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The Path Towards Centralization of Internet Governance Under the UN - Part 2

Essay by Anonymous, December 3, 2008 in response to The Path Towards Centralization of Internet Governance Under the UN - Part 1

PART 2 OF A 3 PART SERIES

This essay is the second of a three-part series (1,3). It focuses on the steps of a possible roadmap for centralizing Internet governance under the UN.

As presented in the first essay, the course of Internet governance may be following the same incremental steps that international strategists follow when wishing to establish a permanent body with authority to deal with a given area. The steps as applied to recent moves for Internet governance under a UN umbrella are detailed below.

1. Launch Study

Normally friction comes as in-the-know people with interests ("stakeholders") weigh in on policy decisions at the national level; then there is the added chafing that comes when different countries' governments come together to try to hash out policies. But bring those in-the-know stakeholders from different countries together at the international level, and the possibilities for opinion clashes are endless.

Hence, it was predictable that the first phase of the World Summit on the Information Society (WSIS) would unleash cacophony in convening thousands of people with varied interests in Geneva (December 2003). Anticipating the mêlée, a negotiating group on Internet governance drafted language for the *WSIS Declaration of Principles* and *Plan of Action*. They proposed a Working Group on Internet Governance (WGIG) to prepare for the second phase of WSIS, to be held in Tunis (November 2005). Faced with hordes of people clamoring for attention to their myriad concerns, what government decision-maker could disagree with such a proposal?

The WGIG was thus created with a mandate to define (a) what should be conceived of as Internet governance, (b) what the public policy issues were that were relevant to this area, and (c) what the respective roles and responsibilities of stakeholders should be.

As any seasoned international negotiator knows, setting up a study group is the first step to agreeing new rules. Anyone not wanting new rules lost this battle.

2. Be Inclusive

In convening the WGIG, organizers conducted open consultations so as to enable any interested participant to contribute, with these inputs then feeding into work by an expert group. The process went far in enabling transparency and public participation.

If the ultimate goal was to establish a permanent UN agency to deal with Internet governance, the inclusive mode was brilliant. By bringing NGOs, businesses, and academic institutions into a setting normally reserved for governments, organizers could elevate these non state actors and

dilute the power of governments – especially those governments wielding extra strong influence over Internet policy. Psychologically, non-state actors were on par with governments in this international process.

In the meantime, the WGIG process was setting the precedent for what would be accepted as fulfilling the call in the *Declaration of Principles* that "the international management of the Internet should be multilateral, transparent and democratic, with the full involvement of governments, the private sector, civil society and international organizations…" In particular, the open participation would cause some people to view the centralized, UN process as affording direct representation and thereby being more democratic than the traditional mode of governments representing their publics at the international level. Of course, others might contend that stakeholders participating in WGIG consultations did not represent the public, but by and large people with this critical view stayed away – meaning that for the most part the voices present were those feeling empowered by the new mode.

3. Avoid Conclusions

For a negotiator wanting a study process to turn into something more prolonged and eventually permanent, an important way to avoid ringing alarm bells is to go slowly. After all, an initial study that produces revolutionary recommendations is sure to draw attention and attract opposition. Findings that are inconclusive are much more palatable and do not appear to be biased toward any particular agenda.

One way to avoid producing substantial findings is to limit the amount of time spent developing them. Perhaps this is why roughly half of the time allotted for WGIG work was "wasted" with the procedural matter of composing an expert group that would be politically acceptable.

Another technique is to put forward a mixed bag of options that satisfies nobody.

In the case of WGIG, the final report accomplished this beautifully, particularly the four models proposed for "Global Public Policy and Oversight".

4. Receive Commission

The inconclusive WGIG report left it to government negotiators preparing for the second phase of WSIS to haggle over a path forward. With roughly 19,000 people traveling to Tunis to champion a multitude of concerns at that meeting, governments had to produce some form of agreed text so as to stay in a position of leadership. After last-minute horse trading, governments endorsed the Tunis Agenda for the Information Society
.
In this document, governments extracted elements of the WGIG report and agreed to two notable Internet governance processes: First, they agreed to have the UN set up an Internet Governance Forum (IGF), mandating this forum, among other matters, to: "[d]iscuss public policy issues related to key elements of Internet Governance…"; "[i]dentify emerging issues…"; "[d]iscuss, *inter alia*, issues relating to critical Internet resources"; and "[h]elp to find solutions to the issues arising from the use and misuse of the Internet…" Second, they agreed for the UN to lead a process of "enhanced cooperation" whereby the UN would promote improved ties among entities dealing with international Net policy. The same officials who had chaired the negotiating group that proposed WGIG and who had led WGIG would now continue to shepherd these processes.

5. Stay Mainstream

If the end goal is to establish a permanent, centralized body for Internet governance under the UN, a key strategy at this stage is to show demand for central coordination and to demonstrate

this capability in a mild way, as a facilitator.

In the forum process, the key is thus to focus on non-contentious issues that stakeholders say require international cooperation. The IGF has done so first by convening consultations and receiving written inputs to hear what stakeholders' concerns are, and then by selecting problems nobody can deny (e.g., spam and online child pornography) for concerted efforts. The IGF then facilitates dialogue by offering a forum where stakeholders in a position to tackle issues collectively can meet.

In addition to starting with non-contentious issues, it makes sense to categorize work under banners that nobody can disagree with politically, such as the themes of IGF meetings in Athens (2006) and Rio de Janeiro (2007): "Access", "Diversity", "Openness", "Security", and "Critical Internet Resources". Such banners help to avoid conflict concerning values (e.g., human rights) and allay qualms on the part of governments that fear the process will force them to make changes. After all, at this point governments are still the decision-makers in the international system.

It is also strategic to continue with the arrangement that dilutes the power of those who stand to lose, i.e. governments. As long as non-state actors are present, they will issue calls for equal air time and wish to be on the same footing as governments. All that the organizers need to do is to create space for the non-governmental stakeholders.

(Of course, sometimes these stakeholders can stand a little prodding. By way of illustration, the first "Dynamic Coalition" on its surface seemed to spring up spontaneously as a result of a multi-stakeholder panel on privacy at the first IGF meeting in 2006. While this and later Dynamic Coalitions are billed as something that stakeholders came up with, in fact it was an official from a government that favors a restructuring of Internet governance who planted the idea. These Dynamic Coalitions in turn have become the recognized vehicles for civil society input to IGF meetings. In their meetings between IGF meetings, they are helping to give institutional form to the IGF.)

Turning to the process of "enhanced cooperation," it is strategically important to take a somewhat passive approach initially, since being too proactive could alert people to a trend toward institutionalization and backfire. Instead, what is required at this juncture is to appear nonchalant. By inviting agencies involved in Internet governance to initiate their own cooperation and to report on it, the process leaders can avoid criticism for trying to promote centralization. Most likely, these agencies will prove reluctant to respond, for they are not subject to this enhanced cooperation process and do not wish to create the impression that they are. They have no real way to object, however, for an organized, collective response can be converted into a sign of success in the process' ability to promote cooperation; meanwhile, simply remaining silent does not alert others to the inappropriateness of the enhanced cooperation process' telling them what to do. They are stymied.

6. Celebrate Harmony

It is foreseeable that the IGF will use its five-year mandate not to establish any sort of ranking of concerns, but rather to show that there is a mish-mash of concerns, and that so far the process has shown constructive engagement among all stakeholders.

Stakeholder groups will still be responding to the call for participation and coming together to clamor for attention. Their own processes will have become more streamlined and formalized. Not only will they help to give the impression that there is demand for a permanent body in which people can talk, but also they will serve to show that the IGF has materialized into a veritable structure. As suggested above, the meetings-between-meetings by self-organized, multi-stakeholder groups like Dynamic Coalitions represent a sort of institutionalization of the

IGF.

Even voices of dissent can be translated into expressions of support, cited as evidence that the process is inclusive. Once the IGF has demonstrated its capacity to serve as an inclusive forum where all views may be expressed and heard, who will be able to argue against it? Making the case for a permanent body just got easier.

7. Salvage Cooperation

With reference to the process of enhanced cooperation, the agencies involved in Internet policy are unlikely to fall in line with the dictates of a process that has no authority over them. Hence, they will appear recalcitrant. It will then be logical and acceptable for the light-handed coordinators of the process to assume more pro-active positions.

8. Become Established

Under the bicycle theory, certain government delegates advocate keeping the momentum going and establishing a permanent body to continue the forum's process of dialogue in an institutionalized fashion. (They may do so, for example, at a follow-up, WSIS-style meeting.) As for enhanced cooperation, the pro-centralization group may call attention to the fact that agencies dealing with the Internet have been slow to exchange information, suggesting that decision-makers should give central organizers a greater role in prompting cooperation. If made permanent, the scope of such mandates will likely expand as the Internet becomes more and more pervasive in the information society.

9. Expand Authority

Once established as a permanent body to host discussions and coordinate agencies, the institution can begin to exercise more authority. This movement appears natural as the institution becomes indispensable in serving as a central point for information exchange. Early efforts will entail convening meetings, coordinating among agencies, and conducting consultations.

Having set a precedent for exercising authority, the body takes on additional functions incrementally. In this way, the institution will morph from being a place for information exchange, to being a place where decisions of consequence are taken. Leaders may justify this expansion of functions as fitting under the body's coordination role: after all, it is only natural that coordination would begin to affect the actual workings of Internet policy. To strengthen their position, these leaders can highlight improvements in agencies' operations due to the cooperation.

After a period, organizers may see to it that proposals are put forward to expand the institution's official authority and to formalize what it has been practicing. So, for example, instead of just discussing public policy issues related to Internet Governance, members can set policy at meetings hosted by the institution; this would be a logical juncture to add other competencies as well, such as the management of critical Internet resources and dispute resolution.

TO FOLLOW
The last essay in this three-part series will discuss reasons for concern and suggest that participation in the process may nonetheless be the best way forward given those reservations.

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