

From Holistic Analysis to Setting Priorities

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Computer Professionals for Social Responsibility <www.cpsr.org>

- Created in Silicon Valley in 1981 in response to “Star Wars,” since then promoting social responsibility within the “technical community” and in public policies for ICT
- Over 1,000 paid members in 25 countries
- ECOSOC accredited
- Active participant throughout the WSIS process in collaboration with other civil society organizations (CSOs), hosts key WSIS CSO listservs
- In my case, participant in the Internet Governance Caucus

Presentation based on paper

**“Reframing Internet Governance Discourse:
Fifteen Baseline Propositions.”**

www.itu.int/wsis/preparatory2/wgig/drake.pdf

Three Suggestions for the WGIG & Beyond

1. Begin from a holistic understanding of Internet governance
2. Set priorities by selecting a small and manageable set of key substantive issues
 - The management of Internet identifiers is clearly a priority, but what else most urgently requires our attention?
3. Focus on the state of procedural democracy across Internet governance mechanisms--- transparency, accountability, inclusion, fairness

I. The Utility of Holistic Analysis

- Assess the governance architecture as a whole and the parts in relation to the whole and to each other
- Useful starting point because:
 - Internet governance is heterogeneous and distributed
 - Fragmented, issue-specific mechanisms, dialogues, and analyses predominate
- The need is underscored by the WSIS POA; scholars & stakeholders have been undertaking “mapping” exercises, need to broaden involvement
- Similar efforts in other global issue-areas, e.g. trade, environment; difficult with horizontal issues that cut across arenas of activity & international instruments

A Holistic Approach to Internet Governance is Not Vague or Dangerous

- Internet governance = *Collective rules, procedures, and related programs intended to shape social actors' expectations, practices, and interactions concerning Internet infrastructure and transactions and content*
- Can take many forms
 - Public sector and/or private sector, multistakeholder
 - Centralized or decentralized
 - Hard or soft rules
- Can be done well or poorly
 - Need to examine design alternatives and optimize solutions to the functional and political problems at hand

Governance mechanisms vary in institutional form & can be compared in these terms

Institutional settings: linked to formal organizations vs. free standing mechanisms

Agreement type: Treaties, contracts, MOUs, recommendations, guidelines, declarations, custom

Decision making procedures: voting/consensus

Rule strength: Formal or informal, binding or voluntary

Scope: Number and interrelatedness of issues covered

Domain: Number and character of parties (Public/private sector, civil society); representation and recognition

Compliance mechanisms: Monitoring and enforcement

Distributional bias: market or administrative allocation of benefits

How would a Holistic Analysis be Useful?

1. Drawing Comparisons & Contrasts

- Identifying generalizable patterns across cases in terms of functional challenges, institutional design, political dynamics
- Identifying “Lessons Learned” from some experiences that could be useful in thinking about others
- Identifying Best Practices and healthy habits of Internet governance that could usefully be promoted
- Identifying Worst Practices to be avoided

2. Designing Institutions Optimized to Specific Functional & Political Challenges

When is it better to:

- Use intergovernmental agreements, private self-regulation, or some combination thereof?
- Bilateral, plurilateral, regional, or multilateral?
- Harmonize via strong, treaty-based rules, or via soft law or limited MOUs on information sharing and cross-border enforcement?
- Anchor cooperative rules in a formal organizational setting, distribute functions among networked institutions, or have freestanding agreements?
- Set rules on a range of interrelated issues, or be narrowly targeted?
- Monitor compliance & pursue enforcement via centralized or decentralized means?

3. Identifying Synergies and Tensions

- Cases where substantive and tactical linkages among governance issues and mechanisms could promote better results
 - Telecom & Internet standardization
 - Trade & development
- Cases where mechanisms created in a piecemeal manner may produce tensions or conflicts among mechanisms that merit attention
 - Internet identifiers
 - Free speech/fair use & intellectual property
 - Privacy protection & information security

4. Identifying Gaps

- Piecemeal creation of mechanisms, no overarching framework = some issues are treated lightly or “fall between the cracks” of cooperation entirely, e.g.:
 - Relationship between telecom & Internet given convergence
 - Sovereignty and core Internet resources, identifiers
 - Internet interconnection pricing and backbone deployment
 - Competition policy and restrictive business practices
 - Consumer protection (broad vs. narrow conceptions)
 - Cultural & linguistic diversity
 - Network security
 - Spam
 - Internet/ICT & development, universal access

Limitations and Challenges

- Developing a holistic understanding of Internet governance is a long-term process
- The international community lacks institutional arrangements appropriate for such analysis or for multi-stakeholder dialogue based on it
- In the near-term, business, civil society, and the research community could help, but will such work percolate upward & affect intergovernmental debate?
- WGIG could start with a holistic mapping of governance, but would then need to focus in on some priority issues to make recommendations

II. Setting Priorities: Substantive Issues

- Which *substantive issues* and mechanisms beyond those pertaining to Internet identifiers should WGIG consider?
- Should it steer clear of matters already subject to multilateral consideration, e.g. intellectual property, information security, & trade aspects, or would fresh eyes & an integrative perspective help?
- Should it concentrate only on issues for which extant mechanisms are arguably inadequate, e.g. interconnection pricing, spam, consumer protection, development, cultural & linguistic diversity?

Should WGIG Assess Procedures Aspects?

- *Transparency*: Information on decision making should be freely and easily available; where practical, employing ‘notices of proposed rule making,’ ‘requests for comment,’ due process concerning reconsiderations & appeals.
- *Accountability*: Governance should be democratically responsible to concerned stakeholders and wider publics.
- *Inclusion*: Decision making should be as participatory as possible, with appropriate support for non-dominant stakeholders (e.g. developing countries, CSOs, SMEs)
- *Fairness and Social Justice*: Substantively, governance should promote a fair balance of benefits among stakeholders & of competing but legitimate objectives (e.g. commercial vs. social empowerment).

Promoting the Effective Inclusion of Developing Countries Merits Special Attention

Intergovernmental Institutions

- Universal bodies (e.g. ITU, WTO): formal equality of members, but small group bargaining & deals can limit DvC influence.
- Plurilateral or ‘small-n’ bodies (e.g. OECD, G-8, regionals): Exclusionary dialogues & collective learning, decisions may become *fait accomplis* for larger international community.

Private Sector Institutions

- Even where formally open, difficult to participate in complex technical discussions among insiders shaped by unfamiliar intellectual/organizational cultures, roaming around the world rather than in fixed locals close to diplomatic missions.
- Problems often aggravated by capacity constraints, legacy PTT-style culture, domestic interest configurations.
- LDCs particularly need support, special & differential treatment.

So Does inclusion of Civil Society Organizations, small and medium-sized firms, individual users

Intergovernmental Institutions

- Some organizations especially restrictive, e.g. ITU, WTO.
- Others a bit more open at times, e.g. WIPO, OECD.
- Even in WSIS, “multistakeholder” rhetoric not matched by real willingness to include CSOs in open dialogue & accept input.

Private Sector Institutions

- Despite problems, greater access in some key bodies, e.g. ICANN, IETF.
- Not just a normative matter; CSOs, SMEs, and individual ‘netzians’ have contributed much to Internet development, have expertise to bring to the table, & can be partners to developing countries & other stakeholders that seek to improve Internet governance.

A Final Thought

- “Hard Power” = the ability to *make* others do what you want, based on asymmetries in possession of material resources
- “Soft Power” the ability to *persuade* others to share your goals & vision, based on the attractiveness and success of your ideas
- The global debate and problem solving should be based on soft “e-power”
- Need to focus on long-term systemic interests rather than short-term particularistic interests
- Need for dialogue and “buy in” by “late comers” to ensure the sustained and open growth of the Internet on a world-wide basis

Conclusion

- *Holistic Analysis* of governance issues and institutional arrangements, public & private
- *Setting Priorities* regarding
 - The most pressing substantive issues & arrangements meriting multi-stakeholder dialogue & problem solving
 - Cross-cutting procedural aspects
- Commitment to resolving issues through “Soft e-power”