

Beyond Absolute Sovereignty: New Foundations for a Global Polity

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INTRODUCTION

Over the past several decades, the theory of absolute national sovereignty has served as the lynchpin of the existing international order. However, such a societal model is valid only as long as it accurately depicts and explains human behavior. In the realm of science, Kuhn has described how a once-dominant theory may enter a period of crisis when improved instruments reveal observations that are incompatible with the logic of the theory. He postulates that alternate theories will compete to replace the previous one, until a new prevailing theory is established as the dominant paradigm.

This conceptualization of the evolutionary process is valid in the political sphere. However, whereas scientific theories are tasked with explanation and prediction of natural occurrences, political frameworks are intended to help societies organize themselves based on common understandings. Therefore, political frameworks come under attack when they no longer provide a structure for the complexity of human interactions.

Our international system has entered such a crisis. Absolute national sovereignty—the founding paradigm of the industrial era—has revealed itself to be not only irrelevant but potentially destructive in addressing the modern challenges of our interconnected world. New, broad, and inclusive mechanisms are required to govern the “global polity,” which is structured around diverse, transnational, and dynamic networks of various social entities. These mechanisms should allow the broad set of interdependent stakeholders to collectively address issues of concern and develop appropriate governance regimes. The mechanisms should be simple, generic, scalable, and issue-independent, in order to offer a credible alternative to the present system.

The environment is only one of a growing number of domains that require new governance frameworks at various levels. The evolving “Information Society” raises a number of similarly complex and diverse issues. The preparations for the upcoming World Summit on the Information Society (WSIS)¹ reveal a broad set of political, legal, technical, and human challenges that establish the information domain as an ideal test bed for new governance frameworks.

Three structural lessons are emerging from the preparations for the WSIS:

- since governments alone cannot solve our most complex problems, multiple stakeholders must have the opportunity to address issues of common concern or interest (ICCI), at least in preliminary discussion phases;
- a generic and iterative “workflow model” for the development of thematic governance regimes is emerging, which allows participation by various stakeholders during its five stages of agenda-setting, drafting, adoption, implementation, and enforcement; and

¹ WSIS will be held in two phases, first in Geneva in December 2003, then in Tunis in November 2005

- “issue networks,” which are structured around respected “convenors” and “connectors” are the essential building blocks for the creation of a flexible global architecture.

It is appropriate to consider how these observations are transferable and applicable to environmental issues.

ISSUES OF COMMON CONCERN OR INTEREST

Nation-states can no longer be considered the only legitimate actors in the international policy arena. The global influence of civil society actors and private companies frequently dwarfs that of poor or weak nation-states. Even large countries that participate in international negotiations are strongly influenced by the views of corporate or activist interests. Additionally, the complexity of transnational issues increasingly demands the participation and expertise of private companies and NGOs. It is appropriate for the international system to recognize these actors as legitimate stakeholders.

The increasing interdependence of global networks further limits the absolute sovereignty of nation-states. Decisions by individual actors (including governments) may have direct and immediate impacts beyond national boundaries. Systems such as power grids, financial markets, and even terrorist networks provide daily reminders of the linkages among physically disparate individuals and societies. In this integrated world, absolute sovereignty is revealed to be only an illusion, which is artificially maintained by governments who wish to prevent the ascendancy of other players in the international system.

In addition to the practical limits to absolute sovereignty, the principle itself appears increasingly illegitimate. Although the global population might constitute a plausible “global sovereign,” there is growing recognition that the actions of the current population should be bounded our obligations to future generations. If the largest conceivable global sovereign cannot enjoy absolute sovereignty, no subset of that population (e.g. the nation-state) can reasonably claim such authority.

Although the concept of absolute national sovereignty appears ill-equipped to address the most pressing issues of our time, the notion of sovereignty itself—the capacity for autonomous decision-making—should be reaffirmed. It is a prerequisite for any free engagement and for the exercise of joint responsibilities. Actors may only legitimately participate in the international sphere if their freedom to decide is fully recognized. Therefore, in order to reconcile the historical authority of nation-states and the emerging role of civil society and private interests, all social entities should be enabled to collectively identify their “Issues of Common Concern or Interest” (ICCI) and share responsibility for addressing them. The set of rules, procedures, and mechanisms that various actors will adopt to solve an issue of common concern may be called a “governance regime.” Facilitating

the emergence of appropriate governance regimes in this “global polity” of interdependent dynamic networks is the purpose of the process described below.

A FIVE-STAGE “WORKFLOW MODEL” TO PRODUCE GOVERNANCE REGIMES

Producing a governance regime is an iterative process that should enable involvement of all interested stakeholders. Research conducted by the author during the years 2001-2002 within IFRI² and confirmed by the concrete experience of the preparation of WSIS suggests that a five-stage workflow model may provide an appropriate starting point.

Stage 1 - Agenda-setting

In theory, only a government has the right to place an issue on its Agenda. Despite this principle, in practice, today’s prevailing international themes originate in the public debate and NGO campaigns. Stakeholders use the practice of agenda setting to identify “Issues of Common Concern or Interest.”

By moving beyond absolute sovereignty, actors other than nation-states may undertake initiatives and claim “a right to participate in the definition of the agenda.” Various elements can broaden or restrict the interpretation of this sentence, including:

- restrictions on location, size, or other attributes of participating entities;
- thresholds in the number of petitioners;
- preemptive agenda setting or filtering by established interests; and
- participatory rules for any decision-making committee.

The preparatory process for the World Summit on the Information Society (WSIS) has allowed civil society to informally explore mechanisms to determine its own agenda. However, the interaction with the formal governmental process has remained unsatisfactory. Several countries refused to even interact with civil society or private sector actors and prohibited their participation in the development of the final Agenda.

Stage 2 - Drafting

An increasing number of governments—while reaffirming their sovereign right to make final decisions—recognize that consultations and even structured debate with a broad range of stakeholders is necessary, at least in preliminary phases. Therefore, most issues on the Agenda require the formation of ad hoc working groups, task forces, and other multi-stakeholder mechanisms to define a common vision, identify precise objectives and deadlines, elaborate rules, or form partnerships. The

² IFRI : Institut Français des Relations Internationales

creation of “issue networks” (gathering actors interested in the same Agenda issue) is a preliminary step to facilitate the establishment of such groups.

The WSIS process has identified numerous questions that arise in the development of these groups, including: who is entitled to determine membership and format, who serves as the convening entity, how to ensure that the group is “roughly representative” of the range of interested parties, what level of publicity and transparency is appropriate, how is broader outreach conducted, and what are the decision-making rules. The particular consultation format will vary according to the demands of the issue and the participants³.

During the preparatory phase of the WSIS, civil society has formed so-called “thematic caucuses” in parallel with the establishment of thematic working groups by the governments. Timid formal interaction has begun to develop, but there does not appear to be sufficient commitment or intensity to produce substantive, collaborative results.

Stage 3 - Adoption

These working groups may produce a broad range of governance regimes, ranging from informal codes of conduct to full-fledged international treaties creating new institutions. The likelihood of formal adoption often depends on 1) how work was conducted during the drafting phase; 2) how extensive the proposed regime is intended be; and 3) how much consensus was reached during the drafting phase.

Governments certainly desire to maintain their role as the exclusive decision-makers in the adoption phase. However, in most cases, adoption by governments is necessary but insufficient to form the “critical mass” of players needed to make a regime viable. Whereas obtaining support from a diversified group of actors is critical in the early stages of the Agenda setting process, inclusion of non-governmental stakeholders in drafting phase can facilitate the adoption process.

The experience of WSIS has demonstrated that civil society may refuse to acknowledge the official Declaration of Principles as a multi-stakeholder document if civil society concerns were not addressed by governmental representatives in the preparatory phase.

Stage 4 – Implementation

Although *adoption* by a critical mass of actors may be necessary for the viability of a regime, the involvement of a broad set of actors is even more essential in the *implementation* phase. Implementation must be carried out according to the roles identified for public and private actors,

³ Interesting lessons can be drawn from the methodology developed by the World Wide Web Consortium (W3C) around the formation of such working groups.

civil society entities, and international organizations; this may require creation of new organizations or entities.

Networks of private entities and NGOs may be entrusted with activities that previously have been the responsibility of centralized public actors, including maintaining registries, distributing grants, collecting contributions and membership fees, and gathering data. These networks may be distributed across the globe or concentrated in specific regions. In many cases, implementation requires establishing ad hoc local partnerships, which operate in accordance with a common framework.

Whereas adoption depends on the support of a critical mass, successful implementation must follow a “critical path” between two extremes. If implementation is too slow or geographically limited, or if participants are not sufficiently balanced among different sectors, the regime can be stillborn. On the other hand, excessively rapid growth and geographical dispersion of diverse actors may cause a regime to crumble, even after a rapid takeoff.

Positive-feedback loops and network effects can be used to promote sustainability and maintain the regime within its “viability envelope”. A governance regime is not a static norm, but rather a dynamic tool designed by a community of interested actors. The more the actors benefit from the regime, the more support they will provide to ensure its success. The “issue networks” created during the drafting phase can facilitate this process by identifying primary implementers and providing well-informed assistance to the broader community of actors.

Stage 5 – Monitoring and enforcement

This final phase is the key to long-term viability of a governance regime. However, monitoring and enforcement of these dynamic regimes do not necessarily follow the traditional model of courts, police, and dominating force. In certain cases, specialized international Agencies may be constructed (e.g. AEIA), but cooperation among existing bodies is typically sufficient. In fact, monitoring need not be conducted exclusively by public actors. For example, NGOs that publish reports on corporate responsibility or violations of international conventions are playing a monitoring role. The validity of this role can be bolstered by obtaining press or public exposure, often in the absence of legal international authority.

Most successful governance regimes do not rely exclusively on enforcing rigid, uniform norms. Often, transparency is the critical element of success, which guarantees participants with both information and predictability and facilitates efficient cooperation. However, the most important property of a dynamic governance regime is its resilience—its capacity to accommodate different configurations of external environments and internal defections. A regime that falters as soon as one of its participants rejects the rules is unsustainable. Dispute resolution systems, consultation mechanisms, or ad hoc panels provide an arsenal of tools to address non-compliance without the regime collapsing from within.

This five-stage process is iterative. Regular monitoring allows a regime to adapt its Agenda and, when necessary, initiate the five stages to accommodate changing conditions and priorities. The process is also designed to be scalable and fractal, which enables these stages to be implemented at local, regional and global levels using a common framework that recognizes situational distinctions.

STRUCTURING ISSUE NETWORKS

Any Agenda is a list of “Issues of Common Concern or Interest.” For each issue, a priority step is to facilitate the formation of an “issue network,” which groups stakeholders from all sectors that share a common concern or interest. Each social entity willing to participate may designate a primary contact point, and membership may be closed or open. Individuals associated with each entity may participate in the network at any level of involvement:

- as a mostly passive observer, checking progress irregularly or regularly through web sites and mailing lists;
- as an involved member, requesting to be consulted at least on final drafts before adoption;
- as an active participant in working groups and task forces, regularly contributing to the drafting or implementation processes; or
- as a core “convenor” in the group of principal individuals or entities providing physical facilities, coordination, and basic orientation of the process.

Several principal factors will impact the success of the issue network in framing the Agenda. First, it is critical to select an appropriate group of convenors, which is recognized by the community of interested parties as capable, diverse, and neutral. Next, participants should be treated as “connectors” to an entire network of other actors rather than as “representatives” of a given constituency. Finally, an issue network should participate in each phase of the workflow process, undertaking a different role in each of the five stages.

WSIS APPLICATION OF THE WORKFLOW MODEL

The entire WSIS process is likely to follow this iterative five-stage workflow model. As WSIS becomes a test bed for such global governance mechanisms, we hope this framework will prove sufficiently flexible to be applied to a broad range of issues, including environmental concerns.