

## **Reporting back on the workshop on 'Governance frameworks for Critical Internet Resources' held at IGF Rio 2007**

**Organisers :** IT for Change (ITfC, India), Centre for Democracy and Technology (CDT), Association for Progressive Communications (APC), Global Internet Policy Initiative (GIPI), Information for the Third Sector(RITS), World Bank Legal Department (WB), Internet Society Bulgaria (ISOC-Bul), Alfa-Redi (Peru), Third World Institute (IteM, Uruguay), Public Affairs Centre (PAC, India), Agencia Latinoamericana de Información (ALAI, Ecuador), ISIS International (Philippines), Hivos (Netherlands), Gloria Bonder (General Coordinator of the Regional UNESCO Chair Women, Science and Technology in Latin America), Reynolds Technology Pty Ltd & Internet Mark 2 Project.

### **Panelists:**

- \* **Carlos Afonso** – Information for the Third Sector (RITS)
- \* **William Currie** – Association for Progressive Communications (APC)
- \* **Fernando Maresca** - National Office of Information Technology - Argentina
- \* **James Dempsey** – Centre for Democracy and Technology (CDT)
- \* **Milton Mueller** – Syracuse University & Internet Governance Project (IGP)
- \* **Gurumurthy Kasinathan** – IT for Change (ITfC)
- \* **Rajnish Singh** - Pacific Islands Chapter of the Internet Society (PICISOC) & Patara Communications & Electronics Limited, Suva, Fiji Islands.

### **Moderator**

- \* **David Satola** – World Bank Legal Department

### **Brief Report**

The purpose of this workshop was to inform the Internet governance debate by outlining the existing frameworks and discuss possible alternatives concerning: (1) what resources are critical to the growth of the Internet, and its appropriation by all people and groups, including the disadvantaged; (2) a what level, by what means, Critical Internet resources (CIRs) are governed, and should be governed; and (3) the normative basis of different approaches to governance of CIRs. Private commercial law, voluntary standards, community-based norms and practices, and national, regional and international law all have a role, and governance is exercised by private parties in contractual arrangements, by local/national regulators, by regional and international governmental institutions, by community of Internet users and by non-governmental voluntary standards bodies of national, regional and international purview.

Dynamic factors fundamentally influence governance structures and institutions. As such, the process and evolution of governance models will need to take account of these dynamic factors. The panel mapped the current landscape of Internet governance

mechanisms and institutions, and explored new approaches to address these dynamic influences, including "commons-based" and "public interest-based" frameworks, providing a foundation for future work in this area.

**Panelists addressed the following themes and issues in the Workshop.**

**Mr. Dempsey** presented an overview description of "governance" and "critical Internet resources" in the context of a vision of the Internet as a widely available, affordable, open, trusted and secure medium. While he argued for a broad definition of CIR, he stressed that the definition matters less than the understanding that different institutions and different processes - some national, some global, some governmental, some non-governmental - have so far effectively "governed" different aspects of CIR. He stressed the responsibility of national governments for overcoming many of the barriers to Internet development. Finally, he warned against disproportionate focus on the crucial but comparatively small aspect of CIR overseen by the Internet Corporation for Assigned Names and Numbers (ICANN).

**Mr. Singh** highlighted issues of CIR governance from the perspective of the Pacific Islands with an emphasis on some core and wider related CIRs, presenting a list of access-related issues which reflect CIRs in the wider context, and the underlying weakness in policy development to effect governance frameworks.

**Mr. Maresca** noted that CIR is a concept that has no clear definition and no clear boundaries, but there is certain agreement that includes things as energy, funding, IP numbers and the domain names systems between a longer list of CIR. The DNS and its relation with ICANN can be used to exemplify the legal issues underlying the current political debate and, arguably, show that through a proper legal architecture the contentious issues may be overcome. ICANN relation with the global DNS shows that a conundrum of local (Californian), domestic (US) and conflict of laws issues, where public and private law also interlink, only creates uncertainty and discontent and that proper action to give ICANN legitimacy through proper authority delegation and a clear legislative mandate needs to be sought.

**Mr. Gurumurthy** focused on commons and public interest-based frameworks, including the nature of governance of CIRs, and the need to assert and foster the complement of the 'Public-ness' in the governance discourse. The predominance of 'North' and the insistence of a 'technical' / 'neutral' approach to governance results in disproportionate and differential cost-benefits to certain countries and certain players. In that regard, he proposed the creation of a GTLD that will specifically cater to the need for a digital public domain – the Global Public Domain or the .gpd GTLD for global public goods content.

**Mr. Afonso** noted that the issue of CIR started during the WSIS process, then under the WGIG, and it was only included in this second IGF. The main CIR issue is the relationship between the U.S. government and ICANN, particularly "veto" rights over ICANN's activities. Alternatives to the present arrangements could focus on the "internationalization" of ICANN, based on principles of transparency and independence, and will have to take account of the dynamics, particularly the demographic evolution, of Internet users.

**Mr. Mueller** noted that "Critical Internet Resources" clearly refers to global governance of internet identifier resources. He also returned to the issue of a commons-based

approach to governance, noting that concepts of commons can co-exist with private property. Issues of "commons" and private property are often treated as a dichotomy. But in reality, private and public property can interact in a mutually supportive, productive way. The open standards that form a part of CIR, for example, work with privately-owned network infrastructure over which communications flow. Any attempt to do away completely with one or the other can be disastrous. In order to negotiate this problem, we need to understand property rights theory and transaction costs theory.

The IGP's proposal to make network neutrality a global principle is an attempt to find a creative combination of commons and private property. A neutral carrier allows new and innovative private services to develop. Mueller noted that a neutral network would have a much more profound effect on internet governance than the proposal for a new "global public domain" top level domain, because any domain now can and does carry open content, such as Wikipedia.org. It is unlikely that this dynamic and robust environment needs to limit itself to one domain

Finally, noting that events in the history of the evolution of the Internet have been influenced by existing great powers, **Mr. Currie**, echoing Mr. Afonso's intervention, drew on Daniel Drezner's work on "great powers" to postulate that as new "great powers" emerged (such as India and China) governance processes and structures would likely be influenced by them.

#### **Inventory of events and actors related to the issue under discussion**

- \* WSIS and the IGF Rio discussions underlined the issue of governance frameworks for critical internet resources that would be transparent, fair and equitable.
- \* The full range of stakeholders (governments, NGOs, civil society, academia, the technical community, the private sector) have been concerned with this issue and different suggestions and proposals have been discussed now and earlier.
- \* The discussion however also acquires significance because for quite sometime, some actors have been insisting that CIRs are a purely technical issue and their governance hence should not be discussed or contested. This workshop breaks ground in that regard.

#### **Possible Follow Up**

- \* The organizers intend to prepare a more detailed summary of the proceedings of the session to be made available via a number of digital outlets, and will consider organizing a follow up session looking into more detail on possible future work in this area.
- \* We will also explore the possibilities of a position paper that will explore different approaches to governance of CIRs and how this can be taken further in the next IGF in Hyderabad.