



APC contribution to the UN High-level Panel on Digital Cooperation

December 2018

I. Values and principles

a) What are the key values that individuals, organisations and countries should support, protect, foster or prioritise when working together to address digital issues?

The primary values APC believes should be aspired to in cooperation on digital issues are:

Collaboration: International, regional, national and local collaboration on digital issues is critical to fostering inclusive solutions that reflect the inputs and interests of stakeholders. These different levels of cooperation, whether between states or with all other stakeholder groups, should not be seen as mutually exclusive, but as mutually reinforcing. Cooperation across borders is particularly vital in the context of the internet, as it is not bounded by national borders.

Sustainable development: APC's understanding of sustainable development comprises three elements: economic development, social development and environmental protection. We identify with the Brundtland Commission's idea of sustainable development being the "kind of development that meets the needs of the present without compromising the ability of future generations to meet their own needs."¹ The digital sphere and technology have a vital role in addressing socioeconomic inequalities and helping to achieve the full realisation of internationally agreed upon sustainable development goals. Technology serves as a vital tool to provide individuals living in poverty with the means to participate in development processes. But digitisation can also "compromise the ability of future generations to meet their needs" through creating new divides, and, for example, through job losses. An additional pressure point in this regard is the fact that digitisation itself is contributing to global warming through massive consumption of energy and production of electronic waste. Consideration of digital and technology-related processes' impact on economic

¹https://en.wikipedia.org/wiki/Brundtland_Commission#Modern_definition_of_sustainable_development

and social development and on the environment must be prioritised in efforts to strengthen digital cooperation.

Human rights: Universally recognised human rights, as endowed in the Universal Declaration of Human Rights and articulated by the core international human rights treaties, should serve as the foundation of digital cooperation and collaboration. The rights that people have offline must also be protected online, in accordance with international human rights legal obligations, including the International Covenants on Civil and Political Rights and Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, and the Convention on the Rights of Persons with Disabilities. These rights include but are not limited to: freedom of opinion and expression, freedom of association, the right to privacy, and freedom of information and the right to access information. Specifically for the digital sphere, the relationship between the internet and economic, social and cultural rights (ESCRs) is under-explored,² and needs further attention. In the light of emerging technologies and artificial intelligence, more attention is needed on the ways in which digital technologies mirror and expand unequal enjoyment of rights on the basis of gender, race, age, location and other factors. As states are the primary duty bearers in the protection of human rights, and the private sector has a responsibility to respect human rights, both have a shared responsibility to provide remedy (under the UN Guiding Principles on Business and Human Rights).

Resilience: As a universal global resource, the digital environment should be a secure, stable, resilient, reliable and trustworthy space. The resilience of the internet and all digital technologies should be a key value for all stakeholders in digital issues. Effectiveness in addressing risks and threats to the security and stability of the internet depends on strong cooperation among different stakeholders.

Social justice and equality: For APC, social justice is about political and economic justice, about decreasing inequity and valuing inclusiveness and diversity. Digital cooperation needs to take care that it results in creating more equity, and that it does not create new inequities.

Gender equality: The Geneva Declaration of Principles called for the empowerment of women and their full and equal participation in all spheres of society and in all decision-making processes. Limiting women's access denies them the tools, resources and opportunities available through the internet, which in turn slows economic, social and political development. Efforts to promote women as innovators and decision makers in the ICT sector should be accelerated to achieve digital equality for women and girls.

b) What principles should guide stakeholders as they cooperate with each other to address issues brought about by digital technology?

Multistakeholder: Digital cooperation should be built on democratic, multistakeholder processes, ensuring the meaningful and accountable participation of all stakeholders, including governments, the private sector, civil society, the technical community, the academic community and users. The respective roles and responsibilities of stakeholders should be interpreted in a flexible manner with reference to the issue under discussion.

²APC's exploration of this relationship is captured in the 2016 edition of *Global Information Society Watch*: <https://www.giswatch.org/2016-economic-social-and-cultural-rights-and-internet-coming-soon>

Open, participative, consensus-driven: The development of international internet-related public policies and solutions to digital challenges should enable the full and balanced participation of all stakeholders from around the globe, and made by consensus, to the extent possible.

Solution-oriented: Addressing digital challenges requires a holistic, solution-oriented approach towards the achievement of digital cooperation. This involves asking fundamental questions of digital issues and taking a macro look at the intersectional problems faced by various stakeholders in the digital environment. It also involves recognising that digitisation can have negative as well as positive consequences.

Transparency: Decisions made must be easy to understand, and processes must be clearly documented and follow agreed procedures. These procedures must be developed and agreed upon through multistakeholder processes.

Accountability: Mechanisms for independent checks and balances as well as for review and redress should exist. Governments have primary, legal and political accountability for the protection of human rights

Inclusiveness and equitability: Stakeholder inclusion (i.e. the involvement of people affected by their outcomes in discussion and decision-making processes) is always important. In the case of the internet and the digital sphere more broadly, stakeholder inclusion is essential because of the specific character of the internet as a global public resource which is developed and managed mostly by business and the technical community and shaped and populated with content by vast numbers of individual and institutional users. Governments are key users of the internet and are also primary duty bearers, given that internet access has become a precondition for the exercise of human rights. Thus, they have a critical role in enabling the communications infrastructure people need to access the internet, even while they do not – in most parts of the world – own, manage or control internet infrastructure on their own.

Enable meaningful participation: Anyone affected by an internet governance or digital cooperation process should be able to participate in that process. Particularly, internet governance institutions and processes should support capacity building for newcomers, especially stakeholders from developing countries and under-represented groups.

Affordable and meaningful access for all: More than half of the world's population still does not have meaningful, affordable access to the internet. Addressing digital divides between and within countries and ending digital exclusion must be a key part of digital cooperation. Establishing sufficient broadband backbone, particularly in land-locked countries and small island states, remains a priority. Community-driven access (such as through community networks and other small local access providers) and public access are powerful tools for providing first/last mile access to the internet and should be prioritised by cooperation efforts.

Accessibility: Internet governance should promote universal, equal opportunity, affordable and high quality internet access so it can be an effective tool for enabling human development and social inclusion, particularly for those who face limitations and obstacles when they go online (such as people with disabilities or those using older computers or lacking high-speed access). There should be no unreasonable or discriminatory barriers to entry for new users.

People-centred: The processes of internet governance must be people-centred in which all peoples and countries share the benefits of ICTs, where everyone can create, access, use and share information to fully promote sustainable development and improve their quality of life.

Innovation: The ability to innovate and create has been at the heart of the remarkable growth of the internet and has brought great value to the global society. For the preservation of its dynamism, internet governance must continue to allow permissionless innovation through an enabling internet environment, consistent with other principles in this document. Enterprise and investment in infrastructure are essential components of an enabling environment.

Cultural and linguistic diversity: Websites, online tools and software are dominated by the English language and use of Latin script. This affects the development of local content in non-Latin languages and impedes the possibility of intercultural content exchange. Technical development must encourage linguistic diversity on the internet and simplify the exchange of information across language barriers.

c) How can these values and principles be better embedded into existing private and/or public activities in the digital space?

International cooperation and multistakeholder approaches in addressing digital challenges exist, but need to be consolidated and norm-based. Collaboration is widespread in international institutions, companies, governmental bodies, among civil society, and in existing internet governance processes. Both the first and second Working Groups on Enhanced Cooperation (WGEC), convened by the Chair of the UN's Commission on Science and Technology for Development (CSTD), produced multiple examples and, in the case of the second WGEC, identified characteristics of effective cooperation. However, beyond the rather broad World Summit on the Information Society (WSIS) principles, there is no agreed on set of principles inside the UN system that can provide a common framework based on which digital issues can be understood and discussed. As long as this persists, the very idea of cooperation, and other values and principles that should guide action and governance in the digital space, will continue to be debated among different stakeholders.

There is a significant need for the establishment of agreed on high-level principles for digital cooperation, and more specifically, internet governance and internet-related public policy making. We recommend the development of a core set of principles, through the Internet Governance Forum (IGF), which can then be adopted at the United Nations level, that defines critical concepts, builds upon the WSIS principles, and endorses other principles accepted by UN member states, such as the nature of the internet as an enabler of human rights, and recognises that rights which apply offline also apply online. An excellent example of a UN body addressing this is UNESCO's R-O-A-M principles,³ which build on the WSIS principles. We recommend that the Panel explore the possibility of these principles being adopted across the UN system.

To summarise, the two primary ways in which we believe these values and principles can be embedded in public and private activities in the digital space are:

- Through formal recognition of these values and principles throughout the UN system and using the IGF as a platform for enabling system-wide assessment and debate on their application in the public and private sector (and in multistakeholder entities).

³<https://en.unesco.org/internetuniversality/indicators>

- By digital cooperation efforts prioritising consideration of the impact of digital and technology-related processes on human rights, gender equality and economic and social development, as well as on the environment – as opposed to prioritising “national security” or the specific interests of corporations, or a narrow growth-centric vision of development.
- By ensuring that digital cooperation is inclusive. Effective participation of all relevant stakeholders is both a means to embedding these values and principles as well as an important value and principle in its own right.

II. Methods and mechanisms

a) How do the stakeholders you are familiar with address their social, economic, and legal issues related to digital technologies? How effective or successful are these mechanisms for digital cooperation? What are their gaps, weaknesses, or constraints? How can these be addressed?

Many stakeholders have used collective and collaborative action very successfully. For example, at the intergovernmental level, APC has worked with three bodies that adopted general principles on “internet governance”: the OECD, through the Recommendation on Internet Policy Making Principles; the African Union Commission through the African Union Declaration on Internet Governance; and UNESCO, through the R-O-A-M principles and, based on these principles, the Internet Universality Indicators.

Multistakeholder mechanisms we have worked with include the Global Commission on the Stability of Cyberspace which is developing, collaboratively, norms towards a more stable and secure cyber environment.

We list more examples below in response to question III b).

There is also the example of national processes, e.g. national ICT strategies or integration of ICTs for development in poverty reduction strategies (in the past) and, more recently, national cybersecurity strategies.

The effectiveness of such mechanisms varies, primarily because they do not consistently apply the principles noted above, and also because there is often not a well-understood common value base that frames the cooperation.

Ambivalence about the internet itself (e.g. is it a force for good, or a force to be feared), about the importance of the multistakeholder approach and about compliance with human rights are the three factors that are often at the root of cooperation mechanisms not being as successful as they should be.

While there is general acceptance of the multistakeholder approach with regard to the internet in the UN system, at least since the WSIS principles were endorsed by member states in December 2003 in Geneva, there is deep ambivalence about this approach, particularly with regard to what it implies about limitations of the authority of national governments. The panel needs to consider how to overcome this ambivalence, as the non-compliance of states is a significant barrier to effective cooperation.

Furthermore, the foremost constraint of all existing mechanisms is that they are not frameworks agreed upon by a formal body, such as the UN. This is a constant barrier to cooperation among all stakeholders. We do not mean to say that ALL effective cooperation is dependant on intergovernmental consensus on underlying principles. It is not. Effective cooperation is constantly taking place. But the lack of consensus on the principles and values that should underpin digital cooperation inside the UN system limits

cooperation inside this system, and between intergovernmental and multistakeholder processes more widely.

b) Who are the forgotten stakeholders in these mechanisms? How can we strengthen the voices of women, the youth, small enterprises, small island states and others who are often missing?

Acknowledge the diversity of “forgotten stakeholders”: The tendency to bundle together marginalised groups (such as women and youth, for example) risks offending the movements advocating for their inclusion as well as lack of specificity in efforts to ensure their effective participation.

Address participation at all levels: Strengthening excluded or under-represented voices is done most usefully with reference to specific mechanisms or processes. For example, including smaller companies and internet service providers in debates and cooperation that address digital development at national and regional level is essential, as they are directly affected. Often in global spaces where digital development is discussed, the only private sector voices that are consistently present are from large multinational companies like Microsoft, Google or Facebook. Participation needs to be addressed at two levels. On the one hand, inclusion should be the norm, and on the other, active care should be taken to ensure that those who are most affected are part of and able to influence specific processes.

Insert more granularity into the multistakeholder approach: Take into account the internal diversity among stakeholder groups. This is true for all, including governments, civil society and business. Simply inviting a so-called “representative” of different stakeholder groups is not sufficient to ensure inclusion, or reflect the wide range of positions and experiences within stakeholder groups.

Consider intersectionality: The challenges posed by the digital divide have the greatest implications for the most marginalised and vulnerable groups in society, based on the intersectionalities of race, gender, class, sexuality and location. The digital environment poses varying challenges based on the positionality and intersectional identities of the individuals concerned, such as lack of access or representation. It is critical to consider the overlapping and interdependent systems of discrimination when working on solutions.

Ensure that disagreement among states does not undermine the inclusion of non-governmental stakeholders, particularly civil society: When states cannot agree on how to address the digital challenges before us it is extremely difficult to ensure that vulnerable stakeholders are included and their voices heard. Deadlock between governments in negotiations related to digital issues often spells the end of the inclusion of non-governmental actors. States must engage on digital issues in good faith with one another and not allow disagreements among them to overshadow the importance of adhering to the principle of multistakeholder inclusion; otherwise, efforts to foster digital cooperation that effectively includes forgotten stakeholders are unlikely to succeed.

Consider structural factors, e.g. market structure: As stated by technology analyst Jamie Bartlett, the concentration of power over the public space held by technological monopolies and their further ability to wield this power over a growing number of economic activities, especially in the infrastructure and technologies of the future, has vast implications. Companies such as Google and Facebook function as monopolies or oligopolies in their respective fields, concentrating power, data, control and market share in the hands of the few.

Recognise and support both distributed governance structures as well as the need for more coordinated cooperation:

To ensure effective stakeholder inclusion, particularly of those who are currently “forgotten”, it is important to recognise the distributed nature of digital cooperation, and to ensure that inclusion is built into the design and implementation of these mechanisms everywhere. But it is also important to have some mechanisms or spaces where inclusion can be coordinated, facilitated and monitored at a global level. For example, the global IGF is a useful platform for assessing the extent to which national and regional IGFs are fully inclusive.

c) What new or innovative mechanisms might be devised for multistakeholder cooperation in the digital space?

- An empowered IGF which has political leadership, is accountable to the UNSG and therefore does not need to compete with other UN institutions, and is positioned strategically to interrelate with all parts of the UN system and with bodies and processes outside of the UN system. This might not sound like a “new” or “innovative” idea, as we believe this is what the vision for the IGF is in the Tunis Agenda of 2005 – but it has still not been implemented in full. The IGF community has proposed a number of suggestions for strengthening and empowering the IGF that deserve further exploration, including inputs made to the 2016 IGF retreat.
- Mechanisms that address specific challenges collaboratively, such as the Internet and Jurisdiction Project, which is working with all stakeholders to find solutions for common challenges such as how to deal with content “take-down” requests on the internet.
- Collaborative models for regulation, such as the proposed Social Media Council referenced by the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, David Kaye, in his report on online content moderation and regulation to the Human Rights Council in June 2018.
- Mechanisms to include non-governmental voices in intergovernmental spaces that deal with critical issues like the security and stability of the internet and cyber conflict, such as the Group of Governmental Experts (GGE) and the Open-ended Working Group (OEWG) of the UN’s 1st Committee.

III. Illustrative action areas

The Panel plans to explore, among others, the following areas where greater digital cooperation is required:

- Inclusive development and closing the digital gap
- Inclusive participation in the digital economy
- Data
- Protection of human rights online, particularly of children, women and marginalised communities
- Human voice and participation in shaping technological choices and architecture
- Digital trust and security
- Building the capacity of individuals, institutions and governments for the digital transformation.

a) What are the challenges faced by stakeholders (e.g. individuals, governments, the private sector, civil society, international organisations, the technical and academic communities) in these areas?

The mapping of internet-related public policy issues reveals a complex and vast ecosystem of public policy issues, mechanisms for policy making and forums for standards making and dialogue.⁴ It is key to recognise that public policy issues that relate to the internet, and thus action areas for the panel to address, are not finite. As the internet does not exist in a parallel dimension, and is a part of economic, social, cultural and political life, issues will emerge and change over time. That said, stakeholders continue to face challenges of cooperation in inclusive development, inclusive participation in the digital economy, data, protection of human rights online, capacity building for digital transformation, and digital trust and security.

In the post-WSIS era, when UN bodies have tried to tackle the challenge of information society-related cooperation, they have failed to reach consensus, as was the case for both the first and second iterations of the WGEC. The entrenched positions of member states dating back to 2005 and rigid interpretations of UN texts such as the Tunis Agenda have tended to result in deadlock, and a backward- rather than forward-looking approach to cooperation. Some governments want more centralised institutional mechanisms, such as a new UN agency, or a global cybersecurity treaty. Others are entirely opposed to new mechanisms. There is a huge middle ground that needs to be explored. This middle ground is not an empty space; it is populated by many examples of cooperation and inclusive governance that can be learned from and built on.

For civil society, the deadlock between governments with regard to cooperation and coordination is particularly challenging. The increase in authoritarian responses from states that stifle the potential of the internet for democratisation and freedom of expression forces civil society actors to be cautious of any move that would consolidate governmental (and intergovernmental) control in the digital sphere, particularly where this would impact on fundamental human rights. But civil society organisations are also actively trying to collaborate with governments (and the public sector more broadly) to address the lack of access to information and communications infrastructure. They are also aware of the need to confront the increased power of large corporations over what we essentially believe should be a global public resource.

Here too there is a middle ground that needs to be engaged. Debates that centre on the respective roles and responsibilities of government versus the private sector usually overlook the need for greater accountability of both. We believe that the Panel could bring a fresh perspective to these debates.

b) What are successful examples of cooperation among stakeholders in these areas? Where is further cooperation needed?

Below are several successful examples, in which we have participated, of cooperation among civil society and other stakeholders to address the illustrative action areas identified by the Panel:

The African School on Internet Governance (AfriSIG),⁵ convened most recently for its sixth edition in October 2018 in Zanzibar, Tanzania, gives Africans from multiple sectors and stakeholder groups the

⁴See "Mapping internet rights and freedom of expression" in *Global Information Society Watch 2011*: <https://www.giswatch.org/mapping-democracy/freedom-expression/mapping-internet-rights-and-freedom-expression>

⁵<https://afrisig.org>

opportunity to gain knowledge that will enable them to participate confidently and effectively in internet governance processes and debates at the national, regional and global levels. Part of the growing global community of practice for promoting and strengthening active multistakeholder participation in internet governance spaces, AfriSIG actively builds leadership and trains fellows in global internet governance issues, processes and practice via a mixed model of lectures and seminars, peer learning, practical exercises, as well as exposure to and mentorship from African and global experts in the field. Some of the topics covered in the curriculum include internet resource management, governance institutions and multistakeholder decision making, technological, legal and policy dimensions to internet governance, and grappling with multilingualism, local content and harmful use of the internet.

AfriSIG is a partnership of a civil society entity, APC, which is the main convenor, an intergovernmental body, the African Union Commission, and an academic and research institution, Research ICT Africa. It receives financial support from a mix of sources, ranging from internet platforms to regional technical bodies and multistakeholder internet governance organisations.

The Global Multistakeholder Meeting on the Future of Internet Governance (NETmundial) was a breakthrough event held in São Paulo, Brazil in April 2014 that managed to convene a large number of global actors to produce a consensus statement on internet governance principles and a roadmap for the future evolution of the internet governance ecosystem. The NETmundial Multistakeholder Statement⁶ was elaborated in an open and participatory manner, by means of successive consultations. Most of the opinions expressed after NETmundial agreed that the process of drafting an outcome document in a bottom-up and multistakeholder way is a key legacy of the event.

The Internet Governance Forum (IGF), as an annual event with international/regional processes, best practice forums and intersessional spaces, is critical to bringing together key stakeholders in the digital sphere in physical and digital spaces for collaboration. For example, the IGF started a community-driven process titled "Connecting and Enabling the Next Billion(s)" to showcase successful initiatives that address how the next billion people can be connected to the internet. The process is aimed at investigating challenges and opportunities for addressing and overcoming barriers to meaningful internet access, promoting meaningful access in diverse contexts and regions, and ensuring that meaningful access also supports the achievement of the UN Sustainable Development Goals (SDGs). Other intersessional work addresses online gender-based violence and access. We continue to believe that a more empowered IGF should be at the centre of digital cooperation in the UN system and more widely.

We do not expect the IGF to achieve this on its own, but through well-coordinated cooperation with other networks, institutions and agencies, inside the UN and outside it. APC believes that a key element of a more effective IGF consists of strengthening the participation of governments in the IGF process, and ensuring that they gain concrete benefit from this participation.

Other effective mechanisms and processes we have been part of that we see as being successful, driven mostly by civil society, include:

- The Internet Rights and Principles Coalition (who produced a charter that used APC's Internet Rights Charter as a starting point). <http://internetrightsandprinciples.org/site>
- Necessary and Proportionate: The International Principles on the Application of Human Rights to Communications Surveillance were drafted by a global coalition of civil society, privacy and

⁶<http://netmundial.br/wp-content/uploads/2014/04/NETmundial-Multistakeholder-Document.pdf>

technology experts in 2013 and have been endorsed by over 600 organisations and over 270,000 individuals worldwide. <https://necessaryandproportionate.org>

- The Manila Principles on Internet Intermediary Liability. <https://www.manilaprinciples.org>
- The African Declaration on Internet Rights and Freedoms, drafted by African human rights and media groups, and referenced by the African Commission on Human and Peoples' Rights in a resolution on the role of the internet in enabling freedom of expression. <https://africaninternetrights.org/articles>
- The Feminist Principles of the Internet, developed by diverse women's and sexual rights groups, serves as a tool for analysing internet policy and development from a feminist perspective. <https://feministinternet.net>

These are all examples of effective shared analysis and action by like-minded stakeholders, and also as checklists for policy making. They have fed into policy development and into efforts to hold governments and companies accountable for upholding rights.

c) What form might cooperation among stakeholders in these areas take? What values and principles should underpin it?

We believe we have addressed this question already in our responses above.

Cooperation among stakeholders can take many forms. As stated above, we believe that coordination does not have to imply centralisation. The distributed nature of cooperation (and governance) in the digital sphere is a strength. It is a challenge for those who want and need to participate, but also creates more opportunity for such participation.

Where more "centralisation" and coordination is needed is at the level of agreed on principles and values, on the one hand, and, on the other hand, strengthening of the IGF as a process and space that is linked to the UN system, but with the flexibility and inclusiveness that comes from being bottom-up and inclusive.

Human rights, sustainable development, social justice and equality should always be foremost as values and principles that underpin cooperation.