UN member states under international law to uphold and protect human rights as these arise online confront the de facto rule of private Internet service providers on the one hand and, on the other, claims by civil society organizations to be given more than a token role in these proceedings.

[6.42] These debates, echoing precursor initiatives to forge an international consensus on "global media policy," highlight the different political stakes, techno-economic resources, and worldviews of protagonists.[59] Recall, there are those who regard the Internet and its governance as primarily a techno-

economic concern and confront those who privilege the sociocultural—human—dimensions to decisions about the design, access, and use of Internet media and communications. These positions of relative influence (not the same as relative visibility) highlight the extent to which dominant actors work to shape the agenda with or without reference to a growing list of concerns that are anchored in the later treaties and covenants of international human rights law.[60] Containing the Internet-governance agenda within a strictly technical understanding is one way to keep out nontechnical concerns that are nonetheless affected by the way people use the Internet and the way power holders in turn deploy these technologies for various ends against citizens (including residents at home and citizens abroad), in the name of national security or public order, for instance. But these "power holders" who are referred to in these official statements are no longer nation-states, both in working practice and by volition. This means that a disconnect has opened between wider publics, usually addressed as national citizenries or local communities, and those agencies charged with Internet law and policy who are not, by law, directly answerable to these publics. So here we see how differing conceptualizations and models of democracy, or indeed any other political system, are becoming articulated as intrinsically Internet-governance issues. Incumbent UN powerbrokers (e.g., the United States and other permanent members of the Security Council) and voices from the Global South, those states that have a vote in the UN but relatively little say on setting the techno-economic agenda of current consultations, are particularly alert to this nexus.[61] A second point to note is that any decisions about an issue, once identified as significant and then put on the agenda, have repercussions for de jure (existing national and international legal mechanisms), and de facto decision making about the Internet's design, access, or use that also implicates online content production. Stronger still, active parties and analysts, like authors in this volume, have to take into account the recent sea change in popular imaginaries about the uncomfortable interconnection between how ordinary people use the Internet in everyday life and the pressing legal and ethical implications of how states and corporations have been deploying the Internet in turn.[62] Public attention being paid to human rights online in recent years belies, however, awareness by successive U.S. administrations of the Internet's economic implications and with that its political and military dimensions.[63]

[6.43]

This brings me to the third contentious issue: continuity and change in technical and legal terms, in other words, how to distinguish between existing and emerging—new—areas for consideration given the relatively short institutional history of "global Internet governance" consultations at the UN level within longstanding institutions, and the legacy of precursor initiatives to establish global agendas. This legacy is a contentious, indeed cantankerous, one that reaches back into the 1970s.[64] For one thing, the terms of

reference have changed enormously, from "global media debates" to UN Summits on the "Information Society," and to "Internet Governance."[65] As the historical narrative around the origins of the Internet remains open to interpretation and contestation, so does that emerging around how the Internet has been, will be, and indeed should be governed, if at all. There are two dimensions to these debates and how they are articulated as agendas and outcomes. The first continues to concern process and participation. The second concerns substantive issues and outcomes in highly specialized areas that exercise participants in different degrees and in different locations, for instance, those advocating for the internationalization of ICANN.[66] Another example pivots on the technical specifications of national legislation on mandatory filtering of online content, seen as censorship for some, protection of minors for others.[67] In the wake of the Snowden revelations, media coverage of these measures pale in comparison though to those laws being put into place, in the United States and the UK, for instance, that grant law enforcement agencies increasing powers to track and collect users' personal data online in the name of national cybersecurity.[68]

[6.44] Fourth, there are those issues that explicitly link techno-legal, regulatory, and sociocultural agendas under one rubric. Human rights frameworks that can be applied at all points of the Internet's governance are a principal approach in this respect, the gaps between this broad and comprehensive set of aspirations and their implementation in everyday decisions about running the Internet notwithstanding.[69] Whichever narrative holds sway within a respective moment, meeting, or outcome relating to Internet governance as a transborder undertaking, the thing to note is that whether they are couched in engineering, legal, or political terms, these narratives evoke competing visions of Internet futures~~, namely,~~ ~~t~~those pivoting on an Internet premised on ~~ongoing~~ conventions of national sovereignty—territorially bordered citizenries of "netizens" ~~in the face of~~ online and off-line ~~worlds~~ that are indelibly shaped by substantial commercial ownership of the transborder, computer-mediated encounters and transactions of ~~Internet-dependent societies~~.

[6.45] ## IN CONCLUSION

[6.46]

> At least some procedural progress has been made. . . . New ways of participatory political action have been promoted: . . . a multistakeholder approach through the inclusion of all stakeholders, the private sector as well as civil society is being implemented. This is no small step. . . . Obviously we are still at the beginning of a very long process . . . ~~M~~that is,~~M~~ in the very early stages of a possible transformation of the UN decision-making procedure, of the possible development of a new model of global governance which could have repercussions on national politics.[70]

The above observation is from the foreword to a set of critical essays by civil society participants on the first year of the World Summit on the Information Society. Twelve years on it is still pertinent. This chapter has discussed key issues for Internet governance, as a contested notion, within this wider historical context and in the wake of the 2014 NETmundial Outcome Document in which participating governments and other signatories agreed to a "nonbinding" undertaking to promote a model of Internet governance that "*should* promote sustainable and inclusive development and for the promotion of human rights" and do so in ways that ensure "the full involvement of all stakeholders in their respective roles and responsibilities."[71] Whilst the circular reasoning remains the same, there has been a subtle but concerted shift in language and emphasis from those of a decade earlier during the WSIS meetings. ~~Namely,~~ statements that explicitly refer to both "multistakeholder" *and* "multilateral" participatory models have made way for those that omit the latter term altogether.[72] [6.47]

The first point to make by way of a conclusion is to note that Internet governance, in form and substance, is political. By this I mean to say that how the Internet is run, by and for whom, and in which venue according to which rules of engagement has become an explicitly contested process that is subject to competing attempts to institutionalize, and thereby legitimate, the way respective interests wish to ensure "business as usual." How to reconcile this push-and-pull between innovative models (of which the IGF is a primary if much criticized example at the UN, and the recent NETmundial, a prototype that has yet to weather its first year) and established ways of doing things (e.g., at ITU or ICANN meetings) is what lies ahead for the architects of Internet policy making as a particular sort of model for computer-mediated global governance. [6.48]

The second point is that many of the major political and sociocultural issues arising for the future of Internet policy making, as outlined here, are not new, even if their techno-legal implications may be. They articulate longstanding bones of contention that are now rendered for the digital, Internet-dependent Zeitgeist, ~~for example,~~ the power ratio between states and markets (or government regulation versus market-based principles of self-regulation), private versus public ownership and control of critical resources such as the Internet's domain name system, or public service provisions of access and content in light of corporate power to dominate global market share, from Microsoft in the 1990s to Google this century. For the Internet, however defined, is the object of political and economically motivated struggles for control of not only its design, access, and use quite literally but also the narrative. Internet governance is as much a battle of words as it is a technological or business decision.[73] As an object of analysis and advocacy, in practical and political terms the Internet is also both the means and the medium for how governance consultations take place, agendas can be influ- [6.49]

enced, and in turn where outcomes are archived and then accessed for future analysis.

[6.50] This is not to suggest that terms of reference and these larger narratives are simply semantics. The Internet, as a ~~system~~ combined with the paraphernalia of physical cables, gadgets, and communities, is as material a ~~system~~ as it is one based on "virtual" relationships. Substantive legal and technical decisions where experts command our attention make a difference to how people live their lives, polities maintain peace and order (as they see it), and businesses make money. ~~Nonetheless,~~ the term "the Internet" and its "governance" are more than descriptive, unproblematic categories. They have come to encapsulate a cluster of political, economic, and sociocultural transformations that characterize our times. They are terms deployed by major players in the Internet-governance domain, such as ICANN, to conjure up the inevitable march of progress, for example, a future societal vision of the Internet as a transformative "tool" to engineer a particular world order. This epochal role is quite a large burden for an invention that first connected computers to one another so that computing experts could "talk" to each other via their consoles, and do so across physical space and different time zones. It is even quite a lot to carry for its next iteration, as a set of technologies that enabled ordinary people, nonexperts, to connect with one another, find information, and get other things done in relatively easy-to-use ways. Whatever the future may hold, the Internet's current iteration facilitates an ever-greater array of computer-dependent tools and applications that now "infuse our lives. Our homes, our jobs, our social networks—the fundamental pillars of our existence—now demand immediate access to these technologies."[74]

[6.51] Finally, whilst states are charged with making and enforcing human rights law, and companies can call upon their proprietary rights as laid down by intellectual-property guarantees such as copyright, civil society representatives premise their claims on appeals to these laws and norms from a moral and ethical standpoint. This is to my mind the biggest issue for Internet governance from an international, or to put in the IG speak of the day, "global consensus building" perspective. From the point of view of how ordinary people, communities, and polities may use Internet-dependent goods and services, in order to survive if not prosper, the ways in which both states and businesses are seen (not) to carry out their respective responsibilities as "power holders" in their respective "roles and responsibilities to uphold, protect and respect human rights norms"[75] will preoccupy those working in and researching this domain for some time to come.

NOTES [6.52]

1. This chapter is dedicated to the memory of Heike Jensen, critical Internet scholar and civil society activist at World Summit on the Information Society (WSIS) and Internet Governance Forum (IGF) events, who passed away in 2014. Heike championed both a social constructivist approach to Internet-governance research and work to have women's human rights be an integral element in all facets of the Internet's design, access, and use (Jensen 2005, 2006). [6n1]

2. At the global level, these events encompass Wikileaks (2010), the Arab Spring (2010–2011), the Occupy Movement and related actions (2012 and ongoing), and the public furore at news in 2013 that a U.S.-led alliance of Western governments has been engaging in mass online surveillance at the global level; these are the most prominent cases in point at time of writing. In terms of where Internet-governance institutions have been evolving, one of these actors, the Internet Society (2014), has been developing an overview of these various agencies, now accepted as a reasonable representation of the main actors charged with, or assuming the leadership in key decisions about, the running of the Internet; see Franklin (2013, 226–27n3) and Kaspar, Brown, and Varon (2013). For historical accounts, and reflections on UN-hosted international consultations around global media/Internet policy agendas, see Frau-Meigs et al. (2012), Gerbner, Mowlana, and Nordenstreng (1993), Hamelink (1998), and MacBride (1980). [6n2]

3. By this I am referring to the intersection between international human rights law and norms and how the Internet is designed, accessed, and used on the one hand and, on the other, to where international human rights advocacy communities and Internet policy makers converge. [6n3]

4. See, for example, Cerf (2012). [6n4]

5. See Council of Europe (2012, 2014a); Jørgensen (2013); Franklin (2013); and UN Frank La Rue Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, para. 60, Human Rights Council, Seventeenth Session, A/HRC/17/27, May 16, 2011. Standards-setting and treaty-making bodies such as the Internet Engineering Task Force (IETF) or the International Telecommunications Union (ITU) represent two distinct sorts of decision-making bodies in this regard. The Internet Governance Forum (IGF), the United Nations Educational, Scientific and Cultural Organization (UNESCO), and the Council of Europe are in turn another genus of intergovernmental venues, whilst the nongovernmental, private status of the Internet Corporation of Assigned Names and Numbers (ICANN) and its pivotal role in how the Internet works or the lobbying and research of Internet Society (ISoc) is another category again. See note 2 above. [6n5]

6. Whilst not all elements in the Internet's history can be claimed as a U.S. invention—the World Wide Web protocols emerged from state-funded research in Europe, for instance, as did a precursor of the web: Minitel (a French initiative)—today's dominant tools and applications (said "social media") based on the "Web 2.0" design principles and business model (Mandiberg 2012) are predominately United States owned, by private corporations. And to date the main axis of the Internet's physical infrastructure and with that the bulk of its packet-switching traffic still run through the United States itself, passing under U.S. law. The literature on the skewed physical geography of the Internet and how this has impinged on how it has been managed to date is diverse. For celebratory accounts of the shift from the World Wide Web generation of goods and services to the "Web 2.0" social media that dominate today, see Mandiberg (2012); for an analysis of the history and policy implications of U.S. ownership of the domain name system, see Mueller (2002) ~~[Au: Please add to refs.]~~. For a range of views on the role of the state in running the Internet, see Eriksson and Giacomello (2009) as a response to Goldsmith and Wu (2006). And for two largely pessimistic views of the Internet's democratic potential given the U.S. technical and market dominance, see Morozov (2011) and Vaidyanathan (2012). And to get an immediate sense of how the Internet as a physical "network of networks" that spans some of the globe more than others, see the range of up-to-date and historical maps at https://www.telegeography.com/. [6n6]

7. Evidence that the increase in civil society—and this includes academic—attendees at major events on the Internet-governance (IG) calendar is the result of increased funding can be gleaned from the rise in civil society attendance at conferences such as those provided by the Internet Governance Forum, or the European Dialogue on Internet Governance websites. An- [6n7]

other indicator is the increase in professional campaigns for ostensibly civil society agendas,, for example, the 2012 Internet Freedom campaign run by Access Now!, or the Necessary and Proportionate (2013) campaign on Internet privacy by an alliance of U.S.- and UK-based NGOs such as the Electronic Frontier Foundation Privacy International, and article 19. Another indicator in recent years is the formal arrival of large human rights NGOs such as Amnesty International and Human Rights Watch at the 2014 IGF meeting in Istanbul. Debates as to the role of not only private sector but also governmental (e.g., the U.S. State Department) funding of civil society projects, that is, who funds whom and the ensuing agendas that are inferred from these relationships, are an ongoing source of concern within civil society/academic networks active in the IG domain. Journalists and other critics have also been following this "funding trail." The financial clout of companies such as Google (a proactive and prominent funder of research institutes, projects, and events with an Internet-governance theme), the Disney Corporation (a major funder of the 2015 UNESCO Internet Study Conference), and ICANN (co-organizer and major funder of the 2014 NETmundial Meeting in Brazil) as they become more active in supporting major international meetings such as these continues to exercise scholars and participants. See, for example, Guilhot (2005), Lipschutz (2005), and Becker and Niggemeier (2012).

[6n8] 8. More on the privileging of the role of governments vis-à-vis that of the private sector or civil society representation in agenda setting as well as decision making will follow. Suffice it to say that the research literature is characterized by a wide range of perspectives on just this point: see, for example, Jørgensen (2006, 2013), Franklin (2010, 2013), Mueller (2010), Dany (2012), Deibert (2000), Flyverbom (2011), and Singh (2012).

[6n9] 9. Deibert 2015, 15.

[6n10] 10. See Jørgensen (2013) and Council of Europe (2014b).

[6n11] 11. See chapter 3, by Roy Balleste, in this volume.

[6n12] 12. These issues are discussed in Balleste's chapter 3 and other chapters in this volume.

[6n13] 13. ICANN stands for the Internet Corporation for Assigned Names and Numbers, a U.S. nonprofit set up in the late 1990s to oversee the process of assigning Internet addresses and managing requests and revenues from their corresponding "domain names" (e.g., ".com" or ".NZ"). The *domain name system* is what makes the Internet as we know it and with that the way people navigate the web. See Mueller (2002) and Komaitis (2010) for two authoritative studies of this organization and its influence.

[6n14] 14. The IGF, for instance, is open to all-comers in that attendance is based on submitting a form based on self-identified affiliation rather than the need for full accreditation, as is the case with ITU or UN General Assembly events. That said, ensuring that meetings are considered suitably representative of all sectors also involves participation by invitation and funding support (see note 7 above); the 2014 NETmundial Meeting and 2015 UNESCO conference are two cases in point. See note 40 below.

[6n15] 15. I discuss the limitations of state-centric, technocentric, and media-centric analytical models more fully in Franklin (2013, 13 passim). For a discussion of how the way a policy is "framed" plays a formative role in the outcomes of IG decision making and agenda setting, see Jørgensen (2013). See also the rationale behind the Charter of Human Rights and Principles of the Internet (IRP Coalition [2011] 2015) and Zalnieriute and Schneider (2014), examples of two responses to narrowly conceived understandings of Internet-governance priorities developed from within IGF and ICANN constituencies.

[6n16] 16. UN 2000; ITU/WSIS 2005; Jakubowicz 2009; Healy 2012.

[6n17] 17. Franklin 2004, 2005, 2007, 2013.

[6n18] 18. Global Partners 2013; Mueller 2010; Eriksson and Giacomello 2009.

[6n19] 19. Stalder 2012.

[6n20] 20. An example is the case of how to implement the right to privacy online in technical and legal terms, that is, encryption software that allows, by default and by law, for an Internet user to be anonymous when online. The legal and commercial issues that arise for implementing online anonymity as an operational principle of Internet access and web use (ironically for a communications system based on open, end-to-end computer communications across a network as it spans the globe) mean that right, principle, and legal guarantees do not necessarily work hand in hand. At the operational and international legal level, anonymity being deployed to

enable people to exercise their right to privacy online in an absolute sense is technically impossible on the one hand. On the other hand, it is legally and politically complex when applied across legal jurisdiction for those countries where anonymity is unconstitutional, as is the case in Brazil.

21. WGIG 2005, 4. [6n21]
22. Elsewhere I explore how the term *Internet governmentality*, taking a cue from Michel Foucault and others, better encapsulates what is at stake (Franklin 2010, 2013; Lipschutz 2005). [6n22]
23. Jakubowicz 2009; Mandiberg 2012. [6n23]
24. Benedek and Kettemann 2014; Council of Europe (2014b); MacKinnon et al. 2014. [6n24]
25. Mansell and Silverstone 1996. [6n25]
26. Latour 2007; see also ~~L.~~ Lessig, ~~*Code: Version 2.0* (New York: Basic Books,~~ 2006~~)~~, and his arguments about how "code is law." [6n26]
27. Quintas 1996. [6n27]
28. Debates about capitalization of the term, aside from different grammatical conventions in different languages or English dialects (e.g., U.S. versus British English spelling), are beyond this chapter. Suffice it to say that they do relate to different conceptualizations of the object of analysis, as a singular or compound noun. For the record, I no longer use capitals (Franklin 2013) where publishing house styles permit. [6n28]
29. This is in IGF's own words but also refers to the WSIS Tunis Agenda (IGF 2008, 2011; ITU/WSIS 2005). [6n29]
30. For instance, from the ITU hosting of the WSIS process in the first decade of this century to the establishment in 2005 of the UN-based Internet Governance Forum (ITU/WSIS 2005) and its regional spin-off meetings such as the European Dialogue on Internet Governance (EuroDIG) and the Arab or Latin American Internet Governance Forum meetings, and to the changing role and ambitions of ICANN as co-instigator of the 2014 NETmundial Meeting in Brazil (NETmundial 2014) and its mooted successor, the NETmundial Initiative (NMI), to be based at the World Economic Forum in Davos, Switzerland. See ITU/WSIS (2003a, b, 2005), Gerbner, Mowlana, and Nordenstreng (1993), and Frau-Meigs et al. (2012) for more examples and case studies. For a careful reconstruction of the contentious developments around the outlook for the form and substance of the 2014 Brazilian NETmundial Meeting as it purportedly morphs into a World Economic Forum–sponsored project, see Corwin (2014). [6n30]
31. This point is referred to in studies such as Benedek and Kettemann (2014) and the Council of Europe (2014b). [6n31]
32. UN Human Rights Council (2012), A/HRC/RES/20/8. [6n32]
33. Ibid., 2. [6n33]
34. See Vincent (2010, 196) and Clapham (2007, 18–19) on this paradox. [6n34]
35. NETmundial 2014. [6n35]
36. The first is mention of future discussions on "the meaning and application of equal footing" between governments primarily and other protagonists, the private sector, in particular (NETmundial 2014, 11). The other sticking point, for governmental representatives, is mention of "mass and arbitrary surveillance" (ibid.) rather than simply "surveillance." The third contentious point pertains to the insertion of the term "creators" on the same footing as "authors," under the rubric of human rights, by including both the "rights of authors *and creators* as established in law" (ibid., 4) with respect to freedom of/access to information. Critics and observers were quick to note the legal and political problems arising from couching copyright (viz. "intellectual property rights") in the same breath as human rights and fundamental freedoms under international human rights law. Other key points, included as future agenda points or pending developments, were on how this meeting related to the future of the UN-hosted Internet Governance Forum and on changes in the ownership and governance structure of ICANN, the so-called IANA transition (ibid., 10). [6n36]
37. NETmundial 2014, 4. [6n37]
38. Ibid., 2. [6n38]
39. The document is divided in two parts: "Internet Governance Principles" and "Roadmap for the Future Evolution of the Internet Governance" (NETmundial 2014, 4, 8). Human rights are framed as underpinning "Internet governance principles" (ibid., 4) in general, albeit fading [6n39]

from the explicit text as the document addresses "Internet governance *process* principles" (ibid., 6, emphasis added). It is in the latter section and part 2 of the document that we see the term "multistakeholder" (discussed in the following sections) take over—four times in this one page. In total this term appears sixteen times in this twelve-page document, in virtually every major section, including the title. As for "human rights," this term appears nine times. As key word "visibility" is a key indicator of success in outcomes that are archived and accessed via the web's search engines, and "frequency" becomes a marker of failure or success (see Franklin 2007).

[6n40] 40. NETmundial 2014, 2.

[6n41] 41. Participation in the NETmundial was based on submitting an "expression of interest" in attending the meeting, from which "invitations" were issued and financial support was offered (ICANN being a key source of funding and supplier of organizational logistics such as travel bookings). Observers in the lead-up to the actual meeting noted that it took some time for governments to indicate their intention to participate. According to the NETmundial website, "1,480 stakeholders with active voices (including remote participation), from a diversity of 97 nations" took part (NETmundial 2015). Major powers such as the United States, the UK, and EU leader such as Germany, along with India and China, attended, which indicates a degree of success. For without governmental support the meeting would have not had the same traction in terms of its own claims to represent something new. On that point, it bears noting that participation at IGF meetings has always been open, based on submitting an application form (personal information such as passport number, nationality, and contact details). Once approved an interested party can attend. In short, NETmundial is not the first of its kind in terms of open-access attendance criteria for nongovernmental participants.

[6n42] 42. The term "cyberspace" evokes the phenomenological, experiential dimensions to what people do and where people go when "online"; see Franklin (2013, 53–55) for a fuller discussion.

[6n43] 43. In other words, a UN resolution is in itself only a start and for some human rights specialists a far cry from concrete moves to address pressing points of human rights law as they apply or not to the online environment, let alone Internet-governance processes. The ongoing lack of legal remedies that are affordable and accessible for ordinary Internet users who wish to seek redress from Internet giants such as Google or Facebook, or their own governments, continues to haunt critical commentaries on the burgeoning number of documents about Internet-governance "principles" (Jørgensen 2013, 61–62, 220 passim; IRP Coalition [2011] 2015). Court rulings pertaining to human rights online are also emerging as important nodes of debates amongst policy makers and legal experts (Council of Europe 2014b); my thanks to Joanna Kulesza for pressing me on this point.

[6n44] 44. Bøås and McNeill 2004.

[6n45] 45. IRP Coalition [2011] 2015, 1.

[6n46] 46. WGIG 2005, 4.

[6n47] 47. The Internet Society (ISoc), for instance, has shifted its stance of late, saying there is effectively "one single Internet" to promoting the term "the Internet ecosystem." As for definitions, as ISoc also admits "defining the Internet *isn't* easy" (Internet Society 2015, original emphasis). Hence the WGIG's optimism in 2005 that defining the Internet is not an issue continues to be problematic today. Moreover, definitions in this respect have geopolitical loadings within the UN. Whilst dominant countries such as the United States, the UK, and western European states tend to echo the sentiments above, other influential UN member states, China as a prime example but also Brazil and India, maintain that there is a distinction between a U.S.-centric "global" Internet, nation-based infrastructures with respective terms of access and use, and content regulation. Since the Snowden revelations, dominant EU states such as Germany have also shifted their view that a U.S.-centric infrastructure is appropriate given the jurisdictional power that accrues to the United States by having most of the world's Internet traffic pass over U.S. territory. In short, definitions as well as operations are now increasingly politicized even if they have always been political (Mansell and Silverstone ~~2006~~**~~[Au: Please add to refs.]~~**; Franklin 2013). If, as one of the core definitions of the Internet maintains, the term "Internet" refers to a "network of networks," then the notion of the Internet in the singular flies in the face of its multiplex historical and techno-economic trajectory to date.

48. ITU/WSIS 2005, para. 72 and 73, emphasis added. [6n48]
49. The NETmundial Outcome Document (2014) discussed above is one. See Bellamy and McChesney (2011), Mueller (2010), and Singh (2012) for different views on this matter. [6n49]
50. IGF 2008. [6n50]
51. UN General Assemble 2000, target 8f. [6n51]
52. NETmundial 2014, 4, 7. [6n52]
53. Gurumurthy and Singh 2012; Jørgensen 2006; Jensen 2006. [6n53]
54. For example, IRP Coalition [2011] 2015; Necessary and Proportionate 2013; and Council of Europe 2014a, 2014b. [6n54]
55. Franklin 2013, 190 passim. [6n55]
56. See Franklin (2013, 138–39). As to the origins and locus of Internet governance that predates UN involvement in this domain, these decisions date from the emergence of the Internet itself strictly speaking, that is, interoperable computer networks require agreements, and those agreements translate into code, Internet protocols being the basic building block to the Internet's supporting architecture (Mueller 2002). Internet-governance scholars and respective stakeholder interests in the IG domain disagree as to whether this early, narrow understanding of Internet governance should serve as the model for global undertakings that would put governments on a par with the "technical community," Internet businesses, and perhaps civil society representatives. [6n56]
57. See Franklin (2005, 2007), WSIS Civil Society Caucus (2003, 2005), and Gurumurthy and Singh (2012). [6n57]
58. IGF 2008, 2011; ITU/WSIS 2005; NETmundial 2014. [6n58]
59. MacBride 1980; Frau-Meigs et al. 2012; Gerbner, Mowlana, and Nordenstreng 1993. [6n59]
60. Vincent 2010; Clapham 2007; Jørgensen 2006, 2013; Benedek and Kettemann (2014). [6n60]
61. Zalnieriute and Schneider 2014; Council of Europe 2014b; Gurumurthy and Singh 2012; Singh 2012; Goldsmith and Wu 2006. [6n61]
62. The term "popular imaginary" refers to how these issues are conveyed in the mainstream media, in varying measures around the world, as online and traditional print and broadcasting outlets. An "imaginary" is qualitatively distinct from a political ideology in that an imaginary is embedded in layers of meaning making about how the world does, or should, work so it is susceptible to shaping and, as Edward Herman and Noam Chomsky argue, to the "manufacture" of consent (1988). This places language as the fulcrum of how ideas, and with that institutions, "frame" the terms of debate and thereby the world. As social and political theorists note, an imaginary (social, popular, and so on) constitutes "the creative and symbolic dimension of the social world, the dimension through which human beings cre[illegible]eir ways of living together and their ways of representing their collective life . . . M[illegible]an sustain or be asymmetricalM to the organization of power" (Thompson 1984, 6). And if an imaginary encompasses the interplay between what people (say they) think about an issue and how an issue is framed and disseminated through the media, for instance, then human rights law and norms can be apprehended as changing imaginaries as well as institutions. For, as Andrew Vincent notes, rights have come to be as much about "the linguistic, grammatical, and logical usage of concepts and clarifying meanings" (2010, 19) as they are about "substantive content . . . MasM legal, moral, and political rights" (23). In this case of how human rights have been framed alongside, or for, Internet governance (Jørgensen 2013), a long-lamented "disconnect" between advocacy at Internet and media-governance consultations, at the UN level in particular (Franklin 2005), and how these admittedly arcane issues were not covered by major media players (e.g., the *Guardian* newspaper or the BBC in the UK, and the *New York Times* or the *Huffington Post* in the United States), has been assuaged by global coverage and campaigns about key rights issues and the online environment. This is the Snowden effect in other words. [6n62]
63. Namely, Gore (1994), Clinton (2010), and Obama/the White House (2015). [6n63]
64. See Gerbner, Mowlana, and Nordenstreng (1993), MacBride (1980), and more recently, Frau-Meigs et al. (2012). [6n64]
65. Gerbner, Mowlana, and Nordenstreng 1993; ITU/WSIS 2003a, 2003b, 2005, 2005; WGIG 2005. [6n65]
66. Mueller 2002, 2010. [6n66]

[6n67] 67. Civil liberty debates around successive attempts by the UK Conservative government to require filters on Internet content by law, as opposed to parents applying these tools, in order to prevent children accessing unwanted content, is a case in point. See Paton-Williams (2013)[~~Au: Please add to refs.~~] for an overview in the UK context, and the Council of Europe for an international comparison (2014b, 12–14, 24 passim, 66 passim).

[6n68] 68. This topic is exercising legal professionals, human rights advocates, and scholars in particular. In the UK context, a number of bills have been proposed, or passed into law, that continue to stir ongoing controversy for civil liberty organizations. The 2013 Draft Communications Data Bill, the so-called Snoopers' Charter, and the 2014 Data Retention and Investigatory Powers (DRIP) Bill have been the main focus for ongoing public campaigns against this legislation. Liberty, a prominent civil liberties organization in the UK, has started to group all such bills looking to increase governmental powers to "snoop" on people's lives online under the "Snoopers' Charter" rubric (Liberty 2014).

[6n69] 69. IRP Coalition 2011; Jørgensen 2006, 2013; Council of Europe 2014b.

[6n70] 70. Fücks and Drossou 2005, 6.

[6n71] 71. NETmundial 2014, 8, emphasis added.

[6n72] 72. In the NETmundial Outcome Document, multilateral does not appear at all. Neither does it in another more recent statement from a UN-hosted IG event: the 2015 UNESCO Internet Study Conference. "Multistakeholder" does appear in this outcome document, twice (UNESCO 2015).

[6n73] 73. Jensen 2005.

[6n74] 74. Deibert 2015, 9.

[6n75] 75. IRP Coalition M2011M 2015, article 20, 26. See also the Universal Declaration of Human Rights (UN 1948, article 30).