

Global Digital Compact – linchpin for a future multilateralism?

BY ANITA GURUMURTHY AND NANDINI CHAMI

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The Global Digital Compact (GDC) is a proposed agreement to be forged at the Summit of the Future (2023)¹ to lay down shared principles for an "open, free and secure digital future for all", building on a multistakeholder technology track of consultations with governments, UN bodies, private sector entities and civil society organizations.²

At the moment, it is unclear whether the GDC will be able to fulfil the governance deficit stemming from the lack of a global home for digital public policy issues. Internet Governance Forum (IGF)-style 'multistake-holderism' has produced a legitimacy crisis, with values of 'inclusion', 'equity', 'participation' and 'fairness' coopted into win-win governance imaginaries that circumvent democratic accountability.³ It is clear that our datafied futures can least afford this normative vacuum.

The hope, therefore, is that the technology track consultations dovetailing into the intergovernmental Summit process can produce a new institutional roadmap for a socially just digital transition. Yet, without taking current failures on board, there is a real risk that the consultations may do little to challenge the considerable agenda-setting power that transnational digital corporations wield in multiple areas of global governance.

Getting the GDC right is not just a technical governance issue. It is about envisioning the human condition as digitality shapes the anthropocene. This brief identifies concrete asks from the GDC for a just, equitable and sustainable future for people and the planet. Rejecting outright a compromised multistakeholderism⁶ that puts corporations in the driving seat, it advocates for a multilateral decision-making process by UN Member States grounded in transparency and deliberation, and aided by a structure for people's constituencies to engage in agenda-setting.

¹ In the lead-up to the Summit, the governments of Rwanda and Sweden are co-facilitating the process along with the Office of the Secretary-General's Envoy on Technology.

² See: https://www.un.org/techenvoy/global-digital-compact.

³ The IGF was proposed as an interim step to deal with developing countries' demand at the World Summit on the Information Society (WSIS) in Tunis (2005) that public policy issues on the Internet be taken up through international coordination. While the Tunis outcome document left the process towards "enhanced cooperation" among UN Member States for later, the USA and its Big Tech lobbies successfully scuttled efforts in this direction.

Two Working Groups set up for this purpose disbanded without resolution. Meanwhile, the IGF was reduced to a 'talk shop' with a pro-corporate policy discourse, see Parminder Jeet Singh (2015) and Gurumurthy/Chami (2021).

⁴ Nwakanma (2022)

⁵ Manahan/Kumar (2021)

⁶ Buxton (2019)

Bottom lines for the Global Digital Compact

The UN Secretary-General (UNSG) has identified seven areas as critical for the GDC to establish norms and action commitments: 1) connect all people to the Internet, including schools; 2) avoid internet fragmentation; 3) protect data; 4) apply human rights online; 5) accountability for discrimination and misleading content; 6) regulation of artificial intelligence; and 7) digital commons as a global public good. Other areas are expected to emerge out of the ongoing global public consultation process. This article examines four meta asks or framing demands in relation to these critical areas.

1) Public financing for public digital ecosystems in the global South

Universalizing access to Internet connectivity remains a priority. Yet, it is not sufficient to achieve what may be described as a 'digital inflection point'; a potential steady reduction in global inequality co-linear with deepening digitalization. With limited infrastructural capabilities to digitalize and process their data into digital intelligence, developing countries are unable to capture development value from data and reap the benefits of the structural transformation led by digitalization.⁷ A new 'data divide' is thus exacerbating the development divide.

Low- and middle-income countries (LMICs) struggling with rising debt burdens and shrinking fiscal resources need foundational digital infrastructure to secure their futures. However, the volume of multilateral financing provided to developing countries has not been able to meet the needs generated by successive crises.8

What is crucial for developing countries is the creation of foundational platform, data and AI infrastructural capability; a "public innovation ecosystem" ⁹

imperative that the private sector is not interested in.10 In core developing country sectors like agriculture or health, private investments have hardly bolstered the basics of the AI economy. 11 Lately, the mantra of 'digital public goods' (standards, protocols, platforms on public clouds etc.) has received wide acclaim in policy circles. Touted as quick-fix solutions to develop the wider techno-social ecosystem, open data and AI tools are being promoted as global public goods. The Modular Open Source Identity Platform (MOSIP), an open source, open standards-based identity platform to support digital identity-linked products and services - listed in the registry of the UN Digital Public Goods Alliance – is seen as an exemplar for effective, low-cost digital identification systems and customized ID solutions for African countries. What goes unstated, however, is that while multinational firms use this open ecosystem for building their government clientele, the domestic digital sector in African countries has not really received a boost.12

Digital innovation ecosystems can benefit from digital public goods, no doubt, but their sustainability hinges on adequate investment in local digital infrastructure and human capabilities. This is non-negotiable in order to put countries in the global South on the path to data-supported development. Also, digital public goods managed through global governance architectures need strong rules to prevent capture (see meta-ask #3 below).

The GDC must call for a well-resourced and dedicated line of funding for a new global work programme to catalyse rights-enabling public digital ecosystems in LMICs and Least Developed Countries (LDCs). The Digital Development Tax mechanism proposed by the UN Secretary-General in his 2021 report, *Our Common Agenda*, must be set up and used to finance

⁷ Intergovernmental Group of Experts on E-commerce and the Digital Economy (2022)

⁸ Total commitments from multilateral organizations allocated to LMICs in 2020 amounted to 1.3% of their 2019 GDP, compared to a 9.6% output loss, see OECD (2022).

⁹ Gurumurthy/Chami (2022)

¹⁰ Of the US\$ 50 billion per year, on average, mobilized from the private sector by official development finance interventions for development in 2018–20, only US\$ 0.7 billion per year targeted the ICT sector, see Vinjamuri et al. (2022), chapter 7.

¹¹ PricewaterhouseCoopers (2022)

¹² Gurumurthy/Chami/Mahindru (2022)

¹³ Gurumurthy/Chami/Sharma (2023)

this work programme.¹⁴ Public finance is vital to ensure that public digital and data infrastructural capabilities in developing countries are built.¹⁵ As the mid-term review of the Sustainable Development Goals (SDGs) approaches, Official Development Assistance (ODA) must measure up so that 50 percent of value from the digital economy accrues to the bottom 50 percent of the population, nationally and globally, by 2030.¹⁶ International financial institutions must redefine their mandates to meet the challenges of a new epoch, providing assistance to build equitable and just digital societies.

2) Democratic governance of the global Internet

The US-Chinese rivalry for strategic one-upmanship in the digital economy has seen increasing technological decoupling, with distinct and non-interoperable Internet protocols, hardware design and manufacturing, software development and deployment and services and standards. The balkanization of the cybersphere is a very real possibility. This concern is reflected in the UNSG's stated priority to avoid Internet fragmentation. Mainstream arguments on the issue have tended to be one-sided – viewing Chinese cyber-sovereignty strategies as responsible for a 'splinternet'. This view glosses over US geopolitical machinations in deciding which states can, and which cannot, participate in the global Internet.

On multiple occasions, the USA has used its regulatory control over its Big Tech companies that provide integral infrastructures in the Internet agora towards illegitimate global surveillance, propaganda campaigns and unilateral cybersanction strategies. Even Critical Internet Resources continue to be under US control. In 2014, the oversight of Internet Assigned Numbers Authority (IANA), the standards organization that performs the global coordination of IP addresses, DNS roots and other Internet protocol

resources, was passed on from the US government to the global multistakeholder community of the Internet Corporation for Assigned Names and Numbers (ICANN). However, the transition notwithstanding, ICANN is still required to be incorporated in the USA, to maintain a physical office and to perform the IANA function within the USA. In other words, ICANN does not enjoy jurisdictional immunity from potential political interference by the US government.²⁰

In order to reclaim the Internet as a global communication commons, it is imperative that the control of Critical Internet Resources and governance of all digital services operating on the Internet be truly internationalized. This may need a radical approach such as resurrecting the call for the International Telecommunications Union (ITU)²¹ or a new UN body to oversee the technical governance of the Internet, an issue that was dropped from the policy table at the WSIS moment, and operationalize a binding global governance framework for social media and other digital services platforms grounded in human rights principles.²²

3) Maximizing the public and social value of data resources

A corporate-led digital economy has seen the vital resource of data locked up for private profit. In order to reclaim the non-rivalrous nature of aggregate data resources and encourage their availability for creation of public and social value, it is often argued that a 'global public goods' approach²³ is necessary and well-suited. At the WHO and the UN Committee on Food Security, there are ongoing explorations to evolve global data trusts for aggregating/pooling data resources from all countries. The intent is to enable easy discoverability of data sets that actors in private and academic innovation systems can use to benefit humanity at large.²⁴ Unfortunately, in the absence of a clear institutional governance framework, the idea of data as global public goods just ends up as a

¹⁴ UN Secretary-General (2021)

¹⁵ Intergovernmental Group of Experts on E-commerce and the Digital Economy (2022)

¹⁶ Gurumurthy/Chami (2023a)

¹⁷ Luo et al. (2020)

¹⁸ Bateman (2022)

¹⁹ Ortiz Fruleur (2022)

²⁰ Prakash (2016)

²¹ Huston (2004)

²² IT for Change (2023)

²³ UN, Office of the Secretary-General's Envoy on Technology (2020)

²⁴ Gurumurthy/Chami (2023b)

liberal myth²⁵ fuelling the data-extractivist economic model. Under the existing intellectual property (IP) regime, processed data and data-based intelligence can be enclosed in perpetuity. Open data in health and food systems will only further the interests of Big Tech and traditional Big Pharma and Big Agri corporations.

In other words, placing a resource under a more open, rather than standard private property, regime without corresponding institutional processes for regulating the terms of data access and use will not make valuable data resources available for public benefit. ²⁶ Controls on who can access global data public goods and under what conditions are essential in order to prevent free-riding and consolidation of intellectual monopolies at the root of inequalities in the digital economy. Also necessary are guarantees to recognize the sovereignty of communities from whom data is aggregated, and mechanisms for equitable benefit-sharing (monetary and non-monetary) from data processing with such communities.

Therefore, the enthusiasm around the promotion of global data public goods in the UN system needs to be matched by a commitment to the establishment of dedicated institutional mechanisms at the multilateral level for access and benefit sharing, akin to the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity. At the same time, it is important to recognize that the question of global data governance cannot be reduced to setting rules for the governance of global data public goods. This requires the Global Digital Compact to call for a new, binding global data governance regime that recognizes the right and duty of every state to provision and govern data resources to further the development of all its citizens.²⁷ The GDC must unequivocally endorse the autonomy of all nation-states to evolve domestic data governance regimes for their infrastructure development; set clear boundaries for the operations of the data

market and to protect human rights; and create an enabling environment to maximise the public and social value of data.

4) Revitalizing the international human rights regime for the digital epoch

Four proposed action areas in the GDC speak to rebooting human rights for the digital epoch: 'protect data'; 'apply human rights online'; 'accountability for discrimination and misleading content'; and 'regulation of artificial intelligence'. Drawn from the UNSG's Roadmap on Global Digital Cooperation (2020), these agenda reflect two main shortcomings.

First, the idea of 'applying human rights online' does not capture the new categories of rights adequate to posthuman sociality – including the right to be forgotten, the right to be represented (or not) in digital systems, new labour rights for algorithmic work environments and so on. On a related note, the reduction of data rights to the single-point agenda of privacy and personal data protection ignores economic, social and cultural rights implicated in data value chains (such as the right to a decent living, the right to health, the right to education, the right to enjoy the benefits of scientific progress and so on).

Second, the UNSG's proposals for content governance and AI regulation do not pin down accountability of transnational digital corporations for human rights violations in the emerging public sphere and economy. Multistakeholder models recommended by the UNSG's Roadmap on Digital Coooperation document are unlikely to enhance international cooperation in AI. The experience of the 2019 Christchurch Call to Action in response to the livestreaming of a terrorist act, demonstrates the inefficacy of such approaches in addressing hate and extreme speech in platform environments. ²⁸ The GDC requires a binding governance framework to hold states and corporations to account for a range of human rights vis-a-vis content platforms and AI development and deployment.

²⁵ Quilligan (2013)

²⁶ Broca (2014)

²⁷ IT for Change (2022)

In addition to promoting policy guidance through the multistakeholder advisory body on global artificial intelligence cooperation proposed in the UNSG's Roadmap, the Global Digital Compact must call for mandatory adherence to human rights in the development of frontier platform, data and AI technologies and penalties for corporate impunity.

Concluding reflections - cartographies and pathways

The digital transition is a defining frame, presenting the GDC process with a momentous opportunity for a renewed multilateralism. However, as things stand, the process towards the Compact confronts a profound epistemic divide that it must bridge by centering voices suppressed in the politico-economic terrain of international rule-making. Its avowal of values such as 'openness', 'freedom' and 'security' may not mean much for its legitimacy unless they pave the way for flourishing societies committed to constructive pluralism, equity and justice. The 'what' is important, but only in relation to the 'what for'.

The UN needs to make a clean break from the history of corporatized rule-making for the digital by embracing a radical and transformative path, grounded in the right of people to participate in the deliberation of issues impacting their lives and lifeworlds. Research on multistakeholder initiatives has demonstrated the deep conflict of interest stemming from placing corporations on an equal footing with states at the policymaking table.29 Without institutional checks and balances to safeguard public reason in the process of weighing "which facts matter, how much, and for what purposes",30 the proposed route of multistakeholder consultations towards the GDC is only likely to entrench the elite capture of the digital governance agenda, with powerful corporations calling the shots.

As we contemplate the future of multilateral democracy, the techno-social infrastructures of today are already determining our human and planetary destinies, posing troubling challenges. So, while

espousing the aspirational spirit of the human rights agenda, the GDC must also expand its commitment to a posthumanist, non-anthropocentric, feminist frame³¹ for a global digital constitutionalism.

This cannot be achieved through business-as-usual global digital cooperation mechanisms. It needs the ineliminable debate and dialogue to evolve the basis of public reason and global democratic governance modalities commensurate with a just, peaceful and sustainable digital tomorrow.

The GDC must hence be seen as one step, albeit significant, towards a longer process. It must achieve a consensus for a multilateral mandate on digitalization and sustainable human futures along the following key axes:

- Initiating a treaty process on digital human rights that articulates the nature of individual and collective autonomy (including protection from state excess and corporate impunity) in the epoch of data and AI as well as the right to development for an equitable international data order (echoing UNCTAD's call in its Digital Economy 2021 report).32
- Setting up a new specialized agency on frontier technologies and sustainability sciences (akin to the ITU created at the dawn of the telecommunications era) to evolve work programmes, and establish inter-agency cooperation and system-wide coherence.
- Mobilizing dedicated public financing for development cooperation in digital infrastructure capabilities, including through ODA and international financial institutions.
- Internationalizing governance of Critical Internet Resources, the platformized cybersphere, and ICANN.³³

²⁹ Manahan/Kumar (2022)

³⁰ Jasanoff (2021)

³¹ Feminist Working Group (2023)

³² UNCTAD (2021)

³³ Hill (2020)

 Overhauling global multilateral rules in trade, intellectual property and taxation for a just digital future.

In the final analysis, the efficacy of a global compact for our digital future to serve as an instrument of justice is predicated upon the very future of multilateralism. As newer questions appear on our digital horizons, we need a multilateral system that welcomes newer, and dissenting, agendas from the people. The GDC must be based on a structural scaffold that is designed for a predictable, accountable and abiding architecture for listening and responding to those who are less powerful. Networked multilateralism, as referenced in the UNSG's Our Common Agenda, must embody this ethos. As the 2013 African Union proposal for an International Constitutional Court argues, the 'right to democracy' is meaningful to all nations and peoples only when the multilateral order moves beyond state-centric rule-making to advancing "both the justiciability and accountability of governments and national justice systems and the protection of democratic practices of deliberative participation and social inclusion".34

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