General Assembly's overall review of the implementation of WSIS outcomes

Official Form for Comments on the Non-paper

A. Your Information

Title:	**BRICS Civil Society Comment on the WSIS+10 Review Non-paper**		
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BRICS Civil Society Comment on the WSIS+10 Review Non-paper

This is a joint submission that has been prepared by the following organizations and individuals: Association of Progressive Communications, South Africa; The Center for Technology and Society of the Getulio Vargas Foundation School of Law in Rio de Janeiro (CTS-FGV), Brazil; Beijing Normal University Institute for Internet Policy & Law, China; The Internet Democracy Project, New Delhi, India; Centre for Communication Governance (CCG) at National Law University, New Delhi, India;Sekoetlane Phamodi, South Africa and Alexandra Kulikova, Russia.

The BRICS countries occupy an important position in contemporary global politics. Leveraging their unique position as a global coalition of emerging powers, the bloc has been able to make significant strides in attempting to democratize UN processes. BRICS countries account for a significant proportion of global internet users, there is much

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ground to be covered with respect to making ICTs more accessible. The vast potential of ICTs as a tool for advancement of development goals make the issue of access all the more important. The attendant human right obligations that BRICS countries need to fulfil to support the information society also come into focus. The internet and cyber-security also feature prominently in the recently concluded Ufa Declaration of the BRICS Summit . The Ufa Action Plan also makes specific references to the Working Group on ICT Cooperation and the BRICS Working Group on Security in the Use of ICTs.

As civil society representatives in these BRICS countries, we believe it is important to bring to attention such BRICS specific issues in the WSIS non-paper and in the larger context of the WSIS review. It is in this spirit that the comments below are made.

Preamble:
1.   We note with interest the inclusion of human rights in the main text of the non-paper. However, reference must also be made to human rights obligations in the Preamble to emphasize the importance of human rights to the information society. To this end we suggest the following text to be added after Paragraph 1
Paragraph 1bis: We reaffirm the importance of promoting and protecting the Universal Declaration of Human Rights, along with the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and UN Human Rights Council Resolution 20/8 to realise the WSIS vision

2.   In Paragraph 3, the term 'digital economy' has been used. However there is a lack of clarity as to what exactly this means in the context of the non-paper. Since the term is also used in the main text, it would be useful to define it in the preamble. While the 'digital economy' can contribute to sustainable development, without universal access to ICTs, it could also contribute to widening inequality. This is especially so in BRICS countries with disparate penetration rates within countries. It should also be noted that the digital economy does not exist in isolation and may not always be differentiable from the traditional economies. The preamble should thus also refer to making the digital economy more equitable and accessible.

3.   We appreciate the recognition of critical digital divides 'between and within countries' in Paragraph 5. However, the text seems to suggest that new challenges have arisen are solely due to rapid changes in technology. But in the case of access issues and the digital divide, the challenges are merely reflective of pre-existing structural issues within developing countries. To address this issue from the perspective of technological changes would be to deal with them superficially while ignoring the underlying socio-economic and political divides.

4.   The recognition of 'multi-stakeholder cooperation and engagement' as an essential element in realization of the WSIS vision is welcomed. However, it would be better to explicitly state that the model of multi-stakeholder engagement is in a state of evolution

and must continue to evolve in an open, transparent and inclusive manner. Further, in BRICS countries, it is imperative that multistakeholder mechanisms be established at the national and regional levels, as they currently do not have such a model of engagement.To support this idea, we suggest alternate text as under:

We urge that multi-stakeholder cooperation and engagement must be extended to national levels including the setting up of institutions and processes to include civil society where none exist. Such national efforts including existing institutions and processes must involve meaningful participation and representation of all stakeholders [particularly civil society stakeholders.]

5.   Additionally, in the context of BRICS countries it is necessary to encourage dominant stakeholders like governments and major industry bodies to set up institutionalised ways to support marginalised, under-resourced stakeholders like civil society and academia so that they may effectively participate in multi-stakeholder governance. This could also be replicated at the global level. It is critical that these models offer support while preserving independence, so that they enable marginalised communities within BRICS countries to engage with information policy in a manner that best supports their interests.

6.   The outcome documents produced by UN agencies during the WSIS review process identify key issues and provide valuable guidance to policy discussions in the future. We believe that it is insufficient to "take note" of these documents as mentioned in Paragraph 8. Stronger language needs to be used to denote the follow-up discussions and initiatives that need to be put in place in the UN system.

The Digital Divide:

1.   While there has been a significant increase in ICT connectivity as mentioned in Paragraph 9, it is important to acknowledge the role played by cable and fixed wireless broadband in the discussion of connectivity and sustainable development as referenced in paragraph 9. Whilst mobile phone subscriptions are a significant component of the increase in ICT connectivity, cable and fixed wireless broadband provide an important avenue for community engagement in utilization of ICT, since they not only help connect rural and marginalised communities to the internet but also enable them to use and create ICTs. Public access to the internet for information, means of disseminating information, and information- services are all essential to bridge the digital divide. It may also be noted that the costs of ensuring individual access to the internet may far exceed public access and this is a concern among BRICS countries. To improve ICT connectivity, Internet traffic should be managed in a transparent and non-discriminatory manner.

2.   We appreciate the emphasis placed on the digital divide both within and between countries as mentioned in paragraphs 5 and 10. This is a very relevant issue for BRICS countries. The link between Digital Divide and sustainable development in Paragraph 10 is also welcomed.

3.   The recognition of the gender digital divide in Paragraph 11 is encouraging. However, merely aiming to substantially increase the number of women with internet access is insufficient. This must be supported and supplemented by measures that ensure such access is safe, secure, and private for women . All steps to provide internet access to women need to acknowledge existing social hierarchies and norms, and work to digitally empower women despite them.

4.   Ensuring that 'equitable access for all' as mentioned in paragraph 12 can only be accomplished by bridging the Digital Divide as ICTs alone cannot achieve this. In BRICS countries especially, the multistakeholder model will play a vital role in realizing meaningful and equitable access for all. To this end, the non-paper must affirm the multistakeholder model at all levels and affirm the specific role of various stakeholders in achieving 'equitable access for all'.

5.   While we applaud the commitment to bridging the digital divide in paragraphs 12 to 15, we believe that the equitable access referred to in paragraph 12 includes the embedding of human rights in digital infrastructure. The WSIS+10 process needs to take into account the violation of privacy rights of people by companies and governments of other nations. In this context, it is important that references to digital access, especially in the context of equitable access, emphasise the fact that all such access shall be provided in a manner that respects the international human rights of citizens of the world, including citizens of BRICS countries.

ICT for Development
1.   In Paragraph 16, we would like to highlight that achieving the 2030 Agenda for Sustainable Development including the SDGs is contingent upon the successful bridging of the digital divide through ICT for development. Further, the text has to articulate better the linkages between the SDGs and the potential of the Information Society in achieving the SDGs.
2.   The language of paragraph 17 seems to indicate that the purpose of ICT for development ends with expediting the integration of developing countries and least developed countries into the global economy. It makes no mention of supporting local industry or developing domestic capacity to develop ICT tools and content. We recommend that this paragraph be supported with text urging stakeholders to commit to support, develop and nurture domestic capacity to develop ICT tools and content. .
3.   Education is a critical element of the Information Society. A reimagination of the role and method of education in the information society is required. In furtherance of this, ICT for Development programs can also include the operation of digital literacy programs, that educate the people in developing countries on the utility of ICT and enable them to use and create ICT tools and content. A concerted effort must also be made to realign education systems to utilise ICT and fully realise the WSIS vision.

Human Rights
1.   We appreciate the recognition of human rights in Paragraph 20. However, in many

BRICS countries, there have been many cases of abuse of human rights on the internet without following the rule of law. With this in mind, we suggest the following alternate text:

"We emphasize that persons shall not be subjected to interference of their rights without clearly articulated legal grounds taking into account necessity and proportionality that are consistent with international human rights law."

2.   While Paragraph 21 reaffirms that the rights that people have offline should also be protected online, it fails to recognize that certain rights, like the rights to privacy and freedom of expression are more easily violated online and require greater protection. In this context, it is also important to acknowledge the critical role played by online intermediaries in sharing user data or removing access to speech online.

3. Some BRICS countries have in the past resorted to blanket internet/communication shutdowns. Given the human rights violations this could cause, there needs to be clear legal grounds and procedure established to enforce such shutdowns. On the other hand, transnational corporations operating in developing countries should also be asked to respect International Human Rights obligations while enforcing shutdown orders from governments. In this regard we call for the adoption and further development of the UN Guiding Principles on Business and Human Rights.

Internet Governance
1.   While the preamble makes specific mention of multi-stakeholder cooperation and engagement in paragraph 7, the texts on internet governance from paragraphs 22 to 25 do not use this vocabulary. While the definition of internet governance is quoted from the Tunis Agenda, the non-paper makes no explicit mention of the multi-stakeholder approach. This is important because the multi-stakeholder approach is not static and continues to evolve. It is important to reflect this evolution in the text of the non-paper in order to carry forward the reference made in the preamble.

2.   In paragraph 26 with reference to the extension of the IGF mandate, we agree that the IGF mandate requires to be extended. However, such extension must be on clear terms of review and introduction of accountability processes and must reflect the evolution of open, transparent and inclusive multi-stakeholder approach. The renewed mandate must also articulate the terms of review and provide for greater representation of people from developing countries across various stakeholder groups. It must also provide for mechanisms to facilitate such representation and meaningful participation. To that extent we recommend that the 'participation' be replaced with 'meaningful participation.' It may also be useful to consider whether the renewed mandate of the IGF would change the role it currently plays.

 Cyberspace

1. We recommend that the sub-heading be changed to '[Safety and]Security in Cyberspace' to better reflect the content under this category.
2. The word 'cyberspace' has been used in the title of this section as well as in Paragraph 27. However it is unclear as to what cyberspace means in this paper. According to the Tallinn Manual, cyberspace is an umbrella term that refers to "The environment formed by physical and nonphysical components, characterized by the use of computers and electro-magnetic spectrum, to store, modify and exchange data using computer networks". As such, the internet and other networks would be a subset of the larger cyberspace. So, there is a need to clarify as to whether the references to cyberspace and cybersecurity refer to this umbrella term or the limited sphere of the internet..

Follow-up and Review
1. The text of paragraph 32 must also include language that refers to specific support to develop the domestic or local capacity in developing countries. Any reference to capacity must take into account institutional support in countries, especially developing nations, around the world to help young people learn to engage effective with the digitised information society.
2. The internet users in BRICS countries form a large constituency of non-english users, and reaffirm the development of content in a wider range of languages is imperative for the development of an inclusive and diverse Information Society. It furthers the goal of multilingualism envisioned in the Tunis Agenda.
3. Paragraph 37 can be amended to reflect that the annual review of WSIS outcomes should happen at national, regional and international levels. The supporting institutional mechanisms must be made at the regional and international levels.

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