'The evolution of new approaches to international relations and global governance is under way. The success of soft institutions – based on the example of the Internet ecosystem – and the values that they convey will inevitably continue to spread to other fields.'

Lynn St. Amour,CEO, Internet Society

This collection of four booklets published by the *Fondation pour Genève* describes the changes taking place in world governance.

N°1 « Soft governance ». The starting point for understanding new practices in international relations. What are they?

N°2 «Multi-stakeholder». New players have entered the international arena, and changed the balance of power. Who are they?

N°3 « Societal responsibility ». New governance leads to new negotiation processes. How?

N°4 « Soft institutions ». How soft institutions are thinking, organising themselves and acting. But why?

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SOFT INSTITUTIONS

Booklet n°4

Booklet n°4
Soft Institutions

Preface

The evolution of institutional structures in the Internet era

Lynn St. Amour
CEO, Internet Society

Man's quest for progress and the improvement of his condition is the main characteristic of the history of humankind. This quest is in line with our desire for a better environment, a wider horizon, constantly evolving social structures or simply our curiosity and our innovative capability. The evolution of societies, cultures and organisation types is thus per se linked to the evolution of technology – from its invention to the development of its use.

Technologies are born within pre-established cultural contexts from which they draw their information and in turn further enrich it as man combines his cultural needs with technological progress. Thus, technological progress inevitably generates a cultural change that often goes far beyond the foreseen impact of its creators who were only seeking solutions to specific problems. This relation has been going on forever. Many people believe that the discovery of fire, bringing a ray of light to the then dark and quiet nights, resulted in the creation of traditions such as tales, myths and mysticism. With the development of agriculture, tribal communities organised themselves in bigger, more complex societies. Trade flourished, leading to labour specialisation and the establishment of new structures and commercial organisations.

The invention of handwriting drastically transformed the way knowledge was created, developed and preserved, so that education was able to spread faster and further than ever before. Centuries later, because of the invention of printing, the elite lost the power conferred by the art of writing; the path towards the democratisation and generalisation of literacy, education and knowledge had opened up, although the process unfortunately remains incomplete today.

Nowadays, up-to-date information and communication technologies widely contribute to modern cultural changes. The current social networking phenomenon (including applications such as Facebook, YouTube and Skype) brings together new communities on an international scale that are created spontaneously on the basis of shared values. Nevertheless, we are only at the beginning of the cultural and social changes conveyed by these new networks. Their impact will be felt in every political, commercial, education and social institution and will challenge our current concept of governance and management. It is clear that technology does not evolve outside of the cultural field, of which it is neither a mere product nor a constituent. Technology, as language and art, is an intrinsic element of human culture.

In 1992, three of the main Internet pioneers, Vint Cerf, Bob Kahn and Lyman Chapin officially announced the creation of the Internet Society; they wrote: 'A new global development of scientific and technical cooperation is now within reach[1]. If this declaration was stunning then, it seems rather humble today. What makes the Internet such a significant phenomenon in human development is the combination of technical power that it brings with the cultural development that comes with it. It was these components that led to the creation of the World Wide Web and they remain intrinsic to its functioning, management, evolution and continuous expansion.

1. Cerf, V., Chapin L., Kahn R., „Announcing ISOC", 1992, http://www.isoc.org/internet/history/isochistory.html

The Internet is the product of an experience that aimed to connect disparate computer networks within an environment of rival, closed and owner network protocols. The protocol implementation was subjected to commercial restrictions and limited to authorized equipment. The protocol development was the result of decision processes coming from the managerial spheres, without any external consultation.

Disregarding the obstacles, the Internet pioneers understood the potential of interconnected networks and to exploit that potential a different way of thinking and working was needed.

The growth of the Internet is based on the need to collaborate and cooperate. People from all over the world striving to reach a common goal have solved the problems derived from the interconnecting of networks. Open norms have been developed through open processes, in which anybody with an interest could take part. Anybody willing to apply those norms was allowed to do so without having to ask or pay for it. No central power was mandated to apply any rules. On an operational level, responsibilities have been distributed and a decision process has been started, based on an open consensus and on the sharing of documents.

This is what we now call the Internet model of development. The term encompasses functioning values shared by many key communities and organisations that are at the heart of the ongoing development and evolution of the Internet. Among some of the functioning values is the support of:

- Interoperating, global and open technical norms;
- Free access to processes to deploy general policies as well as develop technologies;
- Responsibilities distributed on an international scale for technical, administrative and management functions;
- Transparent and collaborative governance (forerunner of the current multi-stakeholder model).

These functioning values are the prerogative of many organisations and people taking part in the ongoing development, functioning and use of the Internet; these values determine their action field. Despite different expectations, interests and roles, the stakeholders of what is called the Internet ecosystem stay united by the common need for a global, reliable and inter-operational Internet. As in any ecosystem, each component is tightly bound to the good health and stability of the whole.

The Internet works because people want it to and collaborate to make it work. No single entity owns, manages, nor monitors the Internet. Because it is able to adapt as well to diversity as to speed of change, the Internet model is inherent to the success of the Internet and actually, to its existence itself.

The spirit of the Internet is based on this particular development model which goes along with the many concrete roles played by the Internet, namely: stimulating economies, offering job opportunities, giving access to education, providing health resources, protecting the cultural and linguistic legacy, informing the citizens and bringing people together in shared interest communities.

The Internet model greatly differs from traditional hierarchical control and regulation models; many new institutions spontaneously emerged within the Internet ecosystem to take on responsibility for the different aspects of technical functioning, administration, policy development and community building. Again, these are not traditional hierarchical institutions, but rather entities that have been developed around common interests and whose consensual legitimacy is based on open commitment and transparent decision processes.

The Internet Engineering Task Force (IETF) is the forum within which new Internet norms are developed. The IETF is open to anybody interested and neither membership nor affiliation is required. The norms are developed through open processes, based on document sharing and are approved according to a minimum consensus – which can be initiated by anybody without any fee. The use of IETF

norms is a choice, which is only motivated by the desire of the person who implements them to reach interoperability and accessibility on a global scale; that goal is his reward, as well as his role in the implementation process.

There is no doubt that that many governments and institutions throughout the world do not know the Internet ecosystem well or feel undermined by its soft institutional structures. However, traditional institutions have to opt for either going against or following the trend and must take the following issue into account; the impact of the Internet on the lives of the people who use it so far has been profound.

The Internet model of development as well has opened an extraordinary cycle of technological and social development, innovation and creativity because the Internet is far more than mere technology. It represents a platform for innovation, a springboard for other technologies, a channel for communication development, a meeting place and a very powerful tool for analysis, knowledge sharing and creativity.

As time goes by the Internet model rules of shared responsibility and open collaboration are increasingly implemented beyond the Internet technology, for the future of society and, more recently, for the environment. Throughout the world, conscious communities and committed citizens collaborate and cooperate, using the Internet as a means of communication. Together they contribute to raising the global awareness of issues such as inequalities, resource shortages, sustainability and opportunity. Within our ever more complex environment, the Internet is a powerful tool to collect and analyse data, and share research endeavours. The benefits derived are obvious in fields as diverse as genomics, health, climatology or astrophysics.

Of course the Internet is still in the development stage, but given its nature, this will always be the case. Its ongoing evolution and growth for the benefit of all depends on the preservation of its development model. Government and international institutions within the Internet ecosystem play many roles, for which they have to collaborate with

many other experts, interested and experienced stakeholders, rather than considering the duplication or substitution of their responsibilities. Traditional institutions will contribute according to their abilities in identifying problems; however this does not necessarily mean that they will be in the best position to solve them. Rather than clamouring for traditional control mechanisms, the involvement of governments and international organisations would be more positive if they adopted the Internet model of development, thus facilitating its adaptation capacity and participating in its ongoing evolution.

The Internet Society believes that this change within the institutional culture is not only necessary but also unavoidable. Some governments, feeling threatened by change, can partly or temporarily isolate their citizens from the World Wide Web at the expense of all other social, economic and cultural benefits provided by a global and open Internet. Furthermore, even when a country cuts off the access to the rest of the world, experience has shown that the Internet remains a powerful tool to build communities and to mobilize civilians on a local level.

As shared interest communities are built around knowledge systems and interconnections facilitated by the Internet, it seems obvious that these communities will very likely migrate towards similar models of development and shared decision making processes.

In the developed world a whole generation has been born and grown up in a culture where the Internet is the main media. Of course there is still a lot to be done in order to bring the benefits of the Internet to the billions of people who are still without it; however, it is difficult to imagine that future generations will not view centralised and hierarchical control institutions as anachronistic. Little by little these future generations will extend the successful lessons of these development models to governance issues. They will impose their liking of the models of shared experience and will demand institutional structures that take into account the diversity of opinions.

Throughout history technological events have continuously affected cultures, restructured populations and reorganized political and education systems. The Internet technologies and their tightly linked development model will in the same way reorganize the future institutional and cultural landscape. The evolution of new approaches to international relations and global governance is under way. The success of soft institutions – based on the example of the Internet ecosystem – and the values that they convey will inevitably continue to spread to other fields.

We are on the eve of a renaissance that does not only concern technical and scientific cooperation, but also cultural, institutional and political progress. Let us not take this renaissance for granted, but continue to work and to fight for the principles that have brought us this far.

Internet Society (ISOC)

Founded in 1992, this non-profit organisation's mission is to provide leadership in Internet related standards, education and policy. It is dedicated to ensuring the open development, evolution and use of the Internet for the benefit of people throughout the world. Based in Geneva and Reston, near Washington D.C., it regroups more than 80 chapters and has more than 44,000 individual members. ISOC has created more than 100 common interest groups to facilitate the technical development of the Internet, educate communities on the technology and its changes and ISOC participates in the current and future governance of the Internet. While carrying out numerous standardization activities with structures such as IETF (Internet Engineering Task Force), IAB (Internet Architecture Board), IESG (Internet Engineering Steering Group), or IRTF (Internet Research Task Force), the Internet Society strives to have all stakeholders participate in its governance. Although it is a key player in the Internet governance, this non-profit organisation is not the only player and must work within the distributed power typical of the Internet world. ISOC is however one of the indispensable parts of civil society in this soft governance process.

Foreword

Four years ago the *Fondation pour Genève* started re-thinking the role of International Geneva in the new context of world governance. Four booklets have been published since 2007 to bring the debate to a wider audience and their impact is visible: the role of Switzerland and Geneva in world governance is no longer described as the politics of "good services" (intermediation) but as the politics of "think services".

The WTO, ILO, WHO, ITU and many other UN, intergovernmental and even extra-governmental organisations such as ICRC, ISO as well as civil society with the WEF, non-governmental organisations, academies and corporations participate in making Geneva the place where regulation, norms and standards are established for the benefit of world affairs.

This paradigm change is now a fact and allows Geneva to produce the normative values for decision bodies such as the G20, the G192 or the UN's Security Council.

The process of synthesizing and striving towards a vision started by the Observatory of the *Fondation pour Genève* was realized thanks to the contributions of people from the political, academic, diplomatic and philosophy worlds who were as diverse as original. Micheline Calmy-Rey, Martine Brunschwig Graf, Beth Krasna, Lynn St. Amour, Laurence Boisson de Chazournes, Joseph Nye, Daniel Vasella, Jakob Kellenberger, Luzius Wasescha, Roger de Weck, Laurent Moutinot, Klaus Schwab, Pascal Lamy, Alan Bryden, Juan Somavia, Ivan Pictet, François Nordmann, Laurent Haug et Edgar Morin have all contributed to the four booklets.

We are now able to close the series with a last booklet on the agenda of soft institutions and open the field to new perspectives that have yet to be defined. The metamorphosis of governance is in process as Edgar Morin shows in the concluding chapter of this publication. This booklet does not aim to take positions to finalize the discussion but rather leaves the debate open to new trains of thought. The future is in the hands of the Internet generation who will try to govern the world with the new representations of distributed governance, real time and territories of variable geometry.

The up and coming generation of diplomats, entrepreneurs and academics will bring forward principles such as end to end, soft power, information redundancy, and accountability into world affairs and will act through trial and error and social networks. Without doubt, civil society will play an increasingly important role. These changes harbour a real metamorphosis, and we need to track and accompany them. Our task will become more complex with a more active implication and responsibility. Our future has never been so tied to collective choices, which is why we must remain attentive, alert and pro-active.

Geneva is at the heart of our concerns in this series of booklets, and has discovered for itself a new vocation as a think office. What does this mean? Firstly, in a world made of hard and soft power, the interference of norms, standards, and regulations in our society and on the stability of international relations must be acknowledged.

If one accepts the rise of soft laws and the institutions that generate them, then one must concede the exceptional character of Geneva, its capacity to capture the resolutions of civil society, of corporations, of universities and of Nations. Geneva offers a networked platform attached to the promotion of humanitarian principles, of wellbeing and sharing, necessary to the social, economic and intellectual development of the world. It is necessary to continue to reinforce its position by improving its services and by creating conditions very close to excellence.

It is on an intellectual level more than on a material level that Geneva must make a difference as the stakes concern the reinvention of a complex world governance and its implementation. The youth of the world will need to spend time to conquer these new political fields and we must help them to prepare themselves, get information and transform themselves: it might be a collective task, but the responsibility particularly falls on Geneva, due to its past.

This intellectual role, to be at the service of others, is not new: Calvin, Rousseau, Voltaire, Dunant, de Saussure, Piaget in their time, and Klaus Schwab, Pascal Lamy, Juan Somavia, Tim Berners-Lee today are all part of the emblematic figures of an open, tolerant, generous and innovative Geneva.

We must all strive to extend their contributions.

As you know, this is the fourth and last publication of a series that is at the same time a continuation of the discussion that we started, while opening a new discussion on the future. We are counting on your contribution and support to widen the debate.

And we wish you good reading.

Tatjana Darany
Director
Fondation pour Genève

Ivan Pictet
President
Fondation pour Genève

The *Fondation pour Genève*

The objective of the *Fondation pour Genève*, created in 1976, is to contribute to the reputation of Geneva in Switzerland and throughout the world. The Foundation acts mostly on the international positioning of the greater Geneva region, the relations between the international and local communities, the welcoming of expatriates and their spouses, the development of initiatives that favour dialog and idea exchanges and lastly the management of charity funds. The work of the Foundation is to launch, coordinate, promote and support initiatives that follow the Geneva traditions of hospitality and openness to the world. The *Fondation pour Genève* is a private organisation and is recognized of public benefit. Most of its activities are done in close coordination with the federal and Geneva authorities.

Soft institutions

Around 2020, one out of every two persons living on the planet will be what is nowadays called a digital native, and this is only 10 years away! This population will have lived under the Internet governance model. They will be widely influenced by its policies, principles and standards. Without doubt, this generation will want to revisit the world's governance. Let's dwell a while on this generational change before studying more precisely the institutions and processes that will lead us toward such a governance. This generation that has mainly known free access to information and knowledge (through the Internet) without any time or space limit has legitimately built new shared references. They have invented the creative commons movement, a kind of free sharing of creation rights that is less restrictive than the concept of copyright or of intellectual property.

They have also developed the open source model and other applications such as Wikipedia.

In addition, they have backed the participative aspect through social networks (Facebook, MySpace, Plaxo). This generation has changed the basic rules by imposing a free access to information and knowledge, shared intellectual property, voluntary and free cooperation and the creation of an open community without a restrictive ownership concept. In short they have revolutionized the old world down to its very foundations, so it is most unlikely that they will stop there: they will also modify current practices by their new behaviour. Therefore it seems reasonable to analyse today the underlying processes of this societal change.

Introduction

To evoke soft institutions is to speak of the institutions that produce soft laws[2], i.e. the body of regulations, recommendations, resolutions, norms, standards, codes of conduct, societal responsibility principles[3], best practices, action plans or moral obligations that are based on a voluntary, non-binding and non-coercive acceptance by multi-stakeholders.

Soft institutions can thus take on various forms with various legal statuses. Among which are NGOs, non-profit organisations, consortiums that federate different institutions of civil society and also economic players who issue advice, norms, benchmarks, rating indexes, etc., including even public players such as international organisations and sometimes governments.

As the competence to issue soft laws is not governed by national sovereign laws, a myriad of regulations have emerged that fit into a kind of wider global market of norms.

Users, through their behaviours and consumption choices, have somehow become the arbiters of the phenomenon.

2. See booklet 1 and 2, www.fondationpourgeneve.ch

3. See booklet 3, www.fondationpourgeneve.ch

The soft laws market and thus the ability of soft institutions to establish themselves in the international and national arenas depend on the creation of a political agenda. Soft institutions compete with each other within the global political debate, regardless of their activity sector, political views or legal and social status.

Nowadays it is the ability of soft institutions to push their agenda in the public arena that determines the real hierarchy among them, much more than the quality of their proposals and recommendations. The "convincing game" in the media has taken over from the previous political manoeuvring in the wings. No doubt this is the consequence of a society that is highly connected and produces an on-going flow of information and communication. Power has moved from the antechambers to the public forum and everybody has to adapt to this new reality.

By their sheer number, probably several thousands, soft institutions are today the type of governance that produces the most regulations. In only several decades they have issued hundreds of thousands of soft laws. The International Organization for Standardization (ISO[4]) alone has, for instance, issued more than seventeen thousand norms. Such an excessive output poses a threat of over-regulation, but nevertheless acts as a considerable counter-weight to the hard laws issued by national and international legislative bodies.

The world is thus faced with several questions: who governs whom? How are soft laws developed? How are soft laws implemented? What are all these regulations for? Why does the world need soft institutions? This booklet will provide answers to all of these questions.

4. www.iso.org

International Telecommunication Union (ITU/LTI)

Founded in 1865, the ITU is one of the oldest international organisations of multi-lateralism. It is in charge of establishing the worldwide standards that foster seamless interconnection of a vast range of communication systems, of allocating the shared global radio spectrum, as well as developing the future of telecommunications. The ITU is based in Geneva and its membership includes 191 member states and more than 700 sector members and associates that represent the private sector. Although they have a different status, the sector members and associates participate fully in the establishing of standards. It is recognized that they are the main innovators in this domain. The standards published by the ITU as recommendations are really soft laws. They are not the only recommendations of this type. In the Internet domain the ITU is not a leader, but participates in the galaxy of the governance. The ITU organises large forums: Telecom and WSIC are often held in Geneva. Many other meetings regularly gather the specialist members of the organisation to establish standards and they are a sort of soft parliament of the governance of the telecoms.

Three representation modes

During the past two centuries, developed societies have known several modes of representation that have forged behaviours, activities and institutions. Three of them are described below:

1. The mechanical vision: the whole is divided into functional parts like the cogs of a mechanical device. It is the era of engineers, astrophysicists and functional city planning. The body works as a machine. Society is the result of a hierarchically structuring organisation; factories are organised around their production line; companies implement the international division of work; governance is of the representative type.

2. The systemic and organic vision: the whole is more than the sum of its parts, which interact to produce an upper layer similar to geological strata. Therefore the human being is more than the sum of its body parts. This is the emergence of the biological representation through the organic organisation of society into multi-stakeholders with concepts of soft laws and trans-party regulation such as social responsibility, etc.

3. The emergence of the Internet constellation: each part is an expression of the whole like fractal networks or DNA. We enter into a viral vision of society. This movement emerges from a distributed representation of power versus a centralised one, from a participative mode versus a representative mode. Its expressions are social networks, home automation, Wi-Fi, Wikis and practice communities.

In an outstanding book[5] Peter Schwartz wrote: "The world has until now undergone two major transformations: from hunting/gathering to farming the transition took two to three thousand years and it took another two or three hundred years to get from craft to industry. We are on the eve of the third transformation which might take 20 or 30 years". Even if this vision might seem at first glance a bit provocative, it is no such thing. The digitalization of human activities will create a new world in matters of economics, information and knowledge. Let's try to see it clearer.

First of all, the digital revolution affects every service sector of human activity through its handling of information and knowledge. Second, digitalization is the act of transforming human processes into automated algorithms. Lastly, by focusing on knowledge the societal metamorphosis carries within a deep change, particularly with its new tool: the Web.

The Web, with its incredible development, has linked intelligence on an individual level in a network for the benefit of a collective endeavour, often altruistic, which transforms the way we approach work, trade, client relations and business models. To mention the Web is to mention the digital revolution, as the latter is inseparable from the tremendous thrust of society's revival. If we take a moment to think about the absence of distance, of actual transaction times, of cost reductions, of disintermediation, of consumers' empowerment, of work distribution, of the new composition of the value chain, we must concur that all that was brought to society by industrialization is now being questioned, at least partially.

5. Peter Schwartz, „Inevitable Surprise: Thinking ahead in a time of turbulence", Gotham Books, New York, 2003

The main organisational forms of governance

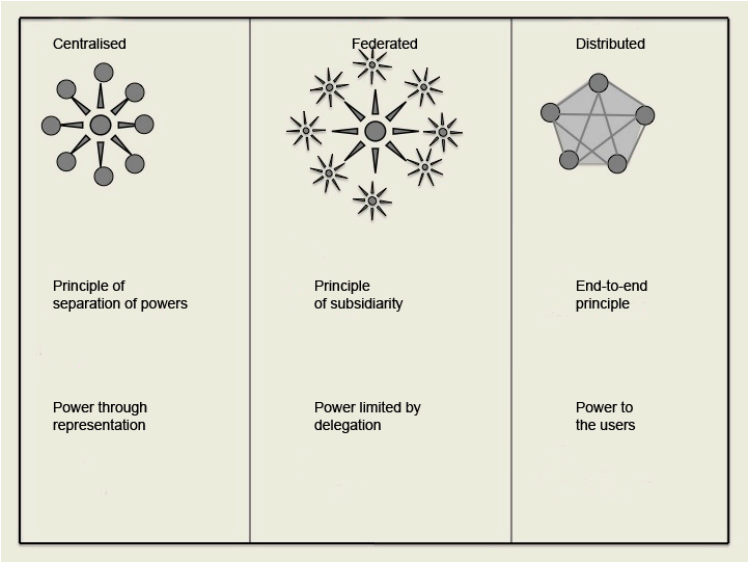
Used to a centralised form of power, most institutions including Nation-states or companies have developed a fundamental principle of governance: the separation of powers. This principle allows the division of power to avoid its concentration among a few persons as well as the increase of the overall system efficiency. The separation of powers makes possible a mutual control while fixing a clear definition of individual missions, responsibilities and actions. For example, in companies the separation between the board of directors and the management team ensures in principle a greater clarity in decision making, control and company policy.

Regarding the public sphere, the separation between the legislative, executive and judicial branches has also allowed the development of an efficient system while ensuring that citizens have a better justice system, a democratic control and finally more freedom. The principle of separation of powers is thus crucial to guarantee the balance of public powers within a democracy.

Within the framework of federated systems such as federal states, the separation of powers is based on the principle of subsidiarity, where the system delegates to the optimal organisational level the power and responsibilities over certain matters: activities such as local police, land management, economic promotion or culture are often delegated to lower levels.

A federated system organises power according to the territories concerned. Traditionally, in a federated system such as Switzerland, the municipal council is responsible for building permits, the canton for city planning and development and the Confederation for national infrastructures such as motorways or railways. This distribution of tasks, which can evolve over time, is based on the principle of subsidiarity. Larger entities such as the European Union or the United States of America work in the same way. Many organisations of civil society, such as the Reformed Protestant Church and many NGOs, have adopted this governance model by creating local federated sections in a national or international structure. From an economic point of view, cooperatives usually work according to this model of governance. Nevertheless, it is obvious that there are a multitude of variations in the implementation of a federated system.

Diagram of governance models



In a distributed system, each entity is at the same level of equality. Intermediary functions only aim at distributing information and knowledge; they somehow keep the system fluid. Everything happens at the level of the end users. Thus the end-to-end principle, which comes from the Internet governance and which will be evoked in detail later in this booklet, allows the creation of an empowerment process, i.e. to emancipate the users from a centralised or federated power.

In distributed systems everyone matters. One's vote is not granted to a representative or delegate anymore; one's opinion is simply expressed through talking, debating and deciding. However, because of its structural nature the system carries with it problems of efficiency, conflict management and common goals. These systems therefore need new regulations and the creation of new institutions, which can convey messages, organise them and make them operational. In fact, this is exactly what happens with soft laws and soft institutions. This soft system is somehow designed for a distributed model of governance.

Comments

Above all, the three systems mentioned above work together. Society and particularly its institutions function in a complex environment that integrates one or the other of these forms of governance while often modulating their application. Understanding the overall functioning of our society does not only imply understanding these patterns, but also integrating them, making them interact within the emergence of a new world governance. This booklet pays particular attention to distributed governance because it is not only less well-known, but also because for some decades it has become an original force conveyed by a new generation of players through NGOs, the Internet and above all the young generation.

The organisation of NGOs with their practices and activity fields has disrupted the former order of civil society organisations, which were mainly represented by unions, civil associations or political organisations. NGOs today have changed the landscape and form a new component of distributed governance. What is more, the social world developed by the Internet, particularly through social networks, also shows the early beginnings of a form of distributed governance. By implementing the principles of the Internet architecture, particularly the end-to-end principle, social networks are a new part of our modern-day society.

This form of distributed governance is also to be found within recomposed families. Reflecting the evolution of divorced and often remarried couples; the family has expanded to several levels in a kind of social mini-network and has restructured our social fabric at the same time. The recomposed family has become a type of model of an institution of distributed governance.

Furthermore, it is important to stress the exclusiveness of these three forms of governance, which means that an institution will be characterized by its centralised, federated or distributed power structure. These forms mutually exclude each other but work together from a social point of view while at the same time express oppositions, sometimes even disagreements in the management of local, national or international affairs.

The transition period that marks our era will most probably see a clash of the different organisational forms of governance. The institutions that represent them have started talking[6] even if the convergence process for the search for solutions and decision-making still remains highly complex.

6. See booklet n°2 «Multi-stakeholders», www.fondationpourgeneve.ch

Characteristics of soft institutions

As has just been shown, soft institutions produce soft laws. Whether they are recommendations, regulations, standards or norms, soft laws are all based on a voluntary non-binding and non-coercive participation. They are thus opposed to hard laws, which are mandatory, binding and can lead to sanctions. Furthermore, in democratic political systems constitutionally established institutions, e.g. parliaments (legislative power), administrations (executive power) or judicial bodies (legal power) issue hard laws. In contrast, soft laws are issued by institutions that do not have any legislative basis, such as the Internet Society, the WWF, Amnesty International or Max Havelaar, which were created from participative and non-representative initiatives. However, soft laws may also be issued by institutions which are the result of supranational conventions such as ISO (International Organization for Standardization), WHO (World Health Organization) or ITU (International Telecommunication Union).

This is the first characteristic of soft institutions: they do not result from representatives elected by the people as is the case of constitutions or laws. Soft laws are thus not legally binding but their influence may nevertheless compete with hard laws. The examples from parts 2 and 3 of this booklet will demonstrate this. In a society largely governed by multi-stakeholder type practices, the acting parties not only express their voice through recommendations, but they also force the debate through protest movements. The soft laws thus issued often carry as much weight and sometimes are even more binding than traditional laws issued by sovereign states.

The second characteristic of soft institutions affects their field of action, which in almost all cases is at the supranational level. Indeed, it is from the global governance space, probably due to a lack of regulation at this level that a new intervention arena was made possible and was organised. Soft institutions were thus the result of a kind of global constitutional vacuum. If at the level of the Nation-states legal and sovereign institutions have covered most of the fields of human activity, this is not the case at the international level. Without a parliament or finished state apparatus, the world governance has been handled until now through the multi-lateral process of nations. Granted, this process, through the United Nations, is currently struggling to define the contours of a strong governance, which leaves open a space for new institutions.

The third characteristic is that these soft institutions never act alone in any given field. Be it the Internet, fair trade, research and education, the environment, etc., a multitude of institutions are always involved in the soft processes of normalization, standardization and governance. A kind of institutional galaxy forms itself to produce a system of governance. These institutions do not, however, form any unique, centralised and clearly identifiable governance for which precise functioning rules would have been developed beforehand. Soft governance is first of all a process which produces norms through an often hard to reach consensus. So the general impression perceived by the citizens is confused and tentative. In the end the decision seems to come from nowhere. However, these chaotic processes lead to some amazing results. And thus the world continues to govern itself.

The fourth characteristic of soft institutions highlights the fact that for the majority they are under the influence of Anglo-Saxon culture. English is of course the linking language, but beyond this these institutions are based more on Anglo-Saxon case law than on Roman law.

Many participants of other countries (particularly those from continental Europe) find it disconcerting because these processes always prevail over legal approaches as they give priority to legitimate actions. In some cultures, the creation of constantly moving institutions is often puzzling, but the world governance is heading in that direction and a reversal does not seem possible any time soon.

The fifth characteristic is related to soft institutions giving priority to transformation instead of transaction. There is not any definitive contract (transaction) but it is the ongoing process of change (transformation) that counts. By constantly evolving towards perfectible developments, institutional processes are puzzling and the search for progress in governance remains the only finality. And so the norms and regulations evolve over time. Such obvious instability confuses the citizens and makes the readability of governance murky. Very often only the players in the governance arena understand what is going on; the population is left out of the process. This is certainly the weakest point of soft governance and the reason why many efforts are being made to develop a real accountability system to track the progress achieved.

Let's now take a closer look at the origin and the basis of these institutions before continuing with a more prospective look at the main aspects of future governance.

The basis for change

Societies reflect in their institutions the prevailing social organisation. A patriarchal society is thus, from the family cell to the top of the state, organised around the dominating role of the father. All of the different institutions are organised according to that model. They continue to influence each other while reinforcing a common vision of the prevailing form of governance. If one of the institutions were to change its model, then the whole system would become unstable. A new model of equilibrium for society would then have to be developed.

In our contemporary societies, the family organisation plays a decisive role as it is considered as the first level of social organisation. In emerging democracies, the father was the only representative of the family and as such a member of the sovereign people who could vote. Women and children had long been banned from the democratic process.

The family cell

For half a century, the Western family cell has been affected by fundamental changes[7]. It is important to highlight this because it is often the first group within which individuals socialise and learn to live together. However, in our contemporary society this role has largely diminished.

7. Paul Yonnet, «Le recul de la mort» (2006), Editions Gallimard

In the middle of the 19th century, women initiated the suffragette movement to obtain the right to vote. One century later, these movements won their case and democracy ended up with two votes within the family. And so opinion divergence appeared in the home. Bipolar governance is made possible within the family itself. An overturning of the equilibrium was further brought about with the lowering of the legal voting age of young people, and so this opinion divergence settled permanently in the family.

After World War II, with the massive introduction of the use of penicillin, children drastically changed family relations. Until then, the first years of a child's life was characterised by a certain fragility, as child mortality was high. The number of women dying in childbirth was also high. With the discovery of penicillin, child mortality, which was 4 times higher than nowadays, was drastically reduced. In industrialised countries, the mortality rate due to infectious diseases was dropping as life expectancy was extending. This progress in curing infectious diseases and in the decrease of child mortality led to the two following consequences:

- The idea of losing a child has now become intolerable and thus the collective social pressure has been brought to focus on child diseases. The family is ready to accept any sacrifice, including organ donation, transplants and even sometimes to share stem cells. Parents sacrifice to make up for the defective body of their child. Family has no price[8] and feelings, family generosity and even final sacrifice are consented for the survival of the child. Before, losing a child was often made up by the birth of another one and even if the suffering was acute, society and the family lived perfectly well with this reality. Sometimes the new-born was even given the same name as the deceased child, which would be unthinkable today.

8. The Priceless Child. The Changing Social Value of Children, Princeton University Press, 1994 by Viviana A. Zelizer

- As children were not incurring the same risks, each life took on more importance. With this new reality of almost guaranteed collective survival, children were not seen as a homogeneous group of individuals anymore, but as a heterogeneous group made up of distinct personalities who each had the means to develop in an independent way. Each personality would now count and the education and social systems as well as the institutions were going to have to adapt.

At the same time, the concept of marriage for love was introduced, which, during the 20th century, would reinforce its legitimacy with the generalisation of its antagonism: divorce. Even though religious authorities did not tolerate divorce, it spread because love marriages lose all meaning once love is gone. Today in some Western countries and in Switzerland for example, one out of every two marriages ends up in divorce. This change impacts social organisation particularly. We move from traditional families to more enlarged ones with the appearance of recomposed families that include the children of the former marriages of each partner. It is a sort of extension of the family where new members constitute a kind of tribe of stepsisters and stepbrothers who live in a looser family organisation. Such a social group can be compared to a collection of small, related networks that slowly shift towards a new family social network that will cement the relations between individuals and society.

Finally, women's emancipation and the introduction of new contraceptive methods, such as the birth control pill, regulated a new balance within the family cell. Thanks to contraception, birth control is now possible; children are now desired, issued from a marriage for love. The child represents a choice in which the woman's emancipation results from a decision. Women are no longer subject to random and undesired pregnancies. Within the family, the woman gains an equal status in relation to her husband regarding the control of her desire to procreate. Family governance thus becomes even more bipolarised.

Another key factor that interferes with family organisation is the extension of life expectancy. Since the end of World War II and thanks to the progress of medicine and hygiene, life expectancy has been significantly extended: two years have been gained every ten years, i.e. if life expectancy was on average 72 years in some developed countries in 1960, it reached 82 years fifty years later. The direct consequences of this extension of life expectancy will be on several levels:

- The emergence of a new family composition made up of four generations of which two are retired; this has never been seen before in the history of humanity;

- Social balances are disrupted, starting with inheritance issues that now concern two retired generations. In such conditions, it is difficult to imagine the return of family wealth accumulated during the productive cycle;

- Women, in a kind of social response, procreate later as they give birth for the first time on average when they are 29 years old in Switzerland. Fifty years earlier, the average was 20 years old;

- Family wealth governance is made more complicated because of the number of stakeholders;

- Recomposed families call for a governance with a variable geometry, whose statuses are very vague to the younger generation who must adapt and follow different levels of governance;

- Solidarity between generations is about to change radically because the economic balance will rely mostly on a small young working generation supporting two retired generations.

Relations between the individual and the recomposed family have been reversed. This family modernity foretells society's. All family members (multi-stakeholders) speak out to reach emancipation and this process of family governance merges little by little within a new modernity.

The individual is now a person within the family as he could be within the functioning of social networks.

And so contemporary family with its recomposed power and the Internet's social networks with their distributed power are thus the main components necessary to the emergence of a new form of social organisation. These two processes are simultaneous, even if they only have a slight connection with each other. Nonetheless, this historical coincidence increases the global phenomenon of an accelerated societal transformation.

The social networks (Internet)

The recent evolution of the Internet towards social networks[9] has radically changed not only the behaviour of citizens, consumers and workers, but also the social architecture. Social networks developed thanks to the Internet have allowed the emergence of a new structuring organisation form that goes far beyond former territorial borders, themes, groups and even governances. Social networks thus seem to cross former community limits and to bring a greater fluidity to the mobility of ideas, fashions and relations between nations, people or religions. This is particularly true for the young, whose musical, clothing and behavioural tastes have become international. They disregard cultures, regions and consider the world with a dimension that no other generation has ever known. These new communities are brought together on a voluntary, free and non-binding basis (it is easy to get out of them) and they often get involved in a very transient way. Historically, social networks were born in what was called in the mid 90's "practice communities" on the Internet. They were initially professional groups whose aim was to collectively solve some specific problems. They somehow provided a collective intelligence to address issues that preoccupied technicians. For example, Xerox was one of the first companies to develop a practice community to help photocopier repairers, or Phonak (today Sonova Holding) who implemented a community to help ENT specialists all over the world. Such practice communities were and still are interest communities socially active in particular knowledge fields.

9. The term was first used by J.A. Barnes in 1954. See http://en.Wikipedia.org/wiki/Social_network

It is important to understand the origin of social networks because the principles behind voluntary, non-binding and collaboration are still the basis of the creation of the current social networks such as Facebook and MySpace on the international level or Rezonance in Geneva on a local scale.

The issue of free or of collaborative altruism is a particular aspect of these contemporary networks. Even if most former social organisations such as associations, religious movements, unions, political parties or sport clubs were all widely based on voluntary commitment and shared values, they were physically close to their members, particularly at meetings. Now they are virtual communities whose members do not necessarily know each other and almost never meet. The social link is only built through the common cause, which is the reason to be of the community, and not through the social proximity link. This makes a huge difference because generosity, free and voluntary involvement is not dictated by the traditional proximity factors of the organisation of civil society. The motivation of belonging, altruism and commitment must be found elsewhere.

The free collaborative encyclopaedia Wikipedia that has mainly been written by such an Internet community has never paid the thousands of its contributors. The mystery remains unsolved and widely unexplained. However, what can be seen is the efficiency of the system in managing knowledge and its capacity to draw people in. In this respect, practice communities and social networks form a particular group in the order of society. Widely organised on a distributed model, social networks are the expression of this new form of governance. The Wikipedia encyclopaedia is not organised within a centralised or federated system, but based on a form of distributed power built on a philosophy that uses the end-to-end principle. This principle allows the users not only to write basic articles organised in a simple way from a public or private knowledge base, but also to tap into shared competencies that will correct them and use them for free. To date, this is the greatest enterprise of distributed collective intelligence.

This example of the power of the distributed mode obviously raises the issue of the future of governance. As the efficiency of initiatives of this importance is acknowledged, this poses the question of the future of systems working in centralised mode, for example dictionaries and traditional encyclopaedias.

Social networks that are highly anchored in distributed governance will cover more and more fields through their social extension. Their activities are affecting little by little different components of the economic, political and social fields. It is clear that social networks that are already an integral part of the reality of many citizens will deeply restructure society by transferring their functioning principles to the new governance. For instance, they have already widely influenced NGOs, to which they have brought a new lease on life by deeply changing their practices.

Non-Government Organisations (NGOs)

The number of NGOs has significantly increased in the last decades. Even if their origin goes back to the development in 1816 of the "Peace Societies", most NGOs were created after World War II; this movement expanded even more at the end of the 20th century. Due to many factors, such as their number, internationalisation, fieldwork, and their involvement in political and media life, NGOs have become an unavoidable force in the governance of global affairs. Their activity fields include different contemporary themes such as the environment, health, education, consumers' rights, trade, justice, human rights protection and aid to developing countries, but they also moved into more technical fields such as the Internet, city planning, renewable energies, science or technology.

Today NGOs are an integral part of the political and media debate. They represent an organised force of civil society besides the older institutions like unions, civil or professional associations, interest clubs, political parties or religious movements. As they were expanding, NGOs reinforced their organisational structures, because they often originally came from individual initiatives but they quickly evolved towards collective interest groups with a broader focus. By choosing either the centralised or federated form (with the

development of local chapters), NGOs have often evolved towards mixed organisation forms while fostering local initiatives; this is how distributed organisation forms have appeared in the world of NGOs. Typical examples include the International Federation of Red Cross and Red Crescent Societies with its 183 national societies or the whole group of environmental NGOs.

As NGOs were becoming more and more autonomous in the field, they evolved towards distributed forms of power. Even if they are not yet the norm today, they however represent a strong trend. What is more, NGOs, through their international features, emphasize the global handling of issues. As they spread worldwide, they also try to make their action more efficient. Their rapid development entails the creation of a new international social fabric that allows a borderless reorganisation of civil society. This is what makes NGOs different from other social organisations, which are often bound to a specific territory, except of course for religious movements and institutions. In the past, unions and political organisations have struggled unsuccessfully to develop such international organisations (with the exception of communism). We are now faced with an exponential progression of international organisations issued from civil society. Although they are deeply established within the society, they are also massively present next to international organisations such as the UN. By taking part upfront in the important debates on global governance, they are better able to influence decisions and thus make their activity more effective.

Even though NGOs act rather through legitimization than by power delegation - they somehow foster legitimate rather than legal stands - their influence has nevertheless expanded particularly in their ability to use moral suasion. By using soft law references with the publication of labels, benchmarks and recommendations, NGOs have gained a diffuse but actual power. Regarding the structure of their own organisation, NGOS have adopted either a federated or a centralised model, but when it comes to acting together, they move into a kind of distributed power. It is one of the characteristics of NGOs that for each issue, each society theme there will be a multiplicity of organisations involved in the process of problem resolution.

Civil society has thus increased its intervention forms and organisations. Faced with this evolution of the NGOs, it is clear that one can talk about the emergence of a multiple and distributed governance.

Think Tanks

With more than 5,000 idea labs[10] employing more than 100,000 researchers in the world, Think Tanks have become over time an important force for making proposals on the governance of public affairs. Think Tanks, through their ambition to influence or to set the political agenda, i.e. to start a public debate on issues that they support in the political and media spheres, play a major role in the distributed form of power. Think Tanks are not really tied to government administrations or political parties, even though some of them defend political issues. They are structurally independent but intellectually tied to a specific vision of the world and its evolution and thus participate in a kind of idea debate. Nonetheless, by the multiplicity of the points of view, a certain balance is naturally achieved.

In order to better understand the evolution of national or international governance, it is necessary to take Think Tanks into account when considering the multiple forms of power, on the same level as NGOs, lobbyists or other more classical civil society forms of organisation. Think Tanks form a category apart in the power structure as they essentially act upstream on the idea debate and thus only indirectly influence the other players. For NGO's, only the power of ideas seems to matter.

Because of their status, Think Tanks neither act through centralisation nor federation, but more directly through the distributed form of power. This characteristic makes Think Tanks a contemporary force of the emerging new governance.

10. *Les Thinks Tanks* (2006), Stephen Boucher, Martine Royo. Preface of Pascal Lamy - Edition Le Félin, Paris

Digital natives

The generation born with the Internet has grown up with Facebook, YouTube, Google, Wikipedia, MySpace, Twitter, Blackberry, iPhones and iPods. These "tools" are not only used every day, they also represent the way through which this generation understands the world. This techno-culture is part of them. They shape it, install it, develop it and sometimes hijack it. To think of the future of the world without mentioning how they shape it is to ignore the demographic effect. By 2025, digital natives will represent half of humankind. Their way of thinking, organising and acting will then be the dominating model.

It is amazing to think that all the tools of the new techno-culture did not exist ten years ago. How then can such a changing world be tamed? How can we not believe that the social organisation of its institutions will not be swept away by a transformational wave made of a billion of individual or collective interventions?

In order to address these crucial issues we have chose the specific point of view of new governance, that has been installed by the Internet generation and that is a distributed model: it is expected to prevail over all the others. Through the analysis of the current transformation wrought by these emerging players, the organisation forms of future governance can be anticipated. And so the issue of distributed governance linked to this generation becomes fully meaningful.

The Wikipedia encyclopaedia developed and run by its own users is a likely example. This form of distributed governance that grants so much power to end users (end-to-end principle) has a consequence: the role of the tool managers. A specific and key role of temple keeper has been allocated to the managers. This role not only includes preserving the initial mission of creating an encyclopaedia, but also of making the system sustainable and efficient. This double mission could seem paradoxical, as giving the power to people while retaining control over the efficiency of the organisation is contradictory, except if the managers continuously take a back seat to the collective intelligence of the final users.

So by admitting that the meaning given to a Wikipedia article is an endless quest for truth, the founders or managers have understood that knowledge is never really complete.

In a system of distributed governance how can the intermediary role of selection be imagined? Who nominates these arbiters? How do they judge themselves? In fact the system is actually self-regulated from the base through moral pressure (soft laws) on the administrators, which prevents them from going beyond a point of no return that would enrage the base and lead them to backpedal or quit. As the system produces its own regulation, Wikipedia is thus a good example of a soft institution.

The Internet governance, an example of distributed governance

II

The Internet and the World Wide Web as they are known today are the result of a succession of choices made during the relatively brief history of the interconnection of computers.

In the 60's, computer science was based on the mainframe computer mode, but quite rapidly networking computers for communication purposes became of interest. At the time, only the centralised organisation of data existed. To move forward, the issue of interoperability between computers had first to be addressed.

Moreover, connections between computers had to be robust so if a communication line failed or broke down, the data exchange flow could find another way to reach its goal. The American army had long wanted to have a network system able to resist a Soviet nuclear attack. It was at the time of the Cold War, space exploration and Cuba's Bay of Pigs invasion.

Whether it is a myth or not, the will to develop from the start a redundant system with several possible routes to bring together data transmitters and receivers was to deeply influence the Internet organisation as we know it today.

Introduction

Thus, from a centralised philosophy of data and information handling and management by one computer, in a few short years we would move to the management and architecture of a distributed network.

Other factors also played a role in this paradigm shift. The first one is most probably a human factor. The scientific community quickly adopted the Internet to exchange research information. This is why the Internet pioneers, who were American scientists and engineers, fostered the organisation mode that they best knew: academic collaboration and competition. It was about being the first to discover (based on the first takes all principle) and to quickly share one's discovery to be able to progress with the others. By this exchange/competition mechanism the scientific and technological world influenced the Internet development. A second factor is linked to the American entrepreneurial spirit: the entrepreneurs quickly understood the market opportunities that could be had from taking advantage of the Internet development. Never before in the history of trade have societies enjoyed such a potential to reach so many clients at the same time, especially in the United States where the giants of the economy can be tackled by any small, single or young person. This is an important point as it guarantees that in the evolution of a technology there will be the possibility for a start-up or an invention to question the prevailing technological progress at any time and from anywhere. For instance, in 1962 in a scientific article J. Licklider introduced the concept of what some decades

later would become the Internet. Or when Marc Andreessen, a student at the University of Illinois, invented Mosaic, the first Web browser, which allowed the invention of Tim Berners-Lee, a British computer scientist, and Robert Cailliau, a Belgian engineer at CERN, to be developed. And so the World Wide Web (www) expanded with great success among the general public and remains one of the most famous and widespread applications of the Internet, to the point where the Internet (the network of networks) and the Web (exchanges and links platform) are often confused with each other.

This uninhibited entrepreneurial spirit has infused the development of the Internet architecture and governance through the Request For Comments (RFC) procedure. Introduced in the 70's at the time of the ARPANET project (often considered as the ancestor of the Internet), the RFC procedure is a documentation describing the proposals and methodologies chosen during the development of the communication networks between computers. Thus RFC is both a working method and a philosophy of progressive and distributed approach for the development of the Internet. There is no centrality, but a legitimacy of progressive processes; pragmatism is the favoured path. The same kind of representation of legitimacy of the action is also found in the Anglo-Saxon legal system, which organises law according to the contributions of case law. In this way of thinking, each action often becomes more important than any decision. In this context, it is easier to understand why continental Europe's approach failed, based as it was on the centralised decision making regarding new information and communication technologies (ICT).

For example in the 80's, Europe developed Videotext, a more centralised approach of well-established protocols (X.25 and others), and decided on its evolution within the intergovernmental framework of the International Telecommunication Union (ITU).

This approach failed because it tried to define a new exclusive architecture before it had even seen it evolve among the users. For instance, it was impossible to make two services such as Minitel or Videotex work on the same network, as they mutually excluded each other. On the contrary, the American approach was trying to include all the public or private networks within a supra-architecture; this was the American stroke of genius. The invention of the term "Internet", which literally means "Inter Networking", stems from the will to leave anyone to develop their own network while finding a solution to integrate them all together. From 1973 on, the formulation of the RFC 675 memo on the specification of a Transmission Control Protocol (TCP) showed the way forward. The RFC 791, 792 and 793 memos issued in 1974 were to definitely open the gates of interconnecting. Referred to as TCP/IP, these specifications quickly allowed any network to communicate with any other and thus exchange data and information. The basic Internet principles were established; it was then possible to build the network of networks and to produce its numerous technological breakthroughs and applications.

A short history of the Internet

1965 First mention of the hyperlink concept for links between decentralised data by Ted Nelson[11].

1966 Launch of the ARPANET[12] project.

1969 Publication of the first RFC[13] and first connection between four different computers at four different American universities.

1972 Creation of the Inter Network Working Group. First collaborative authority, which gave birth to distributed governance.

1995 Launch of Alta Vista[14], one of the first web search engines.

1996 Connected Internet users reach 10 million.

1997 Development of Google[15].

11. http://en.wikipedia.org/wiki/Ted_Nelson
12. http://en.wikipedia.org/wiki/ARPANET
13. http://en.wikipedia.org/wiki/Request_for_comments
14. http://en.wikipedia.org/wiki/AltaVista
15. http://en.wikipedia.org/wiki/Google

IETF, IEEE and Requests for Comments

The Internet Engineering Task Force (IETF) and the Institute of Electrical and Electronics Engineers (IEEE) are two organisations that play a central role in establishing the Internet's technical standards. Although they are quite distinct organisations, they provide complementary standards while they both function on the same memorandum standardization procedure. As the Internet is a multi-stakeholder environment, the process of convergence of views requires a particular model of standardization. The reference for this type of memorandum is called "Request for Comments" which appeared at the beginning of the Internet and is managed today by the ETF (an entity linked to the Internet Society). As early as 1969 this concept of memorandums appeared in the ARPANET project by requesting the community of scientists and engineers to comment on all new proposals as the originators, and later the managers of the Internet, were trying to build a strong consensus among the Internet developers. This wide consensus is necessary as there is no governance body that can make the choices or decide. This whole process of convergence of views is at the same time the strength and the weakness of a distributed power system.

1998 Creation of ICANN[16] for the private management of domain names. The Google search engine is launched.

1999 Development of Napster[17] and generalization of the MP3 norm use for music.

2001 Burst of the dot-com bubble just before the launching of Wikipedia.

2002 Appearance of the first blogs[18].

2003 Geneva World Summit of the Information Society (WSIS)[19] on Internet governance.

2004 Birth of the social networks Facebook and Myspace[20].

2005 Launch of YouTube[21] and second WSIS meeting in Tunis.

2006 Launching of Mash up techniques.

2008 Barack Obama's electoral campaign with intensive use of the Internet in the political field.

16. www.icann.org

17. www.napster.com

18. http://en.wikipedia.org/wiki/Blog

19. http://www.itu.int/wsis

20. http://www.myspace.com/www.facebook.com

21. http://en.wikipedia.org/wiki/YouTube

Infrastructures and institutions leading to the Internet governance

The Internet governance is characterized by its tight link with the choices made in the technological development of software and infrastructures. In the Internet case, governance and technology go hand in hand. The emergence of new institutions is also linked to the evolution of the technology/governance couple. A quick historical overview will prove it.

First of all, the overall technology development relies on the interconnection between computers (the network architecture) at the physical and at the communication protocol (TCP/IP) levels, thanks to which computers can communicate, and finally on application programmes brought together on one sole platform (the Web).

The physical interconnection relies on the classical wire or wireless telephony infrastructure. Transmitting a sound or "bit" is from a physical point of view similar to transmitting voice, as the channel used in both cases is electricity or electromagnetic waves (WiFi). Regarding the network architecture of the telephone communication system, the content is transparent, i.e. indifferent to routers or other communication technologies. The system does not read voice or data, it only transmits them. The physical interconnection is thus what really matters: it has to be plugged in, as the Americans would say. With the sudden development of the Internet on the basis of the number of users and information transmitted, the issue of the physical network's capability to deal with the exponential traffic was quickly raised.

Optical fibres, routers (electronic devices designed to guide data), bandwidth (the capacity to transmit information or bits per second) and the backbone (the physical structure of the system) become key features in the development of the Internet's physical network.

Public but also private investments (as a major part of telecommunication companies have been privatized in the last two decades) have supported this exponential development, which, however, has not been the only important technology development. Protocols or application programs allow the network to work logically and electronically and have also been crucial to the choices which were finally made by the majority. The TCP/IP protocol introduced the idea of making all the networks work together, i.e. making networks communicate with each other whatever the national, local or company network was. That is how the idea of the Internet was born; a network of networks which allows an interaction between computers of any type and thus between the users themselves. Connected computers can thus independently (from their own system and connection to a network) exchange data with other computers connected anywhere around the world or in space (satellite, WiFi).

The other major innovation of the TCP/IP protocol relies on the end-to-end philosophy to manage the whole, i.e. TCP/IP favours end users for the management of data and computer programs. This means that a kind of intelligence is needed from the end user in order to manage the exchange. The centralised philosophy has thus been traded for a distributed system. In the Internet system, there are genuine autonomous computers at the end of the network. The intermediation system, which is in the middle, is in a neutral position. It usually does not know what it transmits. One of the main reasons which have led to this choice is linked to the design of the transmission protocols as they transmit data or information through distinct packets, from the transmitter to the receiver, without interfering with the content of the packets.

Contrarily to classical telephony, a communication is made of tens of thousands of little packets transmitted within the network independently from each other. In telephony there is a unique and perennial contact that is established before the vocal conversation can take place. This is not the case for TCP/IP. The transmitter might send a picture cut into dozens or even hundreds of packets to the address of the receiver, whose computer will then have to reconstitute the sent picture. Such a process can easily be noticed on YouTube for instance when intermittent breaks happen when the bandwidth (the network capacity) is weak. What is more, each packet on its route between the transmitter and the receiver does not necessarily follow the same path within the labyrinth of networks, wires or wireless transmissions. From the origin on, the communication, i.e. the data exchange, was meant to be independent from the route. This is obviously a distributed kind of approach. It is fascinating to see how these historical choices have designed a totally new reality within a telecommunication system that was highly centralised until the arrival of the Internet.

Finally, the Web, this unique computer platform, will allow users to develop their own Internet service and to make their information, transactions or computer programs available to other users. The Web is somehow a layer of soft links on a hard network made of physical wiring, servers and routers. This layer of similar softwares for everyone greatly facilitates exchanges and communication between users.

Furthermore, the address system linked to domain names (DNS)[22], hyperlinks[23], web browsers[24] and web search engines[25] are key concepts of the Web. Roughly, web service information can first be found on a home page which can be reached through its domain name; all the parts of the service are then organised in hypertext from this entry point. Each part, page or object of an Internet site

22. http://en.wikipedia.org/wiki/Domain_Name

23. http://en.wikipedia.org/wiki/Hypertext

24. http://en.wikipedia.org/wiki/Web_browser

25. http://en.wikipedia.org/wiki/Web_search_engine

can be linked to another part of any site. This structure is important while, contrarily to a book, things are not designed in a purely linear way, i.e. as a table of contents or arborescence. This breakdown and restructuring of hypertext links not only makes each Internet site very interactive, but also allows interactive links between different Internet sites. As it links each document, the hypertext structure has made a single and unique site of the whole Web. Everything somehow refers to everything through transparent links for uses (linking words are generally blue). With a mere click, the user is driven to another site by the system which keeps a track of the route. It is therefore possible to surf the Internet, from one site to another through pre-established links.

With the Web becoming a "big book" full of information and application programs, the issue of searching for what one wants becomes crucial. First with Alta Vista and then with many more, among them Google (1998) and today Microsoft's Kumo (2009), web search engines have become a key tool completely linked to the Web and thus to the Internet development. The short and hectic history of web search engines is linked to the fact that they are indispensable. It is difficult to search for information in a hypertext structure without using them. As everything is linked to everything, everything disappears into the whole.

Three key elements of the Web make it an object of personalised and thus completely distributed governance, i.e. anyone can develop a site, give it any name (or almost) and anyone can link information and application programs to anything. Such a decentralised system is a form of users' empowerment. A new era of distributed knowledge could even be mentioned. Let's try to give an explanation.

Wikipedia, YouTube and Facebook are Internet sites that call on the creativity of their users. By offering the opportunity to contribute to a collective work such as gathering knowledge (Wikipedia), filming events (YouTube) or developing new social contacts (social networks such as Facebook), those Internet sites go far beyond making information or application programs available as they change the social fabric with these new practices. This paradigm change

foretells a new era of distributed knowledge: it is free, individually initiated, copyrights are liberalised and there is a new common good. These concepts are revisited by the Internet world and together foretell a shift of governance.

Society is redesigned through those new practices. Institutions in charge of the management and the development of the Internet know that they are the keepers of ordinary people's empowerment of which the end-to-end principle is the basis. It should be protected and if possible turned into a new society dogma. Intelligence must be kept at the end of the chain, as the other links are only there to reinforce and make it flow more easily, which is not obvious. Intermediaries (telecommunication companies, Nation-states, international regulation organisations) are very tempted to regain power; the examples in Iran, China and North Korea remind us of this.

Internet Governance Forum (IGF)

Formally set up in 2006 by the UN, IGF is a multi-stakeholder type of forum. It followed on the Working Group Summit on Internet Governance (WGIG) established by the World Summit on Information Society (WSIS) that held meetings in 2003 in Geneva and 2005 in Tunis. The UN organisations, faced with the galaxy of the Internet governance bodies long wanted to created an entity responsible for the coordination of the dialog and the consultation process in this domain. A group of advisors, the Multi-stakeholders Advisory Group (MAG), composed of about fifty members from States, enterprises or civil society that are directly appointed by the United Nations' Secretary General, is in charge of the moderation and the dialog in order to obtain an efficient consultative governance. Without any real power, the IGF fosters the discussion around distributed governance.

Web 2.0: a break

With the organisation of social networks, practice communities and users' forums social organisation has taken a new direction. This tendency qualified as "distributed" prevails over centralised or federated systems that until then widely ruled the organisation of society. In the Internet world, the terms Web 2.0 or the participative Web have quickly been coined to talk about this shift.

The Internet and its users were until then not affected by the issue of the organisation of society. The Internet had focused its application programs on exchange and communication, not on the societal organisation of its users. However, the development of Internet sites dedicated solely to social networks rapidly changed the situation. The enthusiasm aroused by sites such as MySpace or Facebook has surprised everyone, especially since civil society already had many organisation layers which constituted a dense social fabric such as religious organisations, sport or culture associations, charities, all kinds of clubs, unions or NGOs.

The ego or existence issue first explained this phenomenon. By creating or joining a social network, a person can exist, put oneself at risk, communicate and exchange. Based on a voluntary, free, non-compulsory and non-binding approach, social networks offer a wide liberty to belong and a low level of admission, involvement or constraint. After registration, the involvement is voluntary and it does not make any difference if a person leaves the network.

The link between high visibility and low constraint is crucial. This is what was lacking in the former forms of societal organisation. Also, the voluntary contribution is hugely paid back. If someone asks for an information, there will always be someone else to answer it and often very quickly. One's own contribution thus seems negligible compared to what the network may offer. The whole knowledge of the network is so much superior to one's own that it seems that it seems to stretch until infinity. This objectively makes social networks very attractive. Social networks are different from prior society organisation forms because they are first of all based on one's own empowerment.

Finally, by creating an entirely new space and time environment, participants can explore their own global modernity. Space has no territory or thematic borders. It is possible to talk about everything with everyone.

These reconstructed virtual territories offer a degree of liberty that had remained unexplored by world citizens. Somewhere else is often here and vice versa, which is both puzzling and comforting. The world is evolving towards new space allocations directly linked to practices. There is no pre-allocation or imposed separation; everything depends on everyone's goodwill and on the group that can be entered as quickly as it can be left. Time is also recomposed.

Everything is organised within a mastered temporality, whether it is partial, deferred or actual time. One chooses a mode and one structures one's time. It is magic, fun and powerful at the same time. No more time zones, daily agenda, fixed appointments or clocks; what matters is the temporal decision of the communication. Email defers, Twitter organises, chat is live, RSS flow is continuous and text messages trace; time shifts and is decided. The restructuring of space and time in social relations develops something new but with greater potential. Being a player in one's space and time thus becomes the last great adventure of modern times. The young generation has understood this by becoming global in their music, TV and information choices.

Being part of social networks also means discovering those new spaces, which explains the rapid success of social networks. It is obvious that other factors also played a role, such as online career management, virtual dating or the search for ideas or new projects.

To conclude, Web 2.0 has initiated a new process that reinforces the distributed organisation of society.

The institutions of the Internet governance

During the short history of the Internet (only 40 years between ARPANET and social networks) a limited number of institutions has been part of its genesis and development. These institutions now form together a small "galaxy" in charge of its governance that includes regulations, certifications, assessment, domain names and IP address allocation. Distributed power expresses itself first of all in the process, anticipation and evolution of the phenomenon. Once that logic is understood, the functioning of distributed governance can be assessed, as the Internet has become crucial in the way we model our future, our history and our life choices.

As an example: the Internet governance implicates three kinds of players: governments, the private sector and the civil society, which act upon three different levels according to the definition of Professor Yochai Benkler of Harvard Law School. Those levels are:

- The "physical infrastructure" level;
- The communication "rules" level (codes, norms and standards);
- The level of "content" of data, information and application programmes that circulate within the network.

The result is the following matrix:

Matrix at the intervention level of governance players

	Infrastructures	Rules	Contents
Government	Public network	ITU, WTO, (...)	Online administration
Private/ Companies	Network	ICANN, VeriSIGN	Google, Apple, Microsoft, (...)
Civil Society	WiFi	Internet Society, W3C	Internet sites, social newtorks, blogs, podcasts

Let's have a closer look at the elements of this matrix and study their infrastructures, rules and contents.

The physical infrastructure

At the beginning of ARPANET in the 60's/70's, the US Department of Defense (DoD) provided researchers with the physical infrastructure (the backbone). Then, as the number of users was increasing, most of them coming from American (then global) research centres, the National Science Foundation (NSF) took over in 1984, while the American Department of Defense went on to develop its own secured networks, different from the NSFNET[26]. In 1990, the ARPANET network was officially shut down. In 1991, NSFnet, which had acquired a lot of importance within the academic sector, was opened to players of the private sector. Since then, particularly under the pressure of telecommunication liberalisation, the private sector has become the main network and backbone player. Except for some rare exceptions as in China, Internet infrastructures belong to the private sector, which manages them.

26. National Science Foundation Network

With subscriptions, users have been granted access to data transmission services such as IPSS X.25, ADSL, ISDN or private TV network cables. As they paid a licence directly to telecommunication companies, users were connected to the networks via service suppliers like AOL, Free, Orange or Sunrise. This double offer, which included services and network access, has in most cases been replaced by only one intermediary, the telecommunication or cable TV company, as a unique subscription provides both services or even more. However, such a simplification masks the growing competition as only the connection is paid for. Internet content is widely free, except for some services such as e-commerce or e-banking.

It should be noted that at the infrastructure level, it is necessary to have many servers across the world to guarantee the service quality and increase the speed of the answers. The main players of the Internet content, Google, Yahoo or YouTube, rely on infrastructures installed by specialised companies such as Akamai. To conclude, nowadays the infrastructures are maintained by the private sector.

The rules

The development of rules is completely different, as several levels of governance involve several hundreds of players. This is the case for the development of rules, codes, norms and standards.

To make it simple, there are five different action fields for regulation:

1. The allocation of domain names and linked physical addresses (today ICANN is responsible for this);

2. The Internet governance architecture (especially IAB, which is today part of the Internet Society);

3. The evolution of scientific and technological norms through RFCs is supported by three main technological groups: IETF (Internet Engineering Task Force), IEEE (Institute of Electrical and Electronics Engineers) and the companies active in the standards field;

4. Organisations such as W3C or the Internet Society represent the evolution of civil society;

5. The governance of governance is discussed at the large international conferences: WSIS, the ITU or IETF forums, TED or LIFT.

In each of these five fields, controversies between players emerge because the management of all the institutions in charge of leading the distributed governance is not obvious, despite the fact that it has produced for several decades a highly efficient system.

A quick overview of some examples of controversies will help understand the complexity of the governance process.

- The central issue of the allocation of domain names (DNS), which is mainly managed by a non-profit Californian company under contract with the United States Department of Commerce, slightly skews the system whose aim is to be open and distributed. For some observers, the ITU or another more neutral international organisation would be a wiser choice.

- The issue of technological choices, which often result from non-transparent processes, is also on the agenda. Civil society has lately gained some power in relation to private sector companies, but there are still some domineering parties making some of the choices, such as Google or Microsoft, which are often criticized.

- The last issue regards the democratic control of the governance and was discussed at the WSIS in Geneva in 2003 and in Tunis in 2005. The governance issue remains widely open today even if the process has showed a great efficiency despite an apparently chaotic organisation.

The Content

Government, private or civil society players generally adopt a wide degree of liberty regarding content. There is not a lot of censorship except in some countries such as China or on topics such as terrorism, policy of denial, pedophilia or more recently about the use of Facebook in government administrations. Usually, the American freedom of speech based on the First Amendment of the US Constitution prevails. Liberty is thus widely guaranteed especially since the end-to-end principle prohibits the control of the contents by the managers and intermediaries in charge of the Internet backbone.

Additionally, beyond the spirit of liberty that rules the Internet, there is an actual will to empower the users, to the point where in some fields such as information or knowledge there is a genuine redistribution of tasks, actions, responsibilities and proposals. For example today, media professionals do not have an absolute monopoly on information as almost anyone can be involved in the media industry as an information source (YouTube), which is a great revolution. This is also happening in the knowledge field with Wikipedia and Google or Amazon online books. Knowledge is shared and distributed free or almost. This sharing of information and knowledge between users is at the heart of distributed power and the emergence of new soft institutions.

The Players

As has already been discussed, there are three different kinds of players: governments (also including intergovernmental international organisations), private sector companies and civil society organisations.

Governments are often passively involved in the Internet development while trying to maintain sovereignty in their territory; the example of Google Street view confirms this attitude. The United States, on the contrary, operate in a more influential manner, often even beyond their own territory, which can be partly explained by the pioneer role that they have played in the Internet development. The American stamp and economic hegemony is everywhere. Since the beginning, the Department of Defense with ARPANET, then the Department of Commerce with the management of domain names (DNS) and finally the National Science Foundation (NSF) with the NSFnet have been the main players of the Internet development; thus the American government, but mostly the soft American institutions (W3C, Internet Society), influence the development of the Internet with their considerable weight.

Other governments and especially Europe and China mainly act through the ITU and try to internationalize the Internet governance. In 2003 and 2005, the World Summits on the Information Society (WSIS) organised by the ITU were the crowning moments of that confrontation. Even then, positions did not change much except maybe for the development of the Working Group on Internet Governance (WGIG), which tried to clarify the different positions of the governmental players in particular. This is how the UN, through its ITU agency, tries to internationalize the governance towards a more centralised vision. This is far from being the case today.

The main companies from the private sector are also American; Google, YouTube, Yahoo, Facebook, Microsoft, but also Apple and Cisco often play a leading role and lay down rules. Some European companies however try to create a balance (Linux, Skype, Nokia and of course the Web, whose origin is European). Because of the ongoing evolution of the domain, the technological innovations are often the deciding factor on the way to go forward. A future re-balancing will need to be considered, as there are currently more Chinese Internet users than the total population of the United States. This equilibrium disruption will certainly affect the behaviour of the users and maybe the governance.

In the Internet world, the decisive factors are traffic, number of visits on a site, page views and clicks. The power belongs to the users who impose an economic model often based on advertising. This widely used logic on the Internet has increased the competition for traffic and Google is the symptomatic example. This phenomenon has put civil society into a choice position. It can thus influence the choices and directly act on trade and governance balances. Even if it is on a relative scale, the voice of civil society is heard. Sometimes a company or a government acts against the interests of the users and immediately a group of net users will force it to reconsider its practices. For example, a controversy arose when Facebook wanted to enforce a control system that targeted the users according to the information issued on their profile.

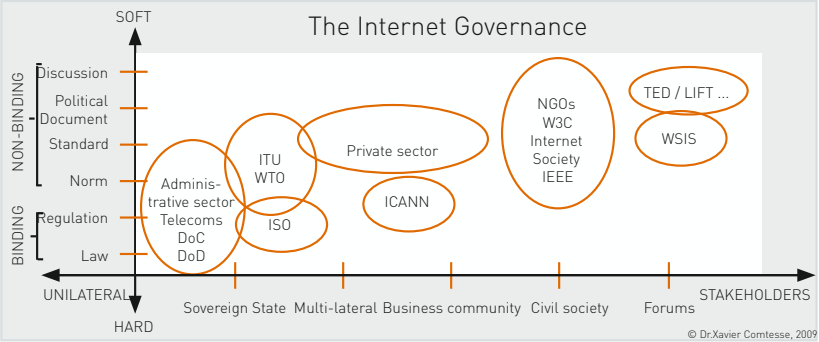
Users have since asked to be explicitly warned by a message and a page on the use and future of their personal data. Facebook had to justify its choices to its members and had to reverse its decision faced with the outrage of its users.

What happened in Iran in the aftermath of the 2009 presidential election showed that the government tried in vain to control the access to the Internet on its territory, but failed to prevent its use by astute Internet users. In this direct governance[27], the central powers had to deal with distributed power. Even if tensions run high, distributed power always seems to prevail over the long and mid-term.

Non-governmental organisations such as the Internet Society or W3C also try to maintain the original principles of the Internet, i.e. the collaborative and the end-to-end principles that often rule the Internet developments.

27. See «Economie directe» Cédric Van der Poel et Xavier Comtesse (2007), www.rezonance.ch

Schematic of the Internet governance players



The schematic should be read from left to right and from bottom to top. It shows the main players and the evolution of the Internet governance. Even though ARPANET was initially launched by the American Department of Defense it is now essentially owned by the civil society and some specific companies such as ICANN, VeriSign and the telecommunication and computer giants such as ATT, Cisco, Microsoft or Google. Nations-states have widely lost control over the Internet development. In addition, discussions, policy papers such as those gathered under the RFC label play a crucial role; they are a kind of specification code (soft law) that somehow produces the legal framework of the Internet, even though the Internet is a field in constant evolution and technological innovation. It is a paradox that although the discussion is soft, the specifications produce many hard achievements. However, it must be noted that this diffuse and distributed governance proves to be highly effective.

Conclusion

The history of the Internet reveals a lot of information about the founding principles of its development, particularly the creation process of soft laws, and about the institutional mountains of its governance. These factors will influence other forms of world governance because the basic principles, derived from three elementary choices, are also valid in many areas of the management of world affairs (environment, humanitarian, fair trade, etc.).

- The system redundancy (principle of multiple paths);
- The network neutrality by packet transmission;
- The empowerment – intelligence at the end of the chain (end-to-end principle).

These three principles constitute the basis of the Internet and of its distributed culture. What is more, the development process of a body of soft laws, i.e. a kind of specification base for its development with RFC and recommendations from the IETF, IEEE or ITU, constitute a genuine soft legal basis designed to produce innovations and concrete applications for hardware and software. The American spirit of common law considerably influences this specificity, widely unknown to the general public. Each proposal or recommendation helps to build the next phase.

There is no completely pre-established regulation. Everything happens during the process, as if only the improvement of the system mattered.

The institutions of governance have changed following the evolution of the Internet. From ARPANET to the Internet, the Department of Defense, the NSF, the Department of Commerce and a series of organisations have produced and governed the Internet. Two trends have emerged with this movement: the privatisation of the main players (Telecoms, ICANN) and the empowerment of the civil society (Internet society, W3C). The whole today forms a kind of galaxy representing a distributed form of power. This reality has not been achieved by the principles of separation of powers or of subsidiarity, but mostly by the end-to-end principle.

By allocating the power (intelligence) to the end of the chain, a will to empower the users was deliberately introduced. All the current Internet applications somehow express this empowerment. E-commerce, e-banking, e-administration, news, blogs, all kinds of transactions or social networks, all are designed to transfer knowledge and intelligence to users. The Internet is a transformational power and its governance reflects this philosophy. To distribute the power means to govern with less power and thus to foster consensual processes. And this will soon influence the governance of society in its entirety.

Soft institutions as a model of governance

II

Soft institutions are institutions that produce soft laws, i.e. norms, labels or standards that are followed on a voluntary, non-binding and non-punishable basis. This definition separates soft institutions from the classical institutions which are the result of legislative processes of Nation-states and which issue mandatory and punishing laws. In international politics, soft and hard institutions work hand in hand in the world governance processes such as the Internet, the environment, fair trade, microcredit, science or the humanitarian arena. Institutionalized players form together a governance "galaxy". It is often difficult for the citizen to find her/his way around, as in most cases the general public is unaware of the existence of such institutions. Their functioning, action and commitment in relation to the political agenda is widely unknown, as the media do not talk much about them.

The third part of this booklet will analyse the underlying mechanisms of these institutions through the lens of three questions:

- What are the thinking and legal models peculiar to soft institutions?
- How do they act on a daily basis?
- How do they spur on the political agenda through the exchange of ideas?

The result of such a process, which leads to an actual empowerment of the world citizen, will then be clearly introduced. Finally, the postface will develop a vision of transformation for Geneva as a privileged place of soft governance.

The way soft institutions think

Soft institutions' way of thinking is structured by three mainstays: moral pressure, legitimacy and an a posteriori view.

First of all, moral pressure relies on universal declarations such as The Universal Declaration of Human Rights, the United Nations Millennium Development Goals or norms such as ISO 14001 and ISO 26000. Such a body of declarations of good will constitute a moral responsibility to which soft institutions adhere. In the absence of a legal basis, it confers on them a legitimacy of thought and action. This logically leads to the second part, which regards the legitimacy to think and act for the common good. In reality, the institutions' stand is rather legitimate than legal. Finally, the a posteriori posture allows them to move forward in their approach and thus to evolve in a fuzzy framework, while adjusting to situations and circumstances according to the evolution of global equilibrium. As they reject the a priori posture, which would force them to define themselves clearly in the general framework of society, they can quickly start an influence and consensus-seeking process, without beforehand needing to adopt a complete legal corpus.

The triple stand of moral pressure, legitimacy and a posteriori view confers on soft institutions an unquestionable power in a deeply changing world. It may be the only possible position, as it offers an undeniable flexibility regarding the uncertainty of the future.

The United States and their institutions know this type of behaviour well, as they are constantly referring to their country's corpus of common laws. The issue of the legitimate reference process is absolutely crucial to better understand the way soft institutions think. Therefore, a comparison between continental law and Anglo-Saxon, especially American, law is needed. It will help to better define the idea of the reference frame of soft thinking.

World Wide Web Consortium (W3C)

W3C was founded in 1994 by Tim Berners-Lee, one of the two Web co-creators, as the development consortium for new Web standards. The European Commission and the American Department of Defense (DoD) finance it. Today the consortium has deployed about 20 regional offices throughout the world, which are responsible to make recommendations in a five-stage process:

1. Working Draft
2. Last Call Working Draft
3. Candidate Recommendation
4. Proposed Recommendation
5. W3L Recommendation

Such a process of norms and standards development is typical of the Internet governance. Proposals are discussed by all before any stable recommendation can be issued at the end of the process. It is similar to the development process of Wikipedia articles, even if it is in another field. It is generally a method that suits distributed power systems well. No decision is formally made, a long dialog and comment process is fostered until the proposal is established, somehow stabilised and then it de facto becomes a norm.

Civil versus common law

The two main legal systems of continental civil law inspired by Roman law and Anglo-American common law are based on very different premises. To express this difference in a very simple way, it could be said that the common law approach stems from a value system based on only a few laws and fosters the liberty to act as long as no opposition is expressed or nobody complains. In the case of a complaint, the legal system establishes an arbitration judgement, which will later constitute a key part of the constantly evolving case law. All the recorded judgements will become benchmarks over and beyond the Law. It is obvious that in such a system there are limits that have to be respected. The legal framework is nevertheless generally less binding than that of continental civil law, where mostly everything is foreseen a priori. The Anglo-Saxon law philosophy is to be found in countries that were historically bound to Great Britain, particularly former colonies such as India, Australia, South Africa and a few others that remain under the influence of English culture.

In countries with a continental European culture, in Japan, but also in their former dominions such as Latin America, some Middle East and African countries and Indonesia, the idea of an a priori codified life prevails and is considered an essential value of public order. In continental Europe, the basic principles are traditionally written down, codified and kept as a reference.

This tradition goes back to the Byzantine emperor Justinian I, who in the 6th century undertook a vast codification of Roman law compiled in approximately fifty books. Continental institutions are organised according to this a priori vision of law. On the contrary, common law is based on an a posteriori reasoning that favours a more inductive more process-based proceeding. This is why these two approaches of the law are so antagonistic, as they somehow handle time in a different way. By favouring time common law thus bets on it, whereas the civil law mistrusts it and seeks permanence.

In international affairs and thus in world governance, common law has widely dominated the legal debate and influenced mentalities and the functioning of institutions. In 2004, the World Bank even commissioned the famous "Doing Business" report and came to the conclusion that Anglo-Saxon common law was more efficient for the economy than Roman civil law. Reality shows that today the actions of both soft and hard institutions are highly dependent on common law. This has consequences for the management of governance that partly explain the intrinsic difficulties that have to be faced. It is indeed difficult to explain to the general public notions such as a posteriori and a priori, even if their consequences affect their daily life. It is obviously easier to communicate a unique process of the centralised type, which is what the media continue doing. Furthermore, a posteriori processes seem to be less democratic, as an actual system of democratic control, i.e. accountability, has to be enforced to allow people to judge and to disagree if necessary. Accountability is nowadays still widely lacking at the international level.

World Summit on the Information Society (WSIS)

The World Summit on the Information Society was held in Geneva in 2003 and in Tunis in 2005. The ITU brought together all the governance stakeholders of the information and communication technologies (ICT). The goal of the two forums was to consider all the issues related to the emergence of the information society. Everything or almost everything was discussed: technical aspect of the economic development of ICT, finance mechanisms for the poorest countries, citizens' rights, governance and democratic controls of its development. Despite the presence of all the field players, only a few concrete results came out of the debates, as hard power permanently comes face to face with soft power governance. Status quo was maintained between a distributed and soft management of the quick development of technologies and that of sovereign States, which almost only agree to soft laws in the market environment. The inconsistency between the two governance systems seems to have been established for a long time and the issue now leans towards a hard and soft combination rather than an integration of both.

The way soft institutions work

As they foster a posteriori solution-seeking processes rather than a priori choices, soft institutions are constantly evolving. They are neither blocked nor hindered by codifications. On the contrary, they tend to adjust all along the course of their development. These soft institutions are first of all meant to protect and settle evolving issues such as the environment and to adjust to society shifts. From a vigil situation where the most important thing is to confront the population and the public powers with an emerging issue, the institution, itself constantly evolving, takes a stand to defend a cause (advocacy stage) and ends up becoming a proposal force as soon as society is ready for it. Finally, the institution will become a partner (stakeholder) in a convergence and solution-seeking process through decisions on successive compromises.

Soft institutions thus logically work according to three development stages:

1. A protest stand (advocacy);
2. A proposal and action force;
3. A stakeholder's position in the governance process.

For example, 'Doctors without Borders' (MSF) has developed according to the following pattern:

- The origin of the NGO is the Nigerian–Biafran war that lasted from 1967 until 1970 and produced a huge famine. Bernard Kouchner was sent there by the ICRC and tried to catch the media's attention to inform public opinion and the authorities. The issue was emergency medical aid and the request for a more determined action to stop the conflict.

- MSF was founded in 1971, became a NGO and established a charter (plan of action) and a position brief. It became a soft institution in the international field of humanitarian aid. It sees its role as offering medical assistance to the populations of the world, disregarding international borders, and using media pressure to interfere in certain developing countries or those in crisis.

- MSF entered the field of international governance by opening its international headquarters in Geneva to influence international decision-making systems. MSF has become one of the stakeholders in the multi-stakeholder process of governance.

Such a functioning pattern is characteristic of most NGOs and establishes the basis of soft governance. There are of course other development models that exist, however the three stages mentioned above are typical in the constitution of NGOs. The humanitarian and the environment fields are thus involved in managing global international affairs.

Even if the initial cause is often crucial, as the Nigerian-Biafran war for MSF, the battle of Solferino for the ICRC, the nuclear accident of Three Mile Island for the anti-nuclear movement, the key moment in the birth of a soft institution is the establishment of its mission or charter that quickly has to include a large and often global cause. No institution can survive if its cause remains local or narrow, as the functioning of these types of institutions requires a wide support basis, in particular financial support, to survive.

For instance, Max Havelaar, in the field of fair trade, needs the massive support of its loyal and convinced clients to last. Some institutions have quickly been marginalized or swept away because their client base was not consolidated enough. Many anti-nuclear movements (Creys-Malville) either disappeared or were handed over to other causes closer to the population's concern. In this sense, ecological institutions have sometimes had to move into the training of Green political parties at the national level in order to survive.

Some institutions have successfully gone through these different stages and were able to constitute an important international representation and have become today an integral part of the multi-stakeholder governance. The institutions that have survived now belong to the distributed governance "galaxy" and are involved in the ongoing change.

VeriSign

VeriSign is a Nasdaq quoted American company that operates in the telecommunication infrastructure field. Founded in 1995 as a spin-off of the RCA Corporation, it started its activities in the field of Internet security. As a certification authority, it plays a key role in the online arena. Its secured payment system was sold to eBay in 2005. VeriSign continues to be a key organisation in the Internet galaxy today in particular as it manages the generic .com and .net domain names. The company also manages different services linked to domain names, RFID services and Internet services certifications. Even if it is a private company, it takes part in the Internet distributed governance. It is an example of a new particularity of an emerging form of governance that could set an example in other fields in the future.

The way soft institutions act

Mainly based on legitimate behaviours, soft institutions in the first phase of their existence tend to test the limits of the legal system. As they are influenced by the Anglo-American spirit on issues such as liberty of thought and action, soft institutions linked to environmental or humanitarian causes, the protection of animals or consumers, tend to take on a demanding position.

In the case of the Internet, the protest is subtler and remains difficult to detect, however, since the beginning, all the Internet pioneers have reacted against the centralisation of systems in the style of the 60's. With the end-to-end principle for instance, the players have deeply overset the prevailing representations of their time. For intergovernmental institutions issuing recommendations or standards such as the ITU or the IPCC (International Panel on Climate Change), the mechanisms are different as they did not have an initial protest stage since they were developed by Nation-states to address a specific issue: the development of telecommunication norms (telegraph, telephone, radio) for the ITU and the objective assessment of climate risks for the IPCC. In both cases, Nation-states have been forced to create the institutions after the issue had emerged in the public debate. To conclude, the development of a soft institution addresses an issue about which, at a specific time, the population is widely concerned.

But why would a soft institution be developed instead of a hard one that would originate from a classical legislative process conducted by sovereign parliaments?

The answer might be found in the fact that a discussion about a global issue is often conferred a weak legitimate basis by public opinion. Expressed by an acting minority, the issue has to find its way to convince a majority of people. This is probably the central point at the origin of soft institutions. An issue has to go through a phase of high media coverage to slowly attract more members. The institutionalization of the debate then creates the favourable conditions for the emergence of soft institutions that will issue recommendations, labels and norms to defend their cause. It is obvious that generally the emergence of soft institutions stems from a favourable socio-political environment. Except in a few cases, violence is not their functioning mode. The anti-nuclear movements, die-hards of the militant opposition to Genetically Modified Organisms (GMOs) or eco-terrorists from the Stop Huntingdon Animal Cruelty (SHAC)[28] movement are actually quite marginal.

Normally, the actions during the initial stage are of the protest type with projects targeted to public opinion through the media.

- The first stage is linked to an action plan based on communication;
- The second stage takes place in the field. It corresponds from the institution's point of view to the establishment of an action charter, its organisational development and the positioning of its mission for the long run. This phase is more moderate as it is in direct contact with reality and brings together different players from the socio-political scene. While issuing soft laws, the institution is more active and corrects its initial mistakes. As it becomes more pragmatic, it gains in efficiency with a more focussed action and has to produce results to meet expectations. The people in charge need to justify their actions to their members through successful results.

28. http://www.shac.net

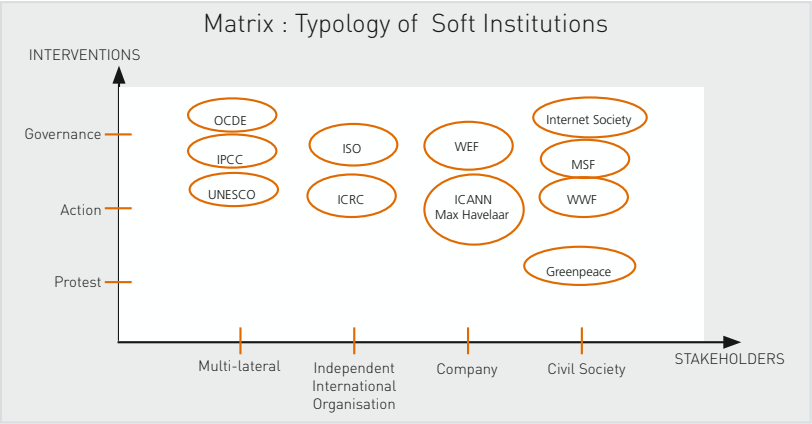
- The third stage is being admitted to the governance process. As soon as an institution is mature enough, it will somehow be accepted by other institutions, particularly the hard ones, and be allowed to take part in the governance. This acknowledgement form shows that the soft institution has gained a certain influence and is a significant action force.

Few soft institutions are exempted from this three-stage action process: protest/action/governance. Even if this representation is somewhat schematic, it has the advantage of quickly defining the general mechanism and to leave enough space for interpretation, as soft institutions remain widely branded with their instigators' principles. As long as a soft institution remains the mere expression of an acting minority it is not faced with governance, but as soon as its base is extended and pressure is applied, it tends to be institutionalized over time.

Towards a typology of soft institutions

As has been shown several times in this booklet, although soft institutions come from different horizons, they remain the expression of three kinds of stakeholders: governments, companies and civil society. Nevertheless, some institutions are close to governments, i.e. they are independent of the governments but have a specific mission or are responsible for implementing an international convention. ICRC and ISO belong to this kind of institution and play a normative role.

Moreover, soft institutions act on three levels: protest, action and governance. If some of them act on the three levels at the same time, others may act on at least one of the levels. The typology of soft institutions can be described in the following matrix:



Comments

- Most institutions act at least on two intervention levels. For instance, in the early 70's MSF focused on both protest and action. Today it is more involved in action with a significant stand in governance. MSF International in Geneva is thus involved in the governance of humanitarian aid and of health, due to its proximity to the World Health Organization (WHO). Similarly, organisations such as the WWF have evolved towards governance.

- Institutions stemming from governments have never known a protest stage as they were created through international treaties to meet requests linked to society issues expressed by the population or by civil society organisations.

- Independent international organisations are by definition disconnected from the direct influence sphere of Nation-states and thus from their government. Such independence is not the mere consequence of their struggle but is rather linked to events or opportunities typical of the management of international affairs. The ICRC, keeper of the Geneva Conventions, is perfectly in line with this category of institution while playing a major role in humanitarian governance.

- Companies are seldom directly involved in governance decision processes, but they indirectly influence them through lobbyists or Think Tanks. Those two entities do not act on the same level, as lobbyists directly intercede in the legislative processes (hard laws) or in the development of soft laws. Think Tanks act more on the creation of the political agenda with NGOs and political parties. Some companies nevertheless prefer to engage themselves directly in action and governance. That is the case of ICANN in the Internet governance and Max Havelaar in fair trade.

- Finally, through new forms of organisation such as NGOs or social networks, society is now an important player of governance. This is rather new and deserves further explanation.

ICANN (Internet Corporation for Assigned Names and Numbers)

Founded in 1998, this non-profit organisation has its headquarters in California. It is responsible for the assignment of IP (Internet Protocol) addresses, country codes (.ch, .fr), top domain names (.com, .org), the management systems of routers and identification or allocation protocols. ICANN is first of all responsible for the management of domain names and Internet addresses. These are two key functions in the Internet sphere that were managed before by an institution under the control of the American Department of Commerce (DoC): IANA (Internet Assigned Numbers Authority). By sort of privatising these responsibilities, the American government wanted to guarantee a greater independence of the Internet in relation to governments, a better stability for its evolution and a wider and more global representation of the Internet community, while promoting it and making it compete. It is the sole institution in the world that has a private company status while being responsible for the development of a 'common good'. This situation obviously generates conflict with part of the civil society, represented by entities such as the At-Large Advisory Committee or other state or private partners (see box on VeriSign). Although it has an agreement with the American government for this task, ICANN suffers from an increasingly contested international legitimacy, in particular among the Europeans and the Chinese. The evolution of this new kind of institution is inevitably going towards greater internationalization.

Civil society and governance

Since the 60's, there has been a major shift in the formation of NGOs coming from civil society. Under the impulse of Ralf Nader[29] and the "lemon law"[30] regarding the protection of consumers versus American car manufacturers, the civil society has increased the creation of demanding and protesting NGOs that are more involved in action and governance. These NGOs have seized on issues that until now were in the domain of the political programmes. All of the action fields are now in place: humanitarian aid, consumers' protection, campaigns against Aids, animal protection (baby seals), climate change, ozone layer depletion, etc. Civil society has thus created a specific institution for each cause. This fragmentation of the universal political utopia is a radical shift conveyed by the institutions that multiply their own vision of the world's threats. Moreover each field is often covered by several NGOs or institutions that discuss and act more or less together. The competition arises not only with regard to fundraising, but also with regard to their impact on the general public.

29. http://en.wikipedia.org/wiki/Ralph_Nader

30. http://en.wikipedia.org/wiki/Lemon_law

The importance of soft laws issued partly by the new organisations of civil society such as labels, benchmarks or black lists is increasing and civil society is slowly imposing its body of rules. Representative democracies have been overwhelmed by the onslaught of the participative phenomenon. Unlikely situations arise as States now leave NGOs to settle the humanitarian issue (MSF, ICRC) or to interfere in guerrilla zones (Amnesty International, Human Rights Watch). They have shifted from an observer to an advisor status, before becoming a governance stakeholder. The motion has started and seems irreversible. Civil society thus continues to infringe on the classical political field with the development of two new types of organisations, i.e. Think Tanks and social networks, as has been shown in the first part of this booklet.

The agenda of soft institutions

As already discussed, soft institutions issue soft laws, i.e. recommendations, proposals, labels, rankings, benchmarks, standards, norms, etc. All these soft laws are voluntary, non-punishable and non-binding. With such a specification, they are somehow bound to be successful. They must be approved by the largest number of players, officers or stakeholders possible in each area of implementation in society. A soft law approved only by a minority will only have a small impact on global governance. For instance, the ISO 9000 norm on quality control has been adopted by millions of companies; it is therefore effective and its results are highly visible in the field.

Consequently, the real issue is to get a soft law adopted rather than ratified; this is where the soft institution comes into its own. Several methods are used for this purpose and the following examples show some of the techniques applied:

- When the OECD issued its black list on "tax havens" in March 2009, all the Nation-states that were singled out by the procedure reacted very quickly: they followed the recommendations issued by the institution in order to be removed from the list. This practice, which could be qualified as "forcing through", has proven its efficiency.

- When the ministers of higher education approved "the Bologna system" to harmonize all the European university degrees by establishing the Bachelors/Master/PhD levels, they approved a soft extra-parliamentary disposition. The idea was that each university was free to adopt the system and to adapt to it at the time when it best suited them. It directly affected the students, for whom the former system became less attractive than the new one as former degrees seemed altered and less attractive for future professional careers. This is why universities approved the system faster than was expected. The aim was to react to being marginalized as the universities where the former system was maintained were somehow discrediting themselves. That was also the case for the ISO 9000 norm as companies who did not adopt it early on were immediately at a competitive disadvantage.

- The "concentric circles" strategy aims at getting a soft law adopted by a minority that then convinces others to follow and increases the number of supporters. This is typically the way labels, benchmarks and rankings work. Fair trade (see Max Havelaar) is a typical example. It is a rather slow process, however, it becomes efficient as soon as a critical number of members is reached.

- The "persuasion through debate" strategy was used in the great international forums on the environment such as the ones in Stockholm (1972), Rio (1992), Kyoto (1998), Johannesburg (2002), Copenhagen (2009) or on world governance in Davos and Porto Allegre. The forums result in long discussions and sometimes hesitating and chaotic processes; their effectiveness will be measured over time and on the quality of engagement. This last point is particularly decisive to the success of this type of persuasion technique. The Millennium Declaration and its related Global Compact Project are good examples of the persuasion technique through public debates.

- Finally, many other kinds of strategies also exist that can be regrouped under the banner of "persuasion through propaganda". These strategies are often adopted by soft institutions that have neither visibility nor financing for long information campaigns, and are often implemented during the institution's first years of existence. Because of their protest character the other stakeholders do not always take up these strategies. However, if the players keep coming back and hammering public opinion with these propaganda campaigns, then over the long term these soft laws will find a favourable echo in the governance. This was the case for carbon emissions in global warming.

It is interesting to note that despite the absence of a centralised authority that would call on a majority vote, these soft laws still find a way to get implemented exactly as in a parliamentarian democratic system. This does raise new issues such as the need for an impartial mechanism for conflict resolution and social control (democracy) for the political agenda of the soft institutions. The following pages will address these issues.

Arbitrage and democratic control

Because of their intrinsic characteristics, two main features of soft laws are questionable: the impartial mechanism of conflict resolution and democratic control.

In the Internet world, the issue of the impartial mechanism of conflict resolution is partly managed by a private American company called ICANN[31] developed in 1998 by the American Department of Commerce. The situation where a private entity was given the two tasks of managing the domain name system and mediating in case of conflict was unique. These two prerogatives are controversial as the separation of powers is not respected. This situation deserves to evolve towards a better structure that would take into account the protection of the community in the case of a recorded complaint of an arbitrary decision.

More generally, considering all the applications of soft laws, the arbitration of the settlement of differences would need to be better organised. Despite their voluntary, non-binding and non-punishable characteristics, soft laws also produce a certain amount of problems. The market and the citizens arbitrate with their choices of consumption, goods, services and ideas. Sometimes unfairness arises and it is necessary that an independent, impartial and neutral authority act as an arbitrator. This widely discussed issue is still open and needs to be addressed more definitively.

31. http://en.wikipedia.org/wiki/Internet_Corporation_for_Assigned_Names_and_Numbers

Regarding the issue of the democratic control of soft laws, the accountability concept seems to be the emerging solution: it appears ever more likely that this technique will be the credible answer. The ISO 26000 norm will normalize accountability within well-defined fields of application. With periodical reporting to account for their actions these different institutions, organisations and private and public companies could be better controlled in a more democratic fashion. Our entire society is now experimenting with a new alternative to democratic control. The choices are nevertheless limited as we are exploring the area of distributed power for which there is still little experience on a worldwide level. For example, whereas the globalization of production and service markets resulted in the development of the ISO 9000 norm, which has been very successful, the globalization of financial markets has failed. Today, global governance has to forge ahead in a new way that merits all our attention.

Conclusion II

A fabric of continuity

In the face of all the changes in governance that have occurred within our globalized society, the growing tensions between soft and classical institutions are going to increase. These two forms of regulation are fundamentally opposed to each other in the way they act. While one fosters the a priori approach through contracts and legal positions, the other fosters the a posteriori view through transformation and legitimacy. One way to reduce this stress potential would be to form within society a fabric of continuity, i.e. the formation of a group of intermediary organisations to bridge the gap between these two worlds, between the generations (digital natives and digital immigrants[32]), between traditional and recomposed families, hard and soft laws, classical and soft institutions, accounting and accountability, centralised and distributed power, etc.

This fabric of continuity must be organised as there is no objective reason why it would emerge spontaneously considering that the current forces would rather choose a side than bridge the growing gap. Moreover, as this shift is in line with the evolution of society without any obvious seizure of power but supported by ordinary people, it is quite difficult to imagine and to perceive it. Everything makes it seem as if the ongoing transformation was insignificant or even ordinary.

32. http://www.paperblog.fr.625109/generation-digital-natives-petite-histoire-d-une-generation-spontanee-ou-lamarck-au-pays-des-tice/

However, in the series of the four booklets that have been published, it has been shown that this change is powerful and, by raising many questions, it is starting to affect the foundations of our societies.

Consequently, how should the creation of the fabric of continuity be addressed?

Firstly, a communication, education and an experimentation-based approach could be considered. These three axes could become the first action fields to establish the elements of the fabric of continuity. Communication should not be a one-way street, conveying information between two opposing worlds, but should also develop stable channels of mutual communication. Young people who were born after the development of the Internet only know an interlinked connected world, the increase in telecommunications, role-playing or network games and the use of Facebook, Wikipedia, YouTube, iPhones or MP3. Consequently, communication with previous generations still using email does not work as the young generation considers it outdated. Generally, these kinds of social networks open communication with followers and break entirely with the vision of social organisation. The issue is not how to find a place for these young people in the labour market anymore, but rather how they will change it, which is a major inversion. To build communication channels, the necessity of the transformation of the old world must first be acknowledged.

Regarding education, the aim is not to educate the various players to later integrate them into a given structure, but rather to invent (a priori) a new education field. It is relevant to focus on transformations (a posteriori) and not only on the adaptations, as "learning" and "learning how to learn" notions are often opposed in the education field. In the new context of the soft world, the three notions of "learning", "learning how to learn" and "learning how to change" need to be introduced. This new concept could serve as a basis for the whole education system whatever the educational tools used. This evolution of the education model highlights the a posteriori transformation principle. The basis of the process would be the quest for truth rather than for result, which constitutes a great programme.

On the level of experimentation, it would be useful to build pavilions of soft world governance along the lines of MIT's living labs[33] in Boston, the former Matadero slaughterhouse[34] in Madrid, the Paris 104[35], the Muse[36] in Geneva or other experimentation places all around the world in urban, economic and cultural fields. These experimentation places of governance would allow exchanges, experimentation, research, and practical implementations for new institutions and finally build bridges towards the continuity of our social fabric. Considered as labs open on and to the world, these centers would develop experimental conditions for new practices of soft governance with consequently the likely discovery of best practices.

33. www.en.wikipedia.org/wiki/living_lab

34. www.esmadrid.com/.../mataderomadrid/.../espacio.html

35. www.104.fr

36. www.rezonance.ch

Towards a distributed governance model

As soon as a growing number of stakeholders are involved in global governance, the issue of the distribution of power, responsibilities and duties arises. It is obvious that centralised and federated power systems cannot entirely address this new situation. The case of the Internet where distributed power clearly prevails has been analysed, but there are many more similar examples. If we think about humanitarian, environment, fair trade or micro-finance governance, it is certain that this new form of power will increasingly influence global governance.

As has been noted, this will require the development of new procedures for reaching compromises and agreements, as well as new (soft) laws and institutions, but first of all a radical mentality shift fostering transformation rather than transaction is needed.

This shift is a great metamorphosis of the concept of power as Professor Joseph Nye explained in our first booklet about soft governance. Lynn St-Amour's preface to this booklet constitutes a constructive response to this shift. She proposes to take the Internet governance model as a kind of instructive basis for world governance in general. This is obviously a break with the multi-lateralism practiced by the international and UN organisations that invite the other stakeholders to get really involved in the governance. The diffusion and development of the new model is still a challenge to be explored.

Towards governance 2.0

If in the future, as civil society and companies get more involved in the governance through the new institutions of NGOs, social networks or Think Tanks, then the international organisations of multi-lateralism will have to adhere even more to the idea of multi-stakeholder governance. This new governance 2.0 refers to social networks' Web 2.0 and will certainly be similar to the governance of the Internet, the environment or the humanitarian field, as has already been discussed in this booklet. Which is to say that hard and soft laws and hard and soft institutions will thus together take part in a kind of small "galaxy" of governance. The new distribution of tasks will no longer be managed according to sovereignty but to relevance, which will immediately radically change the global governance system. Considering what is happening today, it seems that the process is already well under way and is being established rather smoothly. The international organisations of multi-lateralism have already begun to adapt to the multi-stakeholder model and will continue to evolve towards a sustainable stabilisation.

The issue of the democratic control of this long process towards distributed power still needs to be clarified on the basis of accountability. As soon as norms such as ISO 26000 will be entirely implemented in the field with visible actions, the process will be under way and the global population will naturally and regularly be informed on the progress accomplished in any given field.

Geneva, an exemplary duty

Given its privileged situation in the context of international governance and particularly soft governance, Geneva must set an example.

In the education, communication and experimentation fields, Geneva should develop the entities necessary to the discovery of soft power processes[37] as suggested by Joseph Nye in the first booklet of this series. This would imply that the Graduate Institute (IHEID) or the University of Geneva would be responsible for the education part of the proposal to develop a genuine information database for education and communication and that an experimental centre focussed on the application of soft power principles would be developed as well.

All these entities would represent the appropriation pillars and thus the empowerment of society faced with the irreversible rise of soft power. Geneva should set an example by sharing these observations and questions with the world. The presence of many soft institutions in Geneva fully justifies the approach as once again Geneva, in the footsteps of Calvin, Rousseau, Dunant, De Saussure, Schwab and many more, would offer, in the image of the Web, a significant contribution to the evolution of governance on the move.

37. See booklet n°1 «Soft governance» (2007) www.fondationpourgeneve.ch

Debates II

Distributed governance: the meddling of regulation

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In the context of wide multi-stakeholder cooperation coming from all sides, multiple kinds of regulation take their place besides classical inter-State negotiation methods. Many documents called behaviour codes, standards, guidelines, or others play a role in the management of international affairs.

The development of new regulations often arises from different coalitions brought together by pragmatic considerations and linked to an assessment based on comparative advantages. A heterogeneous group of public, private and hybrid actors is involved in the different processes of the development of current standards. The terms 'organisation' or 'body' do not fit the logic of these loosely structured groups that function within a minimal legal and organisational framework. They are 'networks' and do not respond to any formal legal order from which they would draw their legitimacy and that of their standards. Another feature of these networks has to do with governments widely delegating their regulation power to national or international agencies (in the field of banking supervision for instance), which are themselves part of these networks.

Even though they are not compulsory, most of the new forms of regulation are enforced, including by the government of any given country. A political, moral or economic pressure can be exerted to this purpose. Some international organisations can thus encourage their members to adopt these standards, as the World Bank and the International Monetary Fund (IMF) do by pushing in that direction in the field of financial regulation. Furthermore, the Financial Stability Forum, nowadays called Financial Stability Board, has drawn up a selective list of required standards for a 'sound and predictable financial system'. The impact of these standards thus reaches far beyond the framework of the entities that created them.

Challenges such as those posed by technology development and the search for a new stability in the field of the relations between trade and environment or trade and health for instance require a new way to produce norms. The complexity of situations and matters to govern account for the technical nature that regulation demands and conveys. The legal norm will need to be more and more infused with 'knowledge'. In such a context, regulations are part of a 'process' logic that aims at outlining, modulating and directing the behaviour of the States and of the other players on the international scene. The content of regulations will evolve according to the knowledge, needs and abilities and will thus not be established on the basis of a specific rule.

Along the way, these regulations will help outline the definition of the rules of international law. Many topics such as the trading of harmful foodstuffs, genetic engineering, plant health protection or the prevention of the cross-border spreading of epidemics are not totally covered by international law, which prefers to hand them over to a standardization based on other models of development.

Nonetheless, the sustainability of such 'regulatory' phenomena is linked to the major challenge of their legitimacy. Whether the decision process stems from actions by governments, international or regional organisations, intergovernmental associations, officials and experts, private regulatory agencies, multinational businesses or from other players, it must convey the legitimacy standard.

The criteria for legitimacy have yet to be defined; one of the criteria is related to the development process. The problem of regulation legitimacy and legal consequences derived from this regulation do not only depend on the question of knowing whether the States or the other players have adhered to or whether they want to be tied to the standards, but rather on the way the standard has been developed, i.e. who has taken part in the development process and who has been excluded and which expertise has been taken into account. The principles of non-exclusion, transparency, public participation and information access may be indicators of a more legitimate regulation.

The setting-up of public discussion forums on technical norms, within which all interested parties would be represented, should also be considered. Many voices could thus be heard and taken into account in order to find a common solution or a consensus that would suit most of the players concerned. Epistemic communities already exist (such as scientific or bank associations); they could be opened to other participants. Reflecting on legitimacy must be an integral part of the expanding movement that resorts to new forms of international regulation.

The power of the G20

François Nordmann
Former Swiss Ambassador and President of the Diplomatic Club of Geneva

Is the G20 a soft institution or a hard power? At first glance it is a collection of governments that, according to the Summit Declaration of Pittsburgh (2009), constitute the chosen forum for world economic cooperation. One would thus expect that these 22 countries would have all the attributes of state power. Together they represent two thirds of the world population and trade and 85% of the wealth produced in the world, which gives them a strong legitimacy.

Originally, about 35 years ago, the most industrialised countries (G7-G8) took to having annual summit meetings. These gatherings were prepared by the economic and finance ministers, the foreign affairs ministers and the special envoys of heads of States, the notorious sherpas. Confronted with the Asian financial crisis in 1999, the group enlarged its membership: the G20 was born. At the beginning, only the economic and finance ministers were invited.

In 2008 however, when it was necessary to come together to manage the world economic crisis, only the heads of States and governments of the countries that counted most in terms of financial weight and political influence seemed capable to take the adequate decisions. This formula caught on; it became an annual event and in 2010 the group actually met twice, in Canada and six months later in the Korean Republic. The presidency alternates between developed and emerging countries and will go to France in 2011.

The functioning model of this system is somewhat atypical. Over time the G8 has taken on, beyond the global financial and economic problems and development aid, themes related to security (energy, non-proliferation). The G20 has no intention of taking over the tasks that the G8 is handling. In fact, the G20 does not really take decisions; it works through the classical international organisations such as the ILO, the WTO, but especially the International Monetary Fund, the World Bank or the OCDE and the Council for Financial Stability, which stemmed from the Bank for International Settlements in Basle. This body has become one of the main political instruments of the G20 in its core activity: the international financial deregulation.

The G20 thus acts like a state pressure group with all the strength it has within the international organisations. It tries hard to reconcile the divergent views of its members so as to give the other states a direction to follow. Some of them contest its legitimacy: its way of operating is the contrary of what was decided at the beginning for the working of the UN and the specialized institutions, who proceed to reach agreement between all the concerned governments by following well established procedures. At the UN, each country can express one vote, which results in the forming of a consensus of more or less large coalitions. The decisions of the Security Council are indisputable as long as they respect the agreed upon criteria following the discipline that was previously accepted.

Jonas Gahr Store, Norway's Foreign Affairs Minister, recently expressed his anger at the fact that the States that contribute most to multi-lateralism, to the Blue Helmets or to development aid, namely the Nordic countries, have nothing to say when it comes to managing international cooperation. They are not invited to the G20, although they are lacking neither in financial ability nor weight, and they protest against the arbitrary selection of the members of the G20, calling it "the gravest set-back of international cooperation since the second world war". The number of member States of the European Union within the G20 is comparatively excessive and does not reflect the European diversity.

How reasonable is this criticism? The UN has failed, particularly in the economic area. It seems incapable of reforming itself and no longer represents the world as it is now. The G20 is still searching for a model. By opening itself to the most important emerging countries it corrects the balance of the G8, which is only composed of industrialized countries. The G20 is still relatively unstructured and refrains from acting in the areas of peace and international security. But it is well placed to re-organise the world's governance and to propose rules and institutions for the globalisation of the 21st century. The light supervision by Nations of the norms established by private organisations operating in the public sector might become, when universal security and prosperity are in question, one of its main tasks.

Metamorphosis

Edgar Morin
French sociologist and philosopher

When a system is incapable of dealing with its vital problems it dissipates, disintegrates or generates a meta-system to deal with its problems: it undergoes a metamorphosis. The Earth system is incapable of organising itself to solve its problems: nuclear threats that increase with the spreading or even the privatisation of the atomic bomb; the degradation of the biosphere, a global economy without real regulation; the return of famines; ethno-politico-religious conflicts that tend to develop into wars of civilisations.

The amplification and acceleration of this entire process can be considered as the great wave of a formidable negative feedback, a process that immediately leads to the disintegration of a system.

The probable outcome is disintegration. The improbable but possible outcome is metamorphosis. What is a metamorphosis? There are innumerable examples of it in the animal kingdom. The caterpillar that shuts itself into a cocoon starts a process that is at the same time self-destructive and self-reconstructive, along the organisation and form of a butterfly, but different from a caterpillar, yet somehow staying the same.

The birth of life can be considered the metamorphosis of a physical-chemical organisation that, arriving at a point of saturation, creates a living meta-organisation that has the same physical-chemical components but produces new qualities.

The creation of the historical societies in the Middle-East, India, China, Mexico, Peru was a metamorphosis of an aggregate of archaic hunter-gatherer societies that produced cities, Nations, social classes, specialisation of work, the great religions, architecture, arts, literature and philosophy. But they also produced the worst: war and slavery. The 21st century is faced with the metamorphosis of the historical societies into a new type of world society that will encompass the Nation-states without eliminating them. For the continuation of history, i.e. wars, by Nations with weapons of annihilation would lead to the near destruction of humanity. Fukuyama considered that the creative capability of human evolution was used up by representative democracy and liberal economy, while we believe that the history is used up, but not the creative capability of humanity.

The idea of metamorphosis, richer than the idea of revolution, maintains the same transforming radicalism but ties it to conservation (of life and cultural heritage). How can we change paths to go towards metamorphosis? Even if it is possible to correct some of the ills, the wave of technology, science, economics and civilisation cannot be slowed down and will lead the planet to disaster. And yet the history of humanity has often changed route. It all starts with an innovation, a new message, deviant, marginal, modest and often unperceivable to the contemporary population.

And this is how the great religions started: Buddhism, Christianity, and Islam. Capitalism grew as a parasite on the feudal societies and finally took flight, with the help of royalties, and destroyed them.

Modern science was started by a few dispersed deviant spirits: Galileo, Bacon, Descartes, then created its networks and associations, infiltrated the universities of the 19th century, the economies and the Nations of the 20th century to become one of the four powerful drivers of the spatial vessel Earth. Socialism was born in some self-taught and marginalised minds of the 19th century and became a historical force in the 20th century. Today everything must be re-thought, everything must be re-started.

In fact, everything has re-started without us noticing. We are at the stage of beginnings that are modest, invisible, marginal and dispersed. Because on all continents there is a creative bubbling, a multitude of local initiatives towards regeneration, be it economic, social, political, cognitive, educational, ethical or life reforming.

These initiatives don't know each other; no administration keeps count of them; no party learns about them. But they are the breeding ground of the future. We need to recognize them, count them, aggregate them, list them and conjugate them in a plurality of reforming paths. These different paths developed together, will merge to form a new way forward that will take us towards the as yet invisible and inconceivable metamorphosis. To fashion the paths that will merge into The Way, we will need to abandon the limited alternatives that are imposed on us by the hegemonic knowledge world and thought process. And so we need to globalize and deglobalize, grow and shrink, develop and envelop at the same time.

The globalization/de-globalization direction means that if we need to multiply communication and cultural globalization processes, if we need to create an Earth-fatherland conscience, then we also need to promote, in a de-globalized fashion, the proximity of food supplies, crafts, trade, peri-urban vegetable growing and local and regional communities.

The growth/shrinkage option means that we will need to increase services, green energy, public transportation, a multi-faceted economy including a social and interdependent economy, humanised arrangements of megacities, biological and farmer agriculture and stock breeding, but decrease the consumerist intoxications,

industrial food, production of throw-away and non-repairable objects, car traffic, truck traffic (goods should be moved by rail).

The development/envelopment direction means that the objective is no longer the development of material goods, efficiency, profitability, calculability, but the focus of each person on his/her interior needs, the return to one's inner life and the understanding of our fellow men, of love and friendship.

It is no longer enough to denounce, we now must articulate. It is not enough to remind people of the urgency, one must know how to start by defining the paths to The Way. This is what we try to achieve. What are the reasons for hope? We can formulate five principles for hope:

1. The arising of the improbable. As the twice-victorious resistance of small Athens against the mighty Persian power five centuries before Christ was highly improbable, it however brought about the birth of democracy and philosophy. The same was true for the unexpected freezing of the German offensive in front of Moscow in the Autumn of 1941; then the improbable counter-offense of Joukov starting on December 5, and the attack on Pearl Harbor on December 8, that pushed the US into the world war.

2. The generative/creative virtues inherent to humanity. As there exists in any adult human organism stems cells that have polyvalent but inactive aptitudes similar to embryo cells, so there exists in every human, every human society virtues that are regenerative, generative, creative in the dormant state or inhibited.

3. The virtues of the crisis. The generative creative forces wake up at the same time as the regressive or disintegrative forces in the world crisis of humanity.

4. And the virtues of peril combine with the former: "where peril grows, there grows also what saves". The supreme opportunity is inseparable from the supreme risk.

5. The multi-millennium aspiration of humanity to harmony – paradise, then utopia, then libertarian/socialist/communist ideologies, then youth aspiration and revolts of the 60's. This aspiration is reborn in the swarming of the multiple and dispersed initiatives that will feed the reforming paths, destined to meet in the new Way.

Hope was dead. The old generations are disillusioned by false hope. The young generation regrets that there are no longer causes like the resistance in World War II. But our cause carried its opposite within. As Vassili Grossman of Stalingrad said, the greatest victory of humanity was also at the same time its biggest defeat, as Stalinist totalitarianism came out the winner. The victory of democracies re-establishes at the same time their colonialism. Today the cause is without doubt sublime: we must save humanity.

Real hope knows that it is not certitude. It is hope not in the best of worlds, but in a better world. Heidegger used to say: the beginning is ahead of us. Metamorphosis would really be a new beginning.

ACRONYMS & ABBREVIATIONS

ADSL - Asymmetric Digital Subscriber Line

AI - Amnesty International

AOL - America Online

CARE - Cooperative for Assistance and Relief Everywhere

CERN - European Organisation for Nuclear Research

DoC - US Department of Commerce

DoD - US Department of Defense

EEC - European Economic Community

FAO - Food and Agriculture Organisation

GEF - Global Environment Fund

GMEF - Global Ministerial Environment Forum

IASC - Inter-Agency Standing Committee

ICANN - Internet Corporation for Assigned Names and Numbers

ICRC - International Committee of the Red Cross

IEEE - Institute of Electrical and Electronic Engineers

IETF - Internet Engineering Task Force

IHEID - Institut Universitaire de Hautes Etudes Internationales et du Développement / Graduate Institute of International and Development Studies

ILO - International Labour Organisation

IMF - International Monetary Fund

IOM - International Organisation for Migration

IPCC - Intergovernmental Panel on Climate Change

IPSSX25 - International Packet Switching System (X25)

ISO - International Organisation for Standardization

ITU - International Telecommunication Union

MSF - Médecins Sans Frontières / Doctors Without Borders

MSN - Microsoft Network

NGO - Non-governmental organisation

NSF - National Science Foundation

NSTNet - National Science Foundation Network

OCDE - Organisation for Economic Co-operation and Development

RFC - Request For Comments

RIPE - Réseaux Internet Protocol Européens / European Internet Protocol Network

TCP/IP - Transmission Control Protocol/Internet Protocol

TED - Technology Entertainment Design

UN - United Nations

UNEP - United Nations Environment Programme

UNHCR - United Nations High Commission for Refugees

UUCP - Unix-to-Unix Copy Protocol

WEF - World Economic Forum

WFP - World Food Programme

WGIC - Working Group on Internet Governance

WHO - World Health Organisation

WIPO - World Intellectual Property Organisation

WMO - World Meteorological Organisation

WTCP/IP - Transmission Control Protocol/Internet Protocol

WSIS - World Summit on the Information Society

WTO - World Trade Organisation

WWF - World Wildlife Fund

W3 - WWW – World Wide Web

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