

# **INTERNET GOVERNANCE: STRIKING THE APPROPRIATE BALANCE BETWEEN ALL STAKEHOLDERS**

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It is increasingly obvious that modern good governance in both the public and private sectors should involve all relevant stakeholders. However, it is less clear what specific functions or roles the different stakeholders should take on concerning governance issues. With that in mind, this chapter reflects on the linkages between governance functions, the roles and responsibilities of the stakeholders involved, and accountability. The chapter stresses the importance of sovereignty and politics in the governance of Internet, and Internet applications as a set of essential global public goods. These issues are addressed from a pragmatic and operational government perspective.

## **Governance Modes**

The classic, but simplified, modes or levels of governance in most areas of public policy are politics, policies and strategy and then operation or administration. Oversight and review or audits fed back to politics are closing the governance circle. Obviously these generic modes of governance must be mapped onto concrete tasks or functions. All stakeholders should be encouraged to participate, but their roles and levels of accountability should differ.

In the case of Internet and its applications it is useful to assume that governments should refrain from involvement in day-to-day operations and administration. The private sector must play the major role here. The actual sets of issues and the various assumed roles of the stakeholders are well described in the Working Group on Internet Governance (WGIG) reports.

The political responsibility for the stable and sound operation and functioning of the Internet as a carrier for public good applications will in the end be with the governments. The recognition of this accountability towards the parliaments is perhaps the main reason for the increased interest and concern from governments in issues concerning Internet, its stability and further development. I have to emphasize here that I choose to consider governments from the European parliamentary tradition. I recognize that there might be different traditions and structures elsewhere. Democratic governments do, however, have experience – not always successful – for implementing industrialized mechanisms for operations of infrastructure through industrial contracts or some form of outsourcing. The most effective way of oversight of privately run operations of infrastructure that is critical for society, is competition itself. I

believe that the WGIG had insufficient time to discuss competition as an element of well-balanced Internet governance.

### **Democracy and Sovereignty**

Although the Internet is a vehicle for new modes of communication and involvement in societal processes by the population, democracy is not necessarily better implemented through the use of Internet whether in Internet governance or in other elements of society. Democracy depends also on adequate representation, competence, and solid mechanisms for accountability. Structure is essential in democratic processes, and this is also reflected in the complexity we already can observe in the present Internet governance activities, representing a democratic challenge for those constituencies that need capacity building. In some areas, we might even talk about democratic deficiencies in the present structure such as insufficient participation of stakeholders from developing countries, lack of multilingual arenas and the dominant role of academia.

In the present regime of Internet governance, I am particularly concerned with the severe lack of outreach and involvement from large groups of the populations, the not-yet-users of the Internet. The rhetoric of the present regime is wrapped around “the Internet community”. But public goods like the Internet certainly concern the whole population!

Where is the participation of industry and civil society of developing countries? Is the participation of industry adequately distributed between the different industrial sectors? Is the European industry content with their influence in the further development of Internet? Are the European academic communities satisfied with their influence when it comes to the design and future operation of e.g. the Object Name System or Digital Object Identifier?

The special role of governments representing the complete population through democratic processes must be appreciated. The political responsibility towards the electorate is well understood and easily implemented. Recognizing that there may well be differences in the way governments operate, I was nevertheless sorry to learn in the WGIG that governments among some members by definition were considered undemocratic. On the other hand I firmly believe that mutual respect between different cultures and views is also a characteristic of democracy, and the understanding of the attitudes towards the government function in itself from other political cultures than the European, was a useful insight. The introduction of good governmental governance is imperative in all circumstances.

The sovereignty and role of governments, nationally and internationally in a global economy concerning Internet is increasingly accepted. Even the US Government has recognized this in its recent policy statement. In cases associated with Internet security and stability, with code of

conduct in the usage and further international development, the need for intergovernmental oversight is also recognized in the WGIG Report.

The popular misconception that Internet governance mainly is about technical matters and therefore should be reserved for private sector and civil society and the users and the academia is no longer accepted. It is my view that all public policy issues regarding Internet governance should be under the authority of governments. The WGIG Report describes well the public policy issues.

### **Trilateralism is Insufficient**

Personally, I was astonished by the surprise and loud appreciation within the Internet community that WGIG included all stakeholders in the process. In my context this is a natural and necessary element of normal good governance! The crucial challenge in the coming process of institutionalization and internationalization of Internet governance will be to strike the *right balance* between all relevant stakeholders.

The success of the WGIG cooperative process was not because of the categories of delegates, the number of civil society representatives, and so on. It was a result of good chairmanship and the fact that intellectually mature individuals rapidly established mutual respect and trust in spite of large differences in view. Many of the delegates did also have diverse careers so that the rich and cross sector experience eased the mutual understanding between interest groups and different cultures.

While pleased with the success of the multistakeholder exuberance, I would nevertheless warn against the rather narrow participation *within* the three main categories! I would like to see broader industrial participation and broader citizen participation: who speaks for the non-users? Better balanced and broader government participation is needed. And there is always the challenge of hitting the right level of influence and legitimacy within the respective group and within the organization.

However, the final responsibility lies with the people represented by their political, elected authorities.

Some of the major challenges of striking the right balance and diversity in Internet governance could be seen as:

- *The civil society obscurity.* The definition, identification of constituencies and associated accountability will always be a problem when dealing with civil society. We saw it even in the WGIG, when some members suddenly wanted academia and the technical community to be an additional category of stakeholders.

- *Some government officials' obsession with micromanagement.* The major challenge for governments – and we see this in many instances – is to activate the right level among the government delegates. Far too often governments are represented by delegates working at too low, technical level. It is obvious in ICANN's Government Advisory Committee (GAC); it is equally obvious in the various governance forums within the International Telecommunication Union (ITU); I understand the same happens in World Trade Organization circles. This is a real, serious problem that the top management of governments - perhaps even the political level - must sort out. In some cases, however, this technical approach could be deliberate in order to avoid dealing with politically controversial matter.
- *The private sector's lack of outreach.* The wonderful thing with the private sector is that the metrics of success and accountability are so well defined---the bottom line of the accounts! The accountability is in the end ensured by the owners' legitimate interest in return on their investment. For this slightly cynical reason, I am not so happy about the many idealistic, non-profit private sector enterprises that we meet in the Internet communities.
- *The concept of multistakeholder is in itself too narrow.* Within each of these categories there is very unsatisfactory participation. This is mainly true for industry where the participation is very limited and unsatisfactory with regards to geographic distribution and with regards to the various sectors, e.g. manufacturers, operators, Internet service providers, etc. Similarly, governmental participation is certainly inadequate in terms of outreach. It does not matter whether there are 100 participants in the GAC when only half of them on average take part in the physical meetings, and only a fraction of them are substantially active! And for me, broader participation from industry – with respect to sector and geographically – is more important than the level of civil society participation.

## The Internet Governance Discussion

The confusing element of the ICANN/ITU battle was relatively early set aside within the WGIG, but in the media we can see that discussions on this issue are still around. Even in the ITU governing body, the Council, there is no clear ambition in the membership that ITU should take over the ICANN role and responsibility. So this is an old, slightly antique exercise that to a large extent is a waste of time and resources.

The reason for the belated and increasing interest among governments in Internet governance is of course the fact that Internet and its applications now are essential for the further functioning of national and international societies. Increasingly, it is clear for politicians and government officials that in case of Internet problems/failures, they will be made accountable to the citizens, i.e. the electorate. Governments have been late in understanding the political importance of the Internet evolution. This is what we now try to remedy with getting a better balanced government influence; not at all do Governments want to be present in the day to day operation of Internet, nor in the technical aspects of operation and development. However, it must be the Governments that decide which issue is of public policy character and which is

not. It cannot be up to ICANN officials, as in the case of the .xxx domain in which the US Government rightly activated its oversight role. This is a brilliant example of what I would like to see internationalized; the US Government should be supported in this and other governments should be given the opportunity to share this responsibility with the US Government.

One should notice, however, the governments' different roles: direct user, policy maker for the Internet infrastructure and policymaker for the various sectors of Internet applications.

Presumably, virtually all high-level representatives from governments today agree that they would like to leave to the private sector as much as possible and exploit the build in accountability in a competitive economy. The ICANN monopoly is a political concern. The fact that the management of Internet resources seems to be modeled just like natural monopolies was hardly discussed in WGIG. This could accentuate the need for stronger public involvement in the governance oversight, so far taken care of by the US Government's Department of Commerce mechanisms.

The WGIG Report has identified a large number of areas where different types of governance functions takes place and where the balance in influence and involvement between the different stakeholder groups must be improved through processes of rebalancing.

It is difficult to explain precisely what the function and role of governments should be. This is why the negative formulation, "*should not interfere with day to day operation*," sometimes was the best one could achieve. The term "*oversight*" could be useful; similarly and perhaps more precise is "*review or audit and give policy guidance*".

Internationally one must ensure that sovereignty and subsidiarity is preserved. A new mechanism for intergovernmental oversight should include better coordination between already engaged bodies and must be lightweight and policy oriented, and at the same time have sufficient high-level composition in order to win legitimacy and respect. Only then can we expect that its decisions and recommendations will be duly implemented.

## **Conclusion**

The Internet and its applications are now so important for society – both within and between all the countries of the world - that a shared, internationalized new oversight structure should be established. This intergovernmental structure must ensure broad multistakeholder participation, and it must operate in a light, fast and flexible manner. It must ensure better coordination of existing organizations involved in Internet governance and it must have a distinct development perspective. Inappropriate actions concerning control of content must be avoided. A leading role for private sector in the operation and technical evolution of Internet

must be ensured. The new governance structure must address a broad spectre of issues including best practices of usage and code of conducts in order to reduce the burden of spam and similar threats.

The World Summit on the Information Society process after Tunis should become the tool for creating such a structure, already from its inception characterized by international thrust. Efficiency must be ensured, e.g. by organizing a regionally structured process with the full participation of the US Government.