

BRAVE NEW DIGITAL WORLD? REFLECTIONS ON THE WORLD SUMMIT ON THE INFORMATION SOCIETY

Peter Leuprecht

Volume 16, numéro 1, 2003

URI : <https://id.erudit.org/iderudit/1069358ar>

DOI : <https://doi.org/10.7202/1069358ar>

[Aller au sommaire du numéro](#)

Éditeur(s)

Société québécoise de droit international

ISSN

0828-9999 (imprimé)

2561-6994 (numérique)

[Découvrir la revue](#)

Citer cet article

Leuprecht, P. (2003). BRAVE NEW DIGITAL WORLD? REFLECTIONS ON THE WORLD SUMMIT ON THE INFORMATION SOCIETY. *Revue québécoise de droit international / Quebec Journal of International Law / Revista quebequense de derecho internacional*, 16(1), 101–115. <https://doi.org/10.7202/1069358ar>

BRAVE NEW DIGITAL WORLD? REFLECTIONS ON THE WORLD SUMMIT ON THE INFORMATION SOCIETY

*By Peter Leuprecht**

The first part of the World Summit on the Information Society (WSIS) took place in Geneva from December 10 to 12, 2003. Its second part is to be held in November 2005, in Tunis. The purpose of this article is to give a brief account of the preparation and organization of the Summit (I), to present the main results of its first phase (II), to deliver a critical analysis of these results (III) and to show that the WSIS gives rise to some critical reflections on the present state of the international community (IV).

I. Preparation And Organization Of The Summit

A. An initiative of the International Telecommunication Union (ITU)

The WSIS stems from an ITU initiative. In its Resolution 56/183, the UN General Assembly endorsed the framework for the Summit adopted by the ITU Council. The Resolution also endorsed the leading role of ITU in the Summit and its preparation, in cooperation with other interested organizations and partners.

According to its website¹, the ITU is “an international organization within the UN system where governments and the private sector coordinate global telecom networks and services”. It is composed of 189 member States and 650 “ITU Sector members”, i.e. mainly corporations active in the field of telecommunications, such as Alcatel, Microsoft, Nokia, Canon, Hitachi, etc. In accordance with Article 3 of the ITU Constitution², “Sector Members shall be entitled to participate in the activities of the Sector of which they are members”. There are three of such Sectors, i.e. telecommunication standardization, radio communication and telecommunication development. ITU’s Plenipotentiary Conference, held in Minneapolis in 1998, “focused on strengthening the participation of the private sector in the work of the Union, and adopted a number of resolutions which enhance the rights of Sector Members”³.

* Dr. Peter Leuprecht is Associate Professor at the Faculty of Law of McGill University. He attended the first phase of the World Summit and a Round Table with Heads of State in the course of the Summit, as a civil society representative. He prepared and chaired the International Symposium on the Information Society, Human Dignity and Human Rights held before the Summit and referred to in this article.

¹ International Telecommunication Union (ITU) <<http://www.itu.int>>.

² *Constitution of the International Telecommunication Union*, online: ITU <<http://www.itu.int/aboutitu/basic-texts/constitution.html>> (adopted at the Additional Plenipotentiary Conference in Geneva in 1992).

³ The Plenipotentiary Conference of the International Telecommunication Union, (Minneapolis, 1998), online: ITU <<http://www.itu.int/aboutitu/basic-texts/decisions/index.html>>.

The preparation of the WSIS was thus mainly entrusted to a technical organization in which corporate interests carry considerable weight. This fact inevitably had an effect on the fundamental orientation of the Summit.

Although it was clear from the outset that the questions to be discussed at the Summit would have far-reaching human rights implications, there was considerable resistance against taking human rights concerns on board. Some, not least in the ITU leadership and the Executive Secretariat of the Summit, regarded the introduction of human rights issues into the negotiating process as a nuisance that would detract from what in their view should be a “technical” discussion.

B. The PrepCom

UN General Assembly Resolution 56/183 recommended that preparations for the Summit take place through an open-ended intergovernmental Preparatory Committee (PrepCom) that would define the agenda of the Summit, decide on the modalities of the participation of other stakeholders in the Summit, and finalize a draft declaration and draft plan of action. It invited the ITU to assume the leading managerial role in the Executive Secretariat of the Summit.

It was mainly in the PrepCom, which was very ably chaired by Mr. Adama Samassekou (Mali), that the political discussion and indeed confrontation took place. It was not until the eve of the Geneva Summit that agreement was reached on the draft declaration and draft plan of action. It was largely thanks to Mr. Samassekou that civil society was associated with the Summit process and it was mainly due to civil society representatives that human rights language was introduced into the negotiating process.

C. Switzerland and Tunisia as host countries

As host of the first part of the WSIS, the Swiss Government did a remarkable job in creating an open and free environment for the Summit and in fostering active participation by civil society. The Swiss Agency for Development and Cooperation (SDC) headed by Ambassador Walter Fust actively supported, including financially, numerous contributive and side events before and during the WSIS, such as the International Symposium on the Information Society, Human Dignity and

Human Rights referred to below. SDC also initiated the ICT for Development Platform, a large exhibition with some 250 participants of great diversity from 75 countries.

Independent experts and NGOs have expressed doubts as to whether the Tunisian authorities will live up to the high standards set by the Swiss authorities. In paragraph 3 of the statement adopted by the International Symposium it is stated:

Host countries and institutions contributing to and participating in the post-Geneva WSIS process should be expected to fully respect the principles

enunciated in the Declaration adopted by the Geneva Summit including those relating to human rights that are fundamental to the information and communications society, in particular, freedom of expression, association and information for civil society as well as with regard to visiting NGOs.

The strong presence of secret police in the Tunisian delegation to the PrepCom and the first part of the Summit as well as some of its actions do not augur well for the atmosphere surrounding the second part of the WSIS.

D. The International Symposium on the Information Society, Human Dignity and Human Rights⁴

The Symposium held in Geneva on 3 and 4 November 2003 was convened by an NGO, PDHRE (People's Movement for Human Rights Education), with the support of SDC, the European Commission, the Office of the High Commissioner for Human Rights, and the Government of Mali, Chair of the Human Security Network. It brought together independent experts from all regions of the world representing a variety of backgrounds, expertise and perspectives. The Symposium elaborated and adopted by consensus a statement which had considerable impact on the final negotiations in the PrepCom with regard to the inclusion of human rights language in the final documents of the first part of the Summit.

II. Main Results Of The First Phase Of The Summit

A. Level of participation

Over sixty Heads of State or Government were present in Geneva, mostly from developing countries. With a few exceptions - Finland was represented by its President, France by its Prime Minister - the rich Western countries were represented at a lower level, a fact that seems to indicate that the subject of the Summit was not taken sufficiently seriously by their top political leadership. This is regrettable. After all, overcoming the digital divide, one of the main objectives of the Summit, requires a strong commitment of the wealthy countries at the highest political level.

B. The final documents

The first phase of the Summit adopted by consensus a Declaration of

⁴ International Symposium on the Information Society, Human Dignity and Human Rights, *Statement on Human Rights, Human Dignity and the Information Society* (Geneva : 3-4 November 2003), online : The People's Movement for Human Rights Education (PDHRE) <<http://www.pdhre.org/ws/is/statement.doc>> [*International Symposium*].

Principles and a Plan of Action⁵ which, as mentioned above, were cleared by the PrepCom on the eve of the conference. Both are rather lengthy and wordy documents.

The *Declaration of Principles*, entitled “Building the Information Society: a global challenge in the new Millennium”, first attempts to define the participants’ “Common vision of the Information society”. In paragraph 1, it is stated:

We, the representatives of the peoples of the world, assembled in Geneva from 10-12 December 2003 for the first phase of the World Summit on the Information Society, declare our common desire and commitment to build a people-centred, inclusive and development-oriented Information Society, where everyone can create, access, utilize and share information and knowledge, enabling individuals, communities and peoples to achieve their full potential in promoting their sustainable development and improving their quality of life, premised on the purposes and principles of the Charter of the United Nations and respecting fully and upholding the Universal Declaration of Human Rights.

According to paragraph 2, “our challenge is to harness the potential of information and communication technology to promote the development goals of the Millennium Declaration, namely the eradication of extreme poverty and hunger [...]”

Paragraph 3 contains important language concerning human rights, democracy and rule of law:

We reaffirm the universality, indivisibility, interdependence and interrelation of all human rights and fundamental freedoms, including the right to development, as enshrined in the Vienna Declaration. We also reaffirm that democracy, sustainable development, and respect for human rights and fundamental freedoms as well as good governance at all levels are interdependent and mutually reinforcing. We further resolve to strengthen respect for the rule of law in international as in national affairs.

Paragraph 4 recalls the fundamental importance of freedom of opinion and expression:

We reaffirm, as an essential foundation of the Information Society, and as outlined in Article 19 of the Universal Declaration of Human Rights, that everyone has the right to freedom of opinion and expression; that this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

⁵ WSIS, *Declaration of Principles*, WSIS Doc. WSIS-03/GENEVA/DOC/0004, online: ITU <<http://www.itu.int/wsisis/documents>>; WSIS, *Plan of Action*, WSIS Doc. WSIS-03/GENEVA/DOC/0005, online: ITU <<http://www.itu.int/wsisis/documents>>.

It goes on to define communication as “a fundamental social process, a basic human need and the foundation of all social organization. It is central to the Information Society. Everyone, everywhere should have the opportunity to participate and no one should be excluded from the benefits the Information Society offers”.

In paragraph 5 the Summit participants further reaffirm their commitment to the provisions of Article 29 of the Universal Declaration of Human Rights. In paragraph 8 they “recognize that education, knowledge, information and communication are at the core of human progress, endeavor and well-being”. Further, Information and Communication Technologies (ICTs) have an

immense impact on virtually all aspects of our lives. The rapid progress of these technologies opens completely new opportunities to attain higher levels of development. The capacity of these technologies to reduce many traditional obstacles, especially those of time and distance, for the first time in history makes it possible to use the potential of these technologies for the benefit of millions of people in all corners of the world.

According to paragraph 9,

ICTs should be regarded as tools and not as an end in themselves. Under favorable conditions, these technologies can be a powerful instrument, increasing productivity, generating economic growth, job creation and employability and improving the quality of life of all. They can also promote dialogue among people, nations and civilizations.

After these highly optimistic assertions that present ICTs as a kind of panacea, the Summit participants note in paragraph 10 that

the benefits of the information technology revolution are today unevenly distributed between the developed and developing countries and within societies. We are fully committed to turning this digital divide into a digital opportunity for all, particularly for those who risk being left behind and being further marginalized.

Neither the Declaration of Principles nor the Plan of Action indicates convincing solutions to overcome this digital divide.

The Declaration of Principles then addresses the particular needs of specific groups or sectors of society, e. g. young people (paragraph 11), women (paragraph 12), marginalized and vulnerable groups of society (paragraph 13), the poor (paragraph 14), indigenous peoples (paragraph 15), etc...

In paragraph 17 it is stated:

We recognize that building an inclusive Information Society requires new forms of solidarity, partnership and cooperation among governments and other stakeholders, i.e. the private sector, civil society, and international organizations. Realizing that the ambitious goal of this Declaration – bridging the digital divide and ensuring harmonious, fair and equitable

development for all – will require strong commitment by all stakeholders, we call for digital solidarity, both at national and international levels.

Under the heading “An information society for all: key principles”, the Declaration goes on to deal with “the role of governments and all stakeholders in the promotion of ICTs for development” (paragraph 20), “information and communication infrastructure” (paragraphs 21-23), “access to information and knowledge” (paragraphs 24-28), “capacity building” (paragraphs 29-34), “building confidence and security in the use of ICTs” (paragraphs 35-37), “enabling environment” (paragraphs 38-50), “ICT applications: benefits in all aspects of life” (paragraph 51), “cultural diversity and identity, linguistic diversity and local content” (paragraphs 52-54), “media” (paragraph 55), “ethical dimensions of the Information Society” (paragraphs 56-59) and “international and regional cooperation” (paragraphs 60-64).

The Declaration refers to accessibility and affordability of information and communication network infrastructure (paragraph 22) and of software (paragraph 27). In paragraph 27 it is stated that “access to information and knowledge can be promoted by increasing awareness among all stakeholders of the possibilities offered by different software models, including proprietary, open-source and free software [...]”

According to paragraph 26, “a rich public domain is an essential element for the growth of the Information Society [...]” However, the public service principle is not affirmed in the Declaration.

The issue of privacy is mentioned in the context of cyber-security (paragraph 35). However, nothing is said about the fact that modern technology provides unprecedented possibilities for massive violations of the human right to privacy.

The formulation of paragraph 42 dealing with intellectual property protection is particularly vague:

Intellectual Property protection is important to encourage innovation and creativity in the information society; similarly, the wide dissemination, diffusion, and sharing of knowledge is important to encourage innovation and creativity.

Paragraphs 48-50 deal specifically with the Internet. Internet governance was one of the most controversial issues of the Summit. In paragraph 50 it is stated:

International Internet governance issues should be addressed in a coordinated manner. We ask the Secretary-General of the United Nations to set up a working group on Internet governance, in an open and inclusive process that ensures a mechanism for the full and active participation of governments, the private sector and civil society from both developing and developed countries, involving relevant intergovernmental and international organizations and forums, to investigate and make proposals

for action, as appropriate, on the governance of Internet by 2005.

In paragraph 55 dealing with the media, Summit participants reaffirm their commitment to the principles of freedom of the press and freedom of information, as well as those of the independence, pluralism and diversity of media...Diversity of media ownership should be encouraged, in conformity with national law, and taking into account relevant international conventions [...].

There was a strong North/South divergence with regard to the practical steps that should be taken to move from the digital divide to “digital solidarity” to which everybody paid lip service. Countries from the South, particularly Africa, proposed the creation of an international “Digital Solidarity Fund”; countries from the North were far from enthusiastic about the idea. The compromise formulation in the Declaration (paragraph 61) reads as follows:

We recognize the will expressed on the one hand by some to create an international voluntary ‘Digital Solidarity Fund’, and by others to undertake studies concerning existing mechanisms and the efficiency and feasibility of such a Fund.

The Declaration of Principles concludes with the following, rather sweeping and euphoric statement (paragraph 67):

We are firmly convinced that we are collectively entering a new era of enormous potential, that of the Information Society and expanded human communication. In this emerging society, information and knowledge can be produced, exchanged, shared and communicated through all the networks of the world. All individuals can soon, if we take the necessary actions, together build a new Information Society based on shared knowledge and founded on global solidarity and a better mutual understanding between peoples and nations. We trust that these measures will open the way to the future development of a true knowledge society.

The *Plan of Action* is supposed to translate “the common vision and guiding principles of the Declaration” into “concrete action lines to advance the achievement of the internationally-agreed development goals [...] by promoting the use of ICT-based products, networks, services and applications, and to help countries overcome the digital divide” (paragraph 1). Paragraph 3 emphasizes the importance of “partnerships” between governments, the private sector, civil society and international and regional institutions, including international financial institutions. According to paragraph 4, “opportunity shall be taken in phase two of the WSIS to evaluate and assess progress made towards bridging the digital divide”.

Paragraph 6 refers, in an extremely prudent formulation, to “indicative targets” that “may serve as global references for improving connectivity and access in

the use of ICTs in promoting the objectives of the Plan of Action, to be achieved by 2015. These targets may be taken into account in the establishment of the national targets, considering the different national circumstances". They include: "to connect villages with ICTs and establish community access points" (paragraph 6 a), "to ensure that all of the world's population have access to television and radio services" (paragraph 6 h), "to encourage the development of content and to put in place technical conditions in order to facilitate the presence and use of all world languages on the Internet" (paragraph 6 i) and "to ensure that more than half of the world's inhabitants have access to ICTs within their reach" (paragraph 6 j).

Paragraph 12 asserts that "confidence and security are among the main pillars of the Information Society" and refers to "existing and potential threats to ICTs" (paragraph 12 a). There is no reference to the threats stemming from the improper use of ICTs, e.g. as far as invasion of privacy is concerned.

According to paragraph 13 a, "governments should 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". In a similar vein, paragraph 27 d i advocates "developing countries to increase their efforts to attract major private national and foreign investments for ICTs through the creation of a transparent, stable and predictable enabling investment environment".

There are numerous references in the text to "public/private partnerships".

Paragraph 27 f of the Plan of Action deals with possible financial mechanisms, including a Digital Solidarity Fund, which are also addressed in paragraph 61 of the Declaration of Principles, in the following terms:

While all existing financial mechanisms should be fully exploited, a thorough review of their adequacy in meeting the challenges of ICT for development should be completed by the end of December 2004. This review shall be conducted by a Task Force under the auspices of the UN Secretary-General and submitted for consideration to the second phase of this summit. Based on the conclusion of the review, improvements and innovations of financing mechanisms will be considered including the effectiveness, the feasibility and the creation of a voluntary Digital Solidarity Fund [...]

Finally, paragraph 29 looks forward to the second phase of the WSIS which should consider *inter alia*:

- a) Elaboration of final appropriate documents based on the outcome of the Geneva phase of the WSIS with a view to consolidating the process of building a global Information Society, and reducing the Digital Divide and transforming it into digital opportunities;
- b) Follow-up and implementation of the Geneva Plan of Action at national, regional and international levels, including the UN system, as part of an integrated and coordinated approach, calling upon the participation of all

relevant stakeholders. This should take place, *inter alia*, through partnerships among stakeholders.

The NGOs produced a challenging Civil Society Declaration to the WSIS entitled “Shaping Information Societies for Human Needs”, which was handed over to the President of the Swiss Confederation on December 12, 2003⁶.

It will have to be seen whether substantial progress can be made between the two phases of WSIS and whether the Tunis phase will produce more concrete results, particularly on the contentious issues referred to below.

III. Critical Analysis Of The Results Of The First Phase Of WSIS

The texts adopted by the Geneva Summit might well have been entitled: “Welcome to the digital wonderland!” They are wordy, full of sweeping statements, commonplaces, clichés, stereotypes and pious wishes. They project an idyllic banality, a naïve belief in technology and in a brave new digital world in which ICTs will solve all problems. However, one should not be deceived by the triumphalist language of the texts adopted. They cover up fundamental disagreements and gloss over diametrically opposed world visions that were expressed at the Summit and, probably even more so, in its margins. Some of these will be referred to below.

A. A Highly Political Summit

For some, particularly ITU, the Summit was supposed to be technical. Corporate interests which were strongly involved in the preparation of, and represented at, the Summit saw it as a great opportunity to promote their products. It is mainly due to them that the texts adopted contain a number of articles of faith from the credo of pan-economic ideology. On the other hand, NGOs presented powerful alternative visions and managed to have some of their thinking included, e.g. with regard to human rights. If one looks behind the consensual language patched together *in extremis* on a number of fundamental points, one realizes that this was in Geneva, and will be in Tunis, a highly political and societal Summit.

B. A blurred frontier

There was some, probably deliberate, confusion between business and NGOs. Some of the corporate interests also tried to use an NGO hat. On many issues of substance, e.g. free software or intellectual property rights, there were obviously

⁶ Civil Society Declaration to the World Summit on the Information Society, *Shaping Information Societies for Human Needs* (Geneva: 8 December 2003), online: ITU <http://www.itu.int/wsis/documents/doc_single-en-1179.asp>.

profound differences of opinion between the two. Some of the catchwords used in the Declaration of Principles and the Plan of Action are “public/private partnerships” and “partnerships between governments, the private sector, civil society and international and regional institutions”.

C. The “Information Society”

The concept of information society promoted by the Summit is itself questionable. One could argue whether information creates a society. Communication and dialogue are more likely to do so. How should information be treated? As a commodity or as a public good? Should the human being endowed with dignity and human rights or commercial interests be at the centre of the networked information society? Should the human being be seen as a passive consumer or buyer of information or rather as an actor and producer of communication? The Geneva texts fail to address these fundamental questions.

D. The inclusion of human rights language

The hard fought inclusion of human rights language into the Geneva texts is to be welcomed. It is not really surprising that, being the result of a political compromise, they deal with the human rights implications of the Summit far less substantially and less critically than the statement adopted by the November International Symposium. The latter refers to “the commodification of information and knowledge, and the growing concentration of ownership and control of the means of producing and dissemination information and knowledge” as well as to the “limitations, surveillance and censorship by the state or private parties, especially in the post September 11 environment” (paragraph 6). It is also more specific in emphasizing that “there must be no censorship and no arbitrary controls or constraints on participants in the information process, on the content of information or its transmission and dissemination” (paragraph 12).

As previously mentioned, the Declaration of Principles refers to “a rich public domain” as “an essential element for the growth of the information society”, but fails to assert the public service principle. The statement of the International Symposium does so; it also affirms that “public service broadcasting is an essential means of counter-balancing the commercial motivation of the media and ensuring the enjoyment of the right of everyone to participate in cultural life and the right of political participation” (paragraph 24).

The language of the Geneva Summit texts is weak with regard to access to information produced or maintained by public authorities. Paragraph 12 b of the Plan of Action states:

Governments are encouraged to provide adequate access through various communication resources, notably the Internet, to public official information. Establishing legislation on access to information and the preservation of public data, notably in the area of new technologies, is

encouraged.

This is a far cry from a human right to access to information held by public authorities.

One of the most striking lacunae in the Geneva Summit texts concerns the right freely to participate in cultural life. Contrary to other relevant provisions of the Universal Declaration of Human Rights, Article 27, paragraph 1, which affirms this right, is not mentioned in the Geneva texts. However, they address intellectual property protection (paragraph 42 of the Declaration of Principles) which is referred to in paragraph 2 of Article 27 of the Universal Declaration.

E. The digital divide – a symptom

Nobody can deny the reality and depth of the digital divide. The figures are eloquent. To give only two examples, in Iceland 61% of the population are internet users; in the Democratic Republic of Congo 1 out of 8,774 inhabitants uses the internet. In the United States of America 62% of the population have a personal computer; in Niger 1 out of 1,958 inhabitants has one⁷. The digital divide is no more than a symptom of a far more serious and deep-seated evil, i.e. the unequal distribution of wealth among and within countries, the growing gap between the rich and the poor. Any serious effort to heal, remedy or alleviate must obviously address the disease and not simply the symptom. ICTs are not the panacea. It is certainly naïve to believe that giving people in the poor countries mobile phones or internet connections will in itself eradicate or reduce poverty. Is it necessary to recall that for internet one needs electricity and that the use of internet is difficult for people who are illiterate? True, there is a boom of cellular phones in many countries of the South, however essentially concentrated in the cities. This certainly serves the interest of the producers of cellular phones, but does it serve the interests of the poor in the South and will it reduce poverty? Is a (costly) cellular phone or an internet connection a priority need for people who lack nutrition, water and health? ICTs should not be seen as ends in themselves. Any serious policy of ICT development must be part and parcel of a global policy of human and sustainable development and poverty reduction.

F. Threats and challenges

The texts adopted by the Geneva Summit refer in euphoric terms to the potential and benefits of ICTs and the new opportunities they open up, but fail to address the threats and challenges they can bring with them. These are particularly apparent with regard to the right to privacy. True, ICTs can and should be used to protect the right to privacy, but they also provide unprecedented possibilities for massive violations of this right. The use of increasingly invasive means of

⁷ World Economic Forum, *Global information Technology Report*, online: World Economic Forum <<http://www.weforum.org>>.

surveillance and of interception of communications, of intrusive profiling and identification and of biometric identification technology, the development of communication technologies with built-in surveillance capacities, the collection and misuse of genetic data, genetic testing, the growing invasion of privacy at the workplace and the weakening of data protection regimes give rise to serious concerns from the point of view of respect for human rights. Contrary to the Summit, the International Symposium considered these issues. It emphasized that new means must be developed to protect the human right to privacy and the right to know about one's personal data held by public and private institutions and to have them deleted where not strictly necessary for a legitimate purpose in a democratic society. The Symposium also stated that the development, transfer and use of technology permitting illegitimate invasion of privacy must be controlled and curbed⁸.

G. Contentious issues

In addition to the question of including human rights language in the Summit texts which has been referred to above, a number of other contentious issues divided delegations before and during the Summit.

One of these is Internet governance. The issuance of Internet domain names is presently administered by a private organization, ICANN (Internet Corporation for Assigned Names and Numbers) based in San Francisco. Many developing countries argued that the administration of domain names and other aspects of global Internet management should be entrusted to an intergovernmental body. However, this demand was strongly resisted by some developed countries. In the end, the Summit did not take a stand on the issue, but, as stated above, asked the Secretary-General of the United Nations to set up a working group on Internet governance.

Another hot issue was that of free software. It is obvious that free software can be an important instrument of digital inclusion, one of the declared objectives of the Summit. However, there are powerful interests trying to stop the spread of free software. The Summit texts refer to "different software models" and lump free software together with proprietary software without expressing any preference for one or the other (paragraph 27 of the Declaration of Principles and paragraph 9 e of the Plan of Action).

The shape of the present and future intellectual property rights regime gave rise to heated discussions before and during the Geneva Summit and will undoubtedly continue to do so in the years to come, not only in the WSIS context, but in a number of international fora. On this issue like on many others, the main dividing lines ran between countries of the South and most NGOs, on the one hand, and countries of the North, on the other. The former consider that the existing intellectual property rights regime, including the Agreement on Trade-Related Intellectual Property Rights (TRIPS) and instruments of the World Intellectual Property Organization (WIPO), is unbalanced and should be reevaluated; the latter basically favor maintenance of the

⁸ See paragraph 16 of the statement adopted by the International Symposium.

status quo. The United States strongly opposed discussion of these issues within the WSIS context, arguing that the proper fora for dealing with them were the World Trade Organization (WTO) and WIPO.

In fact, the intellectual property rights regime, as it emerges through WTO and WIPO, seems to contradict proclaimed goals of the WSIS such as sharing of knowledge and empowering the poor. It does not seem to foster the common good; it is not in the interest of the poor and clashes with internationally recognized human rights. In paragraph 2.3.3.2. of the Civil Society Declaration it is rightly stated:

Today, the vast majority of humankind has no access to the public domain of global knowledge, a situation that is contributing to the growth of inequality and exploitation of the poorest peoples and communities. Yet instead of extending and strengthening the global domain, recent developments are restricting information more and more to private hands. Patents are being extended to software (and even to ideas), with the consequent effect of limiting innovation and reinforcing monopolies.

In paragraph 2.3.3.3. of the Civil Society Declaration it is recommended that

the UN should carry out a fundamental review of the impact on poverty and human rights of current arrangements for recognition and governance of monopolized knowledge and information, including the work of WIPO and the functioning of the TRIPS agreement.

Paragraph 42 of the Geneva Declaration of Principles unfortunately skirts these fundamental issues. They will have to be addressed seriously by the second phase of WSIS. The primary goal of the regime of knowledge ownership and management must be to strike a balance that will both maximize access to, and use of, knowledge and at the same time encourage creativity. That balance is at the heart of Article 27 of the Universal Declaration of Human Rights. It is sadly significant that, as stated above, in the Geneva Declaration of Principles there is no reference to the right freely to participate in the cultural life of the community, enshrined in paragraph 1 of Article 27. One of the big challenges of the years to come will be to elaborate a just intellectual property rights regime that contributes to human and sustainable development.

Finally, there has been strong disagreement on the financial means of bridging the digital divide, of moving from the digital divide to the so frequently evoked digital solidarity. The President of Senegal, strongly supported by other Third World leaders, proposed the creation of a Digital Solidarity Fund to finance the digital solidarity agenda. This proposal was opposed by developed countries, some of which claimed that existing amounts and channels of aid were enough and that the developing countries should commit their own funds. The solemnly conjured digital solidarity seems to stop at the purse. This issue nearly was to be the stumbling block of the Geneva phase of the Summit. At the last minute, the parties agreed to the above-mentioned compromise formula in paragraph 27 f of the Plan of Action. However, the negative attitude of countries from the North caused profound

disappointment and frustration among delegations from the South.

The main merit of the Geneva Summit probably was to enhance awareness of the serious issues at stake in connection with the so-called information society. Many of these have been laid on the negotiating table. Progress towards their solution before and during the Tunis phase will require a strong political resolve and a genuine willingness, especially of the wealthy countries, to share knowledge and to overcome the digital divide and, even more, the deep-seated inequalities of which it is a symptom.

IV. Critical Reflections On The Present State Of The International Community

The first phase of the WSIS gives rise to a number of critical reflections on the present state of the international community. Three points will be addressed below: the role of civil society, the growing penetration of corporate interests in the international arena and the lack or insufficiency of solidarity within the international community.

Civil society represented by numerous NGOs, including numerous community based organizations, had a considerable and highly positive impact on the first phase of WSIS and its results. NGOs have shown that, in spite of their great diversity, they are capable of getting their act together, to act responsibly and to present and defend serious and credible positions. It is by no means a coincidence that on most issues of substance they sided with the countries of the South.

The strong presence and influence of corporate interests at WSIS is a striking illustration of their growing penetration in the international arena. There seems to be a tendency towards “privatization” of the international community. Powerful multinational corporations exert a growing influence in international fora without undertaking corresponding responsibilities, particularly with regard to human rights. Against this background, the work carried out in various international organizations to hold multinational corporations accountable for human rights abuses takes on particular importance⁹.

Finally, discussions before and during the first phase of WSIS, particularly on the financial means of bridging the digital divide, have shown that professions of faith in international solidarity remain essentially verbal. This is highly deplorable. Indeed, there cannot be an international community worthy of this name without a more than verbal recognition of a community interest, a common good of humanity that must prevail over particular interests, both national and corporate interests. An international community worthy of this name cannot exist without acting solidarity.

⁹ See in particular the Draft Principles for transnational corporations and other business enterprises elaborated by a Working Group of the UN Sub-Commission on the Promotion and Protection of Human Rights, documents E.CN.4/Sub.2002/WP.1 [*Draft Principles*] and E.CN.4/Sub.2/2002/WG2/WP.1/Add 2 [*Commentary on Draft Principles*].

As far as the subject of WSIS is concerned, it is obvious that public authorities, the private sector and civil society in the developed countries have a special responsibility to share the benefits of the information society with the peoples in the developing countries.

To be solid, the international community needs to be based on shared values, in particular those of respect for the human being and his or her dignity and human rights - all human rights, civil, political, economic, social and cultural rights. The information and communication society must be based on these values and contribute to the twofold liberation promised by the Preamble to the Universal Declaration of Human Rights, namely, liberation from fear and liberation from want.