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

Official Form for Written Submissions

A. Your Information

Title: *Ms.*

First name: *Deniz Duru*   *Last name:*   *Aydin*

Name of Organization: Access   *Stakeholder Type[1]:* Civil Society

Country: *Global*   *Email:*   *deniz@accessnow.org / raman@accessnow.org (Policy Director)*

B. Formal Input

Some guiding questions for your submissions are listed below:

1. To what extent has progress been made on the vision of the people-centred, inclusive and development-oriented Information Society in the ten years since the WSIS?
2. What are the challenges to the implementation of WSIS outcomes?
3. What should be the priorities in seeking to achieve WSIS outcomes and progress towards the Information Society, taking into account emerging trends?
4. What are general expectations from the WSIS + 10 High Level Meeting of the United Nations General Assembly?
5. What shape should the outcome document take?

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[1] When specifying your stakeholder type, please indicate one of the following: Government, Civil Society, Private Sector, Academia, and Technical Sector.

Introduction

Access (accessnow.org) is an international organization that defends and extends the digital rights of users at risk around the world. By combining innovative policy, user engagement, and direct technical support, we fight for open and secure communications for all.

Since the early stages of the WSIS review process, Access engaged often, both in-person and remotely. Our priorities in the process have been the following:
• moving forward initiatives and commitments that would advance human rights online;
• deepening international commitment to the democratic, participatory and inclusive model of internet governance, while actively supporting new and diverse voices in this space; and
• strengthening the IGF.

In February 2013, we participated in the first WSIS + 10 Review Event, hosted by UNESCO in Paris. The final statement that was produced at this inaugural moment of the process included positive, rights-oriented language, as it stated commitment "to the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights and other universally recognized legal instruments."

The ITU-facilitated June 2014 WSIS + 10 High Level event and the creation of a Multistakeholder Preparatory Platform also gave an opportunity for diverse stakeholder to engage in the open consultation process and shape the documents that came out of this important summit. Access submitted contributions on the Outcome Documents of the WSIS+10 High-Level Event, as well as following the meeting remotely.

A lot of effort went into the preparation and endorsement of the two outcome documents that were produced at last summer's High Level event (WSIS+10 Statement on the Implementation of WSIS Outcomes and WSIS+10 Vision for WSIS Beyond 2015). Similarly, relevant UN agencies produced exhaustive reports on issues related to the vision of a development-oriented, people centered and inclusive information society, often open to stakeholder engagement via submission mechanisms, several of which Access participated in. Examples include UNESCO's Comprehensive Internet Study and CSTD's Ten-Year Review of Progress Made in the Implementation of WSIS Outcomes. In addition to these special reports and research initiatives, ITU's annual Measuring the Information Society reports should also feed into the final outcome document, in order to ensure the accuracy and relevance of the results.

We frequently reference these documents in our submission, which starts below with a detailed outlining of the progress made and challenges faced in the last ten years on the vision of the people-centered, inclusive and development-oriented information society. Next, we state our priorities in seeking to achieve WSIS outcomes and progress towards the Information Society, taking into account emerging trends, and finish with our hopes and expectations for the High Level meeting of the UNGA.

To what extent has progress been made on the vision of the people-centered, inclusive and development-oriented Information Society in the ten years since the WSIS?
What are the challenges to the implementation of WSIS outcomes?

● Below, we analyze both the progress and the challenges faced in relation to several of the WSIS Action Lines. This formatting is similar to the WSIS+10 High-Level Event's WSIS Action Lines document, as well as CSTD's Implementing WSIS Outcomes: A Ten-Year Review report. In addition, we also previously submitted a contribution to CSTD's ten-year review of the implementation of WSIS outcomes.[2]

Action Line C1: The role of governments and all stakeholders in the promotion of ICTs for development

● A development-oriented information society that is also people-centred and inclusive needs inclusive, transparent and accountable governance mechanisms. The involvement of diverse stakeholders in formal decisionmaking processes as well as cooperation in the implementation of national e-strategies are necessary for policies to be effective, as well as inclusive for all.
● We also note that the dissemination of ICTs and especially internet access are tools, not an end in themselves for development. Strong, democratic institutions committed to accountability, transparency and inclusiveness are necessary for technology to bring about social and economic development at international or local level. Apart from governments' commitment to good governance principles, their commitment to protecting and promoting human rights is indispensable to maximize opportunities for economic and social development.
● We have observed that one of the challenges to the promotion of ICTs for development is lack of transparency, as a key principle of good governance - "which is necessary for promoting growth and sustainable human development" (Commission on Human Rights resolution 2000/64 on "The role of good governance in the promotion of human rights.")
● For example, lack of regulatory clarity prevents local businesses from thriving, while also restricting opportunities for foreign investment. The progress achieved through partnerships with international organizations, civil society and academia in creating and implementing capacity-building programs targeting policy-makers and independent regulatory authorities is welcomed, and should be supported further on.
● In addition, at times, governments were unwilling to uphold their human rights commitments. There were instances of rights-infringing practices such as mass surveillance, overbroad censorship that criminalizes online expression, or banning of anonymizing or cryptographic tools. Such policies can have negative impacts, chilling the exercise of free expression, thereby curtailing social and economic development.
● In addition, such practices directly impact the efforts for an inclusive information society, as at-risk communities refrain from using ICTs if and when they are subject to rights-infringing practices by governments and private actors alike.
● Private actors also have responsibilities in the promotion of ICTs for development. As demonstrated in a series of UNCTAD reports on Information Economy, ICTs are enablers for private sector development in developing countries, as opportunities exist in emerging markets, from investing in infrastructure to e-commerce.
● At times, when businesses failed to fulfill their responsibility to respect their users' rights to privacy, freedom of expression and access to information, the infringement seriously curtailed the promotion of socio-economic development through ICTs. Businesses, just like other stakeholders, should remain committed to their human rights responsibilities, affirmed in the UN Guiding Principles on Business and Human Rights, while engaging in new initiatives aimed at fulfilling the vision of the people-centred, inclusive and development-oriented Information Society.

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[2] *See* Access' submission to the CSTD review: http://unctad.org/Sections/un_cstd/docs/cstd_wsis10_access_en.pdf

Action Line C2: Information and communication infrastructure

● Access and use of ICTs are the first steps in building an information society. The main achievement in this Action Line area is the spread of broadband infrastructure. However, this achievement is uneven around the world and the global digital divide between developing and developed countries are still wide, as 4.3 billion people are still not online, and 90 per cent of them live in the developing world.

● In addition, there are various other digital divide gaps such as urban/rural, gender and age-based. The ITU has been working to decrease such divides, as well as trying to objectively and accurately measure the realities of local contexts. There has been definite progress in understanding the problem, as well as the more effective solutions - for example, shifting from fixed broadband to mobile connectivity solutions, promotion of local IXPs, detecting and promoting best regulatory practices to increase competition and affordability in emerging markets, and collaboration between private and sector and governments to deploy infrastructure.

● The report Final WSIS Targets Review - Achievements, Challenges and the Way Forward provides a detailed look into the progress made on each of the ten WSIS targets, and connects these targets to various relevant action lines. The findings of this report carried out the task of measurement and data collection, and therefore should be taken into account.

● On the positive side, the report (as well as relevant ITU-compiled statistics) show that "significant progress has been made in increasing mobile cellular coverage for rural populations," and "access to the Internet using mobile networks appears to be a growing trend." These developments that are supported by data not only show the progress made, but also provide future opportunities and insights for strategic planning, in order to connect the remaining 57% of the world's population.

● However, challenges remain. First of all, affordability remains as a major challenge for digital inclusion. According to the ITU's Measuring the Information Society Report 2014, "while the prices of fixed and mobile services continue to decrease globally, in most developing countries the cost of a fixed-broadband plan represents more than 5 per cent of GNI per capita, and mobile broadband is six times more affordable in developed countries than in developing countries." Income inequalities within countries, as well as lack of infrastructure or enabling competitive environment remain as a major barriers towards attaining internet connectivity. On the bright side, there have been successful public-private partnerships that target affordability, such as but not limited to the initiative Alliance for Affordable Internet.

● Another challenge is the quality of access. On this point, net neutrality is a critical principle which ensures the internet's continued success as a bastion of free expression, entrepreneurship and a facilitator to access relevant applications and useful information. This principle has been challenged by certain types of corporate initiatives such as zero rating, which favors specific services over others and even create walled gardens.

● Therefore, the infringement of net neutrality principle can directly impact the quality of access. The challenge can go as far as creating a two tiered internet where the newly connected populations are limited to a "sponsored" version of the internet that restricts opportunities.

● In addition, such practices of favoring one service over the others directly limits local content creation, which in turn prevents locally (as well as rurally-relevant) applications and content from emerging. As mentioned in the Final WSIS Targets Review report, as we shift attention from "coverage to quality of access," we focus on capturing locally-relevant applications and content, while trying to understand "barriers to and equality of Internet use." The deviation from the principle of net neutrality will remain as one such barrier.

Action Line C3: Access to Information and Knowledge

● As stated by the key facilitator of this Action Line, UNESCO: "Universal access to information and knowledge is fundamental to the development of inclusive Knowledge Societies. In the past, information and knowledge have too often been the preserve of powerful social or economic groups. Inclusive Knowledge Societies are those in which everyone has access to the information that s/he needs and to the skills required to turn that information into knowledge that is of practical use in her/his life."

● Internet facilitates the enjoyment of access to information and knowledge. Through online tools and networks, there has been incredible progress over the past ten years that facilitated people's right to access to information and knowledge, from knowledge-sharing repositories to share code and innovate to online encyclopedias that develop solely through user-generated content.

● There remain substantial differences in the extent to which users can access information in different countries. As UNESCO states in its comprehensive internet-related study, "access is also linked to the Universal Declaration of Human Rights Article 19, which affirms that the right to freedom of expression includes the freedom to seek and receive information and ideas through any media and regardless of frontiers."

● Even though the principle applies to all platforms, the challenges were strong in contexts where state restrictions on expression online often did not respect international standards. Laws granting overbroad surveillance and censorship of expression online prevented local content from emerging, or led to bans on certain content that created barriers for users to access information and knowledge.

● Unfortunately, beyond filtering content online, several governments have even used internet "kill switches" during times of social unrest or protest. These practices can never be justified under human rights law, as most recently declared by major UN and human rights experts. Uninterrupted access to information and knowledge should be granted to users in order to achieve a people-centered, inclusive and development-oriented information society.[3]

Action Line C5: Building confidence and security in the use of ICTs

● Confidence and security are requirements for enabling ICTs to drive economic development and guarantee human rights.

● The Implementing WSIS Outcomes: A Ten Year Review report states that "people are less likely to use ICTs if they lack confidence in the security and reliability of networks and services, fear that private information be compromised, or are concerned about the risk of fraud."

● While recent events show that cybersecurity is increasingly becoming a priority for governments and corporations that hold a massive amount of private data, challenges remain in terms of putting end-users at the center of such new initiatives, in terms of protecting their rights and taking into consideration their needs.

● We believe that the ongoing focus in cybersecurity policy making limited to "critical infrastructure" and state sovereignty fails to consider the risks that people face in our current digital environment. People have faced challenges while using the internet including malware or cyber-attacks that especially target vulnerable users around the world — such as journalists, bloggers, and human rights defenders — while harming the security of the network as a whole. Member states need to take into account users' rights and priorities while engaging in new cybersecurity initiatives to build a more secure internet.

● In its comprehensive internet-related study, under the privacy topic, UNESCO also has presented a policy option of "supporting initiatives that promote peoples' awareness of the right to privacy online and the understanding of the evolving ways in which governments and commercial enterprises collect, use, store and share information, as well as the ways in which digital security tools can be used to protect users' privacy rights."

● Furthermore, progress has been made in finding ways to increase people's confidence in the security of networks and services, and to facilitate a more inclusive and people-oriented information society. For example, as seen in the recent report by the UN Special Rapporteur on the freedom of opinion and expression (A/HRC/29/32), encryption and anonymity on the internet are necessary for the advancement of human rights.

● To this end, bearing in mind also Action Line 4 (capacity building) which is in association with Action Line C7 (education), individuals should be also be provided access to relevant and adequate digital security trainings, so as to enable them to protect their personal data and communications, as well as enjoy right to privacy online, lack of which at times was a major challenge in the past ten years while working for the attainment of a people-centered information society.

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[3] See Micek, Peter, and Deji Olukotun. "Internet Kill Switches Are a Violation of Human Rights Law, Declare Major UN and Rights Experts." *Access*. 4 May 2015. https://www.accessnow.org/blog/2015/05/04/internet-kill-switches-are-a-violation-of-human-rights-law-declare-major-un

● Transparency reporting by ICT companies is also an achievement in this regard, both in terms of shedding light onto corporate policies when it comes to their treatment of users' protected information, and in bringing more attention to the practices of governments that may infringe user rights to privacy and freedom of expression online.[4]

● Some ICT providers have also tried to clarify the laws and mechanisms through which governments conduct lawful interception or submit formal requests for accessing user data, which sheds more clarity on the level of security of a network. However, challenges remain where such corporate transparency is not allowed or not promoted by national governments, as it leaves users unaware of how companies and governments, as well as private actors, interact with each other, impacting privacy online and decreasing people's confidence in the security and reliability of networks.

● Challenges remain in the use of invasive and disproportionate policy responses related to cybersecurity that can imperil human rights and economic development. In this context we fully support the efforts for capacity building, cooperation, and coordination, as well as the usage of various existing fora that work to build confidence and security in ICTs, in an inclusive and transparent manner. However, cybersecurity initiatives must be designed to protect the security of users, not just the security of governments.

Action Line C6: Enabling environment

● An enabling legal, regulatory and policy environment is obligatory if ICTs are to drive development. This includes commitment to good governance principles, as the Geneva Declaration set out as a principle that "ICTs should be used as an important tool for good governance."

● Furthermore, according to the Office of the High Commissioner of Human Rights: "depending on the context and the overriding objective sought, good governance has been said at various times to encompass: full respect of human rights, the rule of law, effective participation, multi-actor partnerships, political pluralism, transparent and accountable processes and institutions, an efficient and effective public sector, legitimacy, access to knowledge, information and education, political empowerment of people, equity, sustainability, and attitudes and values that foster responsibility, solidarity and tolerance."[5]

● A transparent regulatory system is therefore required to create an enabling environment for promoting ICTs for development. In recent years, regulators have been known to bow to government pressure to revoke licensing agreements, or have otherwise detract from an enabling environment by keeping part of licensing agreements secret.

● Similarly, national laws governing different aspects of ICTs need to be clear and transparent, and encompassing full respect of human rights. For example, challenges occur that curtail community development or investments in ICTs when governments fail to ensure that laws, regulations, activities, powers, and authorities related to Communications Surveillance adhere to international human rights law and standards.

● As stated in the WSIS Ten Year Review report, "legislation concerning data protection and privacy is crucial to confidence in the security and integrity of online transactions and other activity, for both companies and users." Challenges occur when governments propose mandatory data retention laws that violate users' privacy rights while putting extra pressure on private companies. Progress has been made on exploring alternative, proportionate measures around the world. In addition, the 2014 ruling of the Court of Justice of the European Union which invalidated the Directive on Data Retention accelerated these discussions.

● In addition, the Geneva Declaration asserted that "the rule of law, accompanied by a supportive, transparent, pro-competitive, technologically neutral and predictable policy and regulatory framework reflecting national realities is essential for building a people-centred Information Society" and therefore calling on governments "to foster a supportive, transparent, pro-competitive and predictable policy, legal and regulatory framework, which provides the appropriate incentives to investment and community development in the Information Society."

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[4] *See* "Transparency Reporting Index." Access. <https://accessnow.org/tri>.
[5] "Good Governance and Human Rights." Office of the High Commissioner on Human Rights. United Nations.
<http://www.ohchr.org/EN/Issues/Development/GoodGovernance/Pages/GoodGovernanceIndex.aspx>.

● As an example of progress in fostering pro-competitive environments, net neutrality legislation enshrined into national law in several countries has directly contributed to maintaining fair competition, ensuring an open market, where affordability can be reached.

Action Line C9: Media

● ICTs have already been incredibly successful when it comes to the media. It has provided an unprecedented ease of instant access to information, a channel for citizen journalism, and a facilitator for the freedom of expression.
● As cited in the WSIS Ten Year Review Report, UNESCO's 2014 World Trends in Freedom Of Expression and Media Development states "new issues of media ethics have arisen at the boundaries of journalism, security and privacy."
● Concerns remain with the government censorship of specific news outlets, social media platforms, and the use of surveillance to track and persecute journalists and activists. Strong encryption and anonymity online can be powerful tools to combat these impediments to achieving the Information Society.
● Challenges also include threats to activists, citizen journalists and bloggers that try to make their voices heard online. The 2015 Report of the Special Rapporteur on the situation of human rights defenders (A/HRC/28/63) recalled the vital role played by the media and social media in promoting the effective protection of defenders, stating that "numerous cases of journalists who have reported on or written articles about human rights violations, and also cases of whistle-blowers and bloggers, have come to the attention of the Special Rapporteur, who considers them to be human rights defenders, in that they meet the criteria set out in the Declaration on Human Rights Defenders."
● It is a challenge for free expression online when governments make intermediaries, including hosting companies and social media platforms liable for content that they host or transport. This liability often focuses on copyrighted material, but it can also be extended to other material considered unlawful, including defamation and hate speech. Such laws and policies imposing liability place a significant burden on intermediaries, at times requiring them to actively monitor content, chilling online expression, and undermining privacy.

Action Line C10: Ethical Dimensions of the information society

● While there has been progress in parts of the ICT corporate sector in the last ten years, governments are lagging behind in reforming laws, while failing to commit to the understanding that "the same rights people have offline must also be protected online." To achieve the ethical dimension, governments need to reaffirm their intention not to use ICTs in violation of fundamental rights such as the right to privacy and the right to freedom of opinion and expression.
● The passing of General Assembly resolutions focusing on human rights in the digital age (such as A/HRC/20/L.13), the appointment of a UN Special Rapporteur on Privacy, as well as a Human Rights Council resolution establishing the mandate can be seen as an achievement in this regard.
● Despite this step in the right direction, many UNMS continue to pass legislation contrary to universally held values, which until repealed or amended will remain an impediment at achieving the inclusive, people-oriented Information Society that facilitated social and economic development.

What should be the priorities in seeking to achieve WSIS outcomes and progress towards the Information Society, taking into account emerging trends?

Although the internet is perhaps one of the most important enablers of human rights today, human rights are under increasing threat in the current status of our digital environment. We view safeguarding and advancing human rights, such as freedom of expression and association, the right to privacy, and access to information, as priority challenges to address in the next 10 years. Therefore, we recommend that states prioritize the following policies in seeking to achieve WSIS outcomes and to progress towards building a people-centred, inclusive and development-oriented Information Society:

● Reform and revise laws to end unlawful surveillance and protect the right to privacy, making sure that laws and practices related to communications surveillance adhere to international human rights law and standards;

● Commit to good governance principles such as the rule of law and transparency;

● Stop censorship and internet shutdowns so that information societies can enjoy their right to uninterrupted access to information and knowledge, while freely exercising their right to free expression;

● Ensure users' rights are not undermined in the name of cybersecurity, by recognizing a user-up approach to cybersecurity, which requires strong encryption, user education, and rapid fixes for vulnerabilities that put users at risk, and seeks to improve the entire security ecosystem.

● Protect Net Neutrality and prevent the discrimination of data, content, or platforms, in order to make sure that enabling, pro-competition environments exist to ensure affordability, as well as the development of local and relevant content and applications, improving quality of access and bridging the several types of digital divides;

● On a separate note, recognize the Internet Governance Forum (IGF) and its regional and national iterations as valuable institutions for discussing progress, challenges and policies related to the future of Information Society, and support extension of its mandate over the next ten years and beyond.

Linking the WSIS+10 Review and the Sustainable Development Goals

ITU's 2014 Measuring the Information Society report shows that many of the indicators of the Millennium Development Goals (MDGs) show significant correlation with the IDI (ICT Development Index), notably those related to poverty reduction and health improvement. "Furthermore, the report finds that progress in ICT development is linked to progress in achieving some of the MDGs, yet another testimony to the role of ICT as a development enabler."

Therefore, it is indispensable to tie the WSIS Review process and the outcome document to the post-2015 development agenda, and more specifically, the ongoing replacement of MDGs with SDGs

Throughout the drafting and negotiation period of the sustainable development goals (SDGs), the important role of information and communication technologies (ICTs) and the value of WSIS processes has been highlighted a great number of times. The Synthesis Report of the Secretary-General (A/67/700) notes that "historically, significant technological advances have often resulted from multi-stakeholder, solution-driven initiatives. Achieving our sustainable development goals will also require solution-driven technology partnerships among a variety of actors." We strongly support this statement and hope that the role of ICTs for sustainable development will be acknowledged in the outcome document.

Furthermore, the report of the Open Working Group of the General Assembly on Sustainable Development Goals (A/68/970) mentions ICTs directly in the draft targets of goals 4, 5, 9, and 17. As many of the deliverables of the Information Society will help achieve the Sustainable Development Goals to be finalized in September, Access would like to propose the following linkages to the Co-Chairs of the review process:

● All SDGs depend on broader access to secure communications technologies and networks.

● All SDG achievement that can be attributed to ICTs will require access for all without discrimination.

● The outcome document at December's General Assembly High-Level Meeting should directly address the SDGs which concern the Information Society. Based on wording of the Open Working Group's proposal (A/68/970), these goals and targets are:

Link Goal 4.b on ICT scholarships available for developing world to WSIS Geneva Plan of Action (WSIS-03/GENEVA/DOC/5-E) Action Line C4 on Capacity Building.

Goal 5.b on promoting women's empowerment with enabling technologies, in particular ICT, refer to the Geneva Plan of Action C4, 11.g on removing gender barriers to ICT education.

Goal 9.c on increasing access to ICTs and achieving universal and affordable access by 2020 to the Geneva Plan of Action C2, 9. on ICTs being an essential foundation for the Information Society.

Goal 16.7 on inclusive decision-making at all levels and 16.10 ensuring public access to information and the protection of fundamental freedoms should be linked with Geneva Plan of Action C1 on participation of all stakeholders being vital for development of the Information Society and C3 on access to information as well as C5 linking online privacy to confidence and security in use of ICTs.

- ■ Noting HRC resolution on the enjoyment of human rights on the Internet (A/HRC/26/L.24).
- ■ Also, the right to privacy in the digital age through A/HRC/28/L.28, A/69/, and A/68/166.

Goal 17.6-8 on access to and transfer of technology should be linked to the Geneva Plan of Action C4 11.j on enhancing capacity of LDCs and developing countries.

- The full impact and proposed connections of the WSIS Action Lines and the SDGs can be found in the UN Action Line facilitators report (http://www.itu.int/net4/wsis/sdg/).

What are general expectations from the WSIS + 10 High Level Meeting of the United Nations General Assembly?
- The meeting should be open to civil society participation, both on in-person and remotely.
- Co-facilitators' attendance to this year's IGF would be a great opportunity for raising awareness on the importance and timeliness of the WSIS Review process.
- Best practices should be employed in terms of modalities, such as the reporting of exact dates in advance, offering travel support for civil society to attend informal, interactive stakeholder consultations, providing non-governmental stakeholders with speaking rights, as well as general commitment to transparency and clarity.
- We appreciate the clear modalities set out concerning these submissions for the non-paper.

What shape should the outcome document take?

- The outcome should include a concise but firm commitment by all UN Member States to the people-centred, inclusive and development-oriented vision of the Information Society. The future steps of the drafting process will provide a better understanding of the outcome document's final possible shape.