WGIG's Multistakeholder Forum: What Will it Take to Make it Work?

Concept Paper by the
Internet Governance Project
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The Forum Function in Internet Governance:
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One of the recommendations of the United Nations Working Group on Internet Governance (WGIG) is to create a new multi-stakeholder discussion forum to consolidate and integrate global Internet governance policy discussions.[2] In the words of the report:

> 40. The WGIG identified a vacuum within the context of existing structures, since there is no global multi-stakeholder forum to address Internet-related public policy issues. It came to the conclusion that there would be merit in creating such a space for dialogue among all stakeholders. This space could address these issues, as well as emerging issues, that are cross-cutting and multidimensional and that either affect more than one institution, are not dealt with by any institution or are not addressed in a coordinated manner.

The recommendation has received considerable positive comment, from governments, civil society and the private sector that have participated in informal consultations on the proposals. Whether this recommendation can be translated into reality by the World Summit on the Information Society that will consider the Report of WGIG will depend on how well it can determine an appropriate structure for a forum function. This paper explores the main aspects that have to be taken into account in providing an effective structure for a forum function at the international level.

SOME BACKGROUND

The WGIG suggested that the purpose of a forum was policy discussion (or what Bertrand de la Chapelle called "decision-shaping") rather than decision-making.

The normal function of forums is just that: to provide a place in which diverse persons or institutions concerned can come together and explore the issues. Current examples at the international level include the World Economic Forum, the United Nations ICT Task Force, as well as many other specialized meetings. The forum function is not new: scientists have used it for generations as a means to advancing their fields through an exchange of information and almost all professional association conventions are made up of different forums. More to the point, the Internet itself was originally established, in

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[2] United Nations, Department of Economic and Social Affairs, Working Group on Internet Governance, Report, Chateau de Bossy, June 2005

effect, to create a forum for scientists to exchange ideas without having to meet physically.

The issue is not the forum function, but rather how to translate that concept into a mechanism that can help resolve the problem of Internet governance. In examining this issue, we have looked at several sources of information. The first is our experience with participating in or observing the processes by which international agreements are reached in the international – especially United Nations – system. The second is the experience of international bodies, like the UN ICT Task Force in addressing those issues using new technologies. And the third is our own experience as academics in using the Internet for collaboration, research and teaching.

From this, we can conclude that there are five factors that have to be taken into account when structuring a forum on Internet governance:

1. Where the results of the forums discussions are to be applied,
2. How the issues to be discussed will be decided and structured,
3. How to engage partners and participants in the forum's activities,
4. Who will manage, credibly, the forum,
5. How will Internet technologies be applied in the process, and
6. How will it be funded.

Let us look at each of these in turn.

1. WHERE WILL THE RESULTS OF THE FORUM BE APPLIED?

Discussion does not take place for its own sake. If all that a forum means is that a given subject is to be discussed, the forum will be like a chat room. There will be much discussion, but not much result.

The WGIG had in mind a model that goes beyond this. The Forum would focus on exchange of what are termed "best practices" that can be applied for national use, as well as approaches that could be applied internationally. It saw the OECD, which undertakes discussions among its members to develop model laws as one approach. It also saw a forum as a way of permitting a dialogue, on the basis of openness and equality, between the main stakeholders in Internet governance (governments, the private sector and civil society) that could lead to mutual understanding. It saw the forum mechanism as a way of permitting developing country organizations and individuals to join the dialogue.

Each of these approaches is consistent with the idea that forum discussions of Internet governance have to be purposeful. They assume that, gradually, the exchange of information, validation of good practices and the identification of areas of consensus as well as disagreement on policy issues will prove useful in efforts to reach agreements at the intergovernmental level.

Still, it can be argued, these results, whether in the form of information exchange, learning, or rough consensus on conclusions and recommendations have to go somewhere. They should feed purposively into a larger decision-making process in those areas where policies are being determined.

In that respect, the forum would have to be a key element in a preparatory process that, in international negotiations, typically sifts the issues, collects relevant facts and research, separates important from unimportant issues, finds areas where agreement is possible and sets out clearly the alternative solutions to a problem. To be relevant in that context, a forum should be able to fulfill that function. Absent this purposive element, the other positive results of the forum would be much less apparent, with consequences for motivating participation, obtaining funding and assessing outcomes achieved.

Any further discussion of the decision-making processes into which the results of the forum could be fed is beyond the scope of this paper. We have made a specific suggestion in this regard,[3] but the general principle, regardless of specific form, is that the forum's discussions have to have, in addition to their general exchange of information and experience functions, a clear legislative purpose.

2. HOW WILL THE ISSUES BE SELECTED AND STRUCTURED?

The second factor is to find a way to determine which issues should be discussed, and how. The WGIG report outlines a large number of issues whose discussion merit consideration. Their very diversity, in addition to the fact that they are usually taken up in specialized forums, shows the complexity of Internet governance. In a given time period, it is obvious that not all issues can or should be discussed.

The experience of the UN ICT Task Force is instructive. The session that obtained the greatest level of participation from all stakeholders was that dealing with Internet governance. The discussion was structured to provide both information and analysis about the nature of the problem.[4] This discussion was intended to feed into the work of the WGIG and did. Other UN ICT Task Force sessions, also with wide participation, were designed to feed into other aspects of the World Summit on the Information Society. The common denominator was that each session (which involved a physical forum plus a preparatory process, largely conducted over the Internet) was designed to feed into the WSIS process.

In that sense, the issues should be decided according to where and when decisions about them are being considered or will be taken. This can be in a specialized intergovernmental body, a private sector consortium, or in a general forum. Many issues, such as those dealing with intellectual property, telecommunications standards or trade, are following a schedule that is already known. Others, particularly those that cut across

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[3] Internet Governance Project, Internet Governance: Quo Vadis? A Reponse to the WGIG Report, July 16,2005 (http://www.internetgovernance.org/)

[4] The results were summarized in Don McLean (ed), *Internet Governance: A Grand Collaboration*, New York: UNICT Task Force, 2004.

traditional substantive lines – like cybercrime or spam – can be taken up when those issues are considered ripe for decision elsewhere. If legally binding agreements are being negotiated, their schedule can serve to help determine priorities.

The detailed structure of a forum depends, of course, on the specific issue chosen. Experience shows, however, that the most successful international agreements reached at global conferences follow a specific sequence. The Beijing Platform for Action, adopted by consensus at the largest United Nations Conference in history, was negotiated through three preparatory committee meetings. However, before and in between these Prepcoms, specific issues were subject to some 28 expert groups and seminars organized by the United Nations Division for the Advancement of Women with other governmental and non-governmental partners, as well as numerous seminars and expert groups organized by specialized agencies and non-governmental organizations. In effect, the preparation for Beijing was very much like a forum, into which each specialized meeting fed information, analysis and the basis for consensus into the decision-making process.

A similar process can be observed in such diverse negotiations as the Rio Conference on Environment and Development, the negotiations leading to the United Nations Framework Convention on Climate Change and the work of the ad hoc Committee of the General Assembly on a Convention on the Rights of Persons with Disabilities.

This suggests a forum as a space into which smaller specialized working groups can be used to explore and accumulate issues, leading to a larger agreement.

However, the issues do not establish themselves. There has to be some group, organization or process charged with making decisions about which issues will be discussed in the forum and when. In that sense, the forum must have its own governance mechanism. Who should should make up that mechanism and how it should be selected is beyond the scope of this paper, but is something that is not conceptually difficult to determine.

3. HOW TO ATTRACT PARTNERS AND PARTICIPANTS?

If the issues can be selected and structured, the next question is how can people be induced to participate in the Forum's activities. The WGIG experience and the UN ICT Task Force have shown that there is a kind of self-selection at work. Many governments, private sector entities and civil society groups are attracted by the opportunity to try to shape the decisions on issues of special concern to them. But while this attraction may be necessary, it is not sufficient

We must recognize political reality. Everyone is busy and there are many interests competing for time. Major stakeholders will not bother to participate in the Forum unless they feel that its discussions have some capacity to affect their interests in a serious way. And if major stakeholders do not participate, then the Forum will not benefit from their special knowledge of the situation, and efforts to analyze the most salient issues and identify available points of consensus will fail. So the issue of participation is very much

related to the issue of how the results will be applied (as discussed in section #1). If the Forum's results have no legislative or normative function it will not attract serious participation. This form of what Americans call "buy-in" is the single most critical factor affecting the success of the forum.

In addition, the Forum must attract participants capable of providing both technically sound and politically reasonable input. The issues that should be addressed are not ones where ideological positions are the main coin of discourse. Rather, the discussion must be organized to be based on fact, on clear and convincing analysis of data, and on an ability to see the interrelationships among issues.

The proposal by the WGIG that partnerships should be developed is relevant here.

> 47. The forum should develop partnerships with academic and research institutions to access knowledge resources and expertise on a regular basis. These partnerships should seek to reflect geographic balance and cultural diversity and promote cooperation among all regions.

The communities that deal with aspects of Internet governance from an academic and research perspective can help ensure that the specific subjects with which they are concerned are dealt with in systematic and rational ways. Their participation can help ensure that the level of discussion is kept high. They can also link networks into the discussion that might not otherwise be engaged and can help stimulate the kind of academic research that, traditionally, has helped the Internet grow and develop.

This approach can help develop new networks, especially in the developing countries, than can be linked into the discussion structure, and who can feed back the discussions into their governments and private sectors.

One of the most difficult but important issues of participation will involve multilingualism. To facilitate widespread participation in real-time dialogues, a variety of languages must be used. Documents must be translated. Some useful analysis of document-based negotiation and collaboration in a multilingual context was done by William McIver and should be taken into account.[5]

4. WHO WILL MANAGE THE FORUM IN A NEUTRAL WAY?

Forums as we have described them here, do not manage themselves. The preparations for WSIS, and the WGIG itself, required a secretariat to provide management and organization. The UN ICT Task Force had a discrete secretariat with defined tasks. Any decision on a forum will need to answer the question, who will manage it?

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[5] W. McIver, "Technical issues in Collaborative, Multilingual Legislative Drafting," Social Science Research Council July 2004
http://www.ssrc.org/programs/itic/publications/knowledge_report/memos/mcivermemo2.pdf

Even if academic and research institutions share a big part of the load of managing the discussions themselves, there still is a need for professional staff that can oversee and coordinate the various activities, bring them together, act as a referee, and accumulate, publish and transmit the results obtained. In short, there is no way to escape the need for a central secretariat to manage the forum.

A secretariat does not have to be large (and therefore not expensive). There are many alternatives for funding it, based on prior experience.[6] The main factor here is that it is credible and by that we mean neutral. The main reason that United Nations System Secretariat units are often used for this purpose is not their technical quality (although they have that), but rather the fact that due to the nature of the organization they are neutral. More importantly, they understand and are linked into the processes into which the forum (as noted in the first section) should feed. They provide a natural link between the specialized partners, the different stakeholders, and the decision-making processes. A secretariat can help ease the task of decision-making about the forum content and activities and can give an accessible face to those who want to be able to influence the process.

5. HOW WILL INTERNET TECHNOLOGIES BE APPLIED?

The technologies applied constitute the fifth factor. All of the previous four factors could be done (and have been done) by means available in the nineteenth century. Meetings could be organized in halls lit by gaslights, reached by horse-drawn carriage or steam train. Paper could be distributed by mail or over the telegraph. What has changed in the 21st Century is the technology of communication and information. Now, documents can be accumulated in digital libraries and downloaded from websites, communication can be by e-mail, meetings can be in online collaboratories employing both synchronous and asynchronous forms of communication. Yet still, the UN system, like other governments, tends to have meetings in halls (now lit by electric lights), reached by airplane (and sometimes trains and buses).

These elements can still be used in a forum, and in fact, various kinds of technologies are in common use for these now and are seen in the websites of WSIS, WGIG and every international organization and non-governmental organization. However, if discussion still depends on face-to-face communication in formal (or even informal) meetings, the forum will not function, because participation will be restricted to those lucky enough to live in the place where the meeting takes place or endowed with sufficient resources to travel to it.

Fortunately, the rapidly evolving technology of the Internet provides an alternative: real-time, on-line collaboration using software that allows voice over Internet (and even video

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[6] The range of experience in funding is large and flexible. It goes from building the core cost into the assessed budget of an organization, through funding from voluntary contributions from governments, consortia funding from all stakeholders including the private sector, to membership based approaches. The key criterion is that the funding source is reasonably secure and stable.

over Internet), shared applications, logging and text. Increasingly, both for distance education and for professional collaboration, these techniques are used to link students and researchers over long distances. These can easily be applied, if the technology can be supplied or paid for, to the forum function, so that most of the activities take place on-line, in both synchronous (real-time) and asynchronous modes.

These are easier to use in academic and research networks, where security issues are fewer.[7] The main issue in their use is a combination of training and organization. Training is needed particularly of persons who will be facilitators. Chairing an on-line meeting is similar to but somewhat different from chairing an in-person meeting (the whole context of the meeting cannot be observed (participants who have fallen asleep, for example). However, a growing number of Internet users are developing experience with these methods. Based on our experience in organizing our own discussions that cut across multiple regions, or distance learning packages and courses, they are not difficult to learn.

If use of these technologies is built into the structural equation, many of the problems with participation for persons with limited time or resources can be reduced or eliminated.

6. HOW WILL IT BE FUNDED?

A forum will not be free, even though with careful attention to management, technology and buy-in, it need not be expensive. The forum will need a funding mechanism.

In United Nations practice, a function can be funded from assessed contributions to the regular budget, from voluntary contributions or a combination of these. Normally, with the exception of statistical series or documentation for the ITU, funding is not from user fees. However, the forum is a new innovation and it is worth considering whether a hybrid model might not be appropriate.

Proposing a mixed funding model in which different stakeholders can contribute to costs on a voluntary basis might be more acceptable than one which places the burden on one or another. Something closer to the national academy model used in the United States might be appropriate. Here sponsorship by the United Nations would be essential. If the considerations set out in the previous sections are taken into account, one option would be to fund the core secretariat for the forum from the regular budget of the United Nations, one of the Specialized Agencies like the ITU or a combination of these. There is probably enough capacity to redeploy resources that this could be done without increasing the budget. This would provide the necessary stability to funding that is essential during a start-up phase.

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[7] The Internet connections of most international organizations today are behind firewalls that do not permit connection to interactive discussions. Universities are much less likely to have this problem and further technological development might even allow international organizations to join this kind of dialogue.

For voluntary funding, corporations and foundations could back either specific projects or functions as they see fit and as the Forum can persuade them is worthwhile. Civil society organizations often lack financial resources but have shown a willingness to volunteer their time and expertise, especially if their travel and supply costs can be covered. Academic institutions can contribute part of their costs although some elements would have to be funded.

While one option would be to charge user fees to participate in the forum, this would work against participation by developing countries. The experience of the ITU in restricting documents to institutions that pay a fee suggests that this method does not encourage openness.

Our conclusion is that if these six factors are taken into account, the forum function can be given a solid basis on which to build in the follow-up to the Summit in terms of Internet governance.[8]

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[8] We have discussed these issues in more depth in another paper: Internet Governance Project: *A Global Alliance for ICT: Bringing Policy Making to the Public and the Public to Policy Making*, February 8, 2005, http://dcc.syr.edu/miscarticles/IGP-GA.pdf