

# Developing countries and the shaping of the international digital agenda

Cyber knows no borders. This is known for a fact. However, the shaping of the incipient international order in relation to digital issues seems to be concentrated in some parts of the globe, namely the northern hemisphere.



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There are obvious reasons for this, considering that most large digital companies are located in that part of the world and most markets for digital technologies as well, with the exception of one developing country, China. Developing countries are struggling with other, more vital priorities and are often lacking the capacities to fully engage in international processes devoted to digital norms and order. However, similar to global health issues, the climate, or taxation of global companies, most digital issues can efficiently be resolved only if a sizeable part of the world engages, in addition to the

main players. It is essential too that the incipient digital order reflects the interests, values and approaches of all regions and cultures in order to be viable in the long run and to avoid future tensions and frictions.

A number of avenues are already available to developing countries for engaging in the shaping of the digital agenda, but most of them are underutilized. For example, two international conventions on key cyber issues – the conventions on personal data protection and on cyber crime – have been concluded under the auspices of the Council of Europe and are open

to all states, including from other continents. The “Convention 108” on data protection has been successful in attracting developing countries among its membership, with Argentina, Cabo Verde, Mauritius, Mexico, Morocco, Senegal, Tunisia, and Uruguay being full members and some others closely cooperating with the organization. The Convention was recently modernized and it remains to be seen how many developing countries will adhere to the new treaty. The Convention on Cyber crime was even more successful and was ratified for example by Chile, Colombia, Ghana, Peru, Sri Lanka, and Tonga.

Yet, the two conventions remain quite far from attracting a universal participation. This situation is counterintuitive considering that no country is immune to intrusion into the privacy of citizens or to cyber crime, either as a target or a basis for unlawful or criminal activities.

The Organization for Economic Cooperation and Development (OECD) too has a number of instruments on digital issues which are open to participation by non-member countries, and are non legally binding. OECD instruments cover issues such as the protection of privacy, encryption, information

security, and consumer protection in e-commerce. Yet, similar to the Council of Europe, participation by non-OECD countries remains in fact limited.

Regional cooperation fora are privileged frameworks to develop and implement principles and rules that best fit the specific needs in particular of developing countries. Looking at the main developing regions – Africa, Asia and Latin America – it seems that the issues at stake have not yet been tackled as vigorously as in Western regional organizations. On the African continent, the 2014 African Union *Convention on Cyber Security and Personal Data Protection*, but to date only five ratifications were deposited out of fifteen needed for entry into force, and this instrument seems quite dated already. The 2010 *Supplementary Act on Personal Data Protection within ECOWAS*, features many common principles with modern data protection frameworks, certainly more so than the African Union’s Convention. In spite of these valuable efforts, a lot could still be done in terms of geographical and topical coverage of digital legal instruments on the continent.

On the Asian continent most digital discussions take place in the context of APEC, which does not encompass all Asian countries and are not legally binding.

The League of Arab States as well is active in this field, for example with its 2010 *Arab Convention on Combating Information Technology Offences*.

Thanks to the OAS (Organization of American States), the American continent is more advanced, also to the extent that it encompasses all developing countries of the continent. The scope of cooperation within OAS is broader than on the two other continents, including for example cyber defense.

Cooperation also exists a bilateral level, including between developing and developed countries or among developing countries. India for example has (non binding) agreements with some Western countries including on cyber defense. Another recent example is the April 2021 Digital Cooperation between China and the Arab League.

From the aforementioned examples it turns out that very much remains

idle and that there is a large scope for the United Nations to intensify its work, if it so wants. To date, most UN agencies have digital programs in their respective fields of expertise. But unavoidably, given that developed countries are so much more advanced with their digital strategies and agendas, they also are the more active ones in UN fora. Whether under the OHCHR with the Special Rapporteur on the right to privacy, or under the General Assembly with the “Group of governmental experts on developments in the field of information and telecommunications in the context of international security”, developed countries have far more resources and skills to contribute to the work. The whole system can only benefit from more inputs from all regions of the world, in order to be better aware of specific interests, challenges and opportunities. It is thus in the best interest of all states to undertake targeted efforts to further build the capabilities of developing countries in relation to the international digital agenda.

Developing countries are in general lagging behind in their participation to the shaping of the global cyber agenda. Though there are

some understandable reasons for their lack of integration in these international processes, this is neither desirable nor fair. Some fora do indeed open ample possibilities for developing countries to participate, for example in the context of the Council of Europe, and should enhance incentives for developing countries to do so. More international cooperation aiming at increasing the capabilities of developing countries in respect to their participation in these debates should be considered at multilateral and bilateral levels. Admittedly, the developing world has other more vital priorities for their people. But precisely, a better engagement in digital issues and a more robust digital framework would in the longer run help tackle more effectively those vital priorities. Health issues, the food and agriculture agenda, education including in remote areas, response to global environmental challenges, and many other such vital policy areas would benefit from a better integration of developing in the digital age. And make the world a better place, everywhere. ■

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