Governance of Critical Internet Resources – Exploring Commons and Public Interest Based Frameworks

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Overview

- **Nature of internet governance including governance of CIRs**

- **Need to assert and foster the complement of the 'Public' in the governance discourse**

- **One proposal for fostering such 'Public-ness'**

The Technical and the political

- **Internet Governance is a political activity (like all governance tends to be), an arena of multiple perspectives and positions and contestations**

- **Governance of CIRs is as political**
  - Even taking the narrowest interpretation of CIRs as 'names and numbers'
    - The non-acceptance of the .xxx gtld
    - The initiation / implementation (or lack of it?) of
      - new GTLDs, IDN TLDs, IPv4 => IPv6

- **Goals of internet / information society and ig (contestations)**
  - Prioritizing 'stability' over 'development' of the internet*
    - Shield of 'security and stability' to continue non-representative and illegitimate ig arrangements (IGP paper)

  - **But disproportionate cost-benefits to different groups**
    - Predominance of the geo-political north in government, business, academic, technical and civil society groups in ig
    - Single Government oversight of root

Technical and Neutral hypotheses

- **Governance of CIR seen as a 'technical' / 'neutral' and apolitical activity**

- **Concept of 'neutrality' in aspects of internet governance (e.g. "Keep the core neutral")**
  - Often interprets as 'keeping global public policy out' or as 'highest global public policy'

- **Need for global governance for global issues (beyond national / local abilities) e.g. IDN**
  - Global governance needs to include policy making on new GTLDs, which can also be in nature of enabling guidelines e.g. of UN DHR as a push for HR in nation states
  - 'Neutrality' a reversal of gains made through global processes as UDHR

- **If ICANN not appropriate body, then we need one (or bodies) for global policy making and ig, including CIR**
  - Legitimacy, representation, expertise and authority critical to this structure (s) governance and policy making

Wither Public

- **The erosion in public domain over last few decades**
  - **Changes to IP regimes, including research conducted by public bodies and universities**
  - Rapid erosion of common and traditional knowledge on public health (for e.g.)
    - For the market Viagra is more profitable than drugs for ailments that are peculiar to socio-economically backward societies such as elephantiasis or sleeping sickness. Drug resistant TB and Malaria are taking toll

- **The pre-eminence of the business sector in internet world**
  - Belief that market / competition can meet all needs (needs are essentially 'economic')
  - Devaluation of the socio-cultural and the political (Karl Polyani on 'reverse embedding of society within market')

- **Nature of Public**
  - Public <> Government / State
  - Community constitutes 'public' as well
  - Key role also for CS within Public (and given the broad nature of CS, this can also include CSR efforts)
  - Public as 'commons' or as a process of collaboration and sharing in an inclusive manner

Wither Public ... some views

- **In the past two or three decades, a shrinking of the public domain of scientific knowledge and a continuous process of appropriation of rights over this knowledge has taken place -** David, P. A., 2000, "A tragedy of the public knowledge "commons"?: global science, intellectual property and the digital technology boomerang"

- **In the past thirty years, this situation has progressively evolved towards the recognition of patents for pharmaceutical products in all countries signing the Trade Related Intellectual Property Agreements (Trips), a condition to enter the World Trade Organization .... The consequences of this shift on the health of populations residing in developing countries has been the object of much debate, and partial agreements between the World Health Organization and the Word Trade Organization" -** UNCTAD-ICTSD Dialogue on Moving the pro-development IP agenda forward: Preserving Public Goods in health, education and learning

Wither Public … some more views

- **Information produced by government-funded, public-interest science constitutes a global public good caught between two different trends. On one hand, the Internet provides valuable new opportunities for overcoming geographic limitations and the promise of unprecedented open access to public information for research on a global basis. The synergistic aspects of the availability and access to such information result in a broad range of positive network externalities that increase exponentially with the addition of new Internet users. On the other hand, there are growing restrictions on the availability and use of public data and information arising from the privatization and commercialization of such sources. This countervailing trend undermines the traditional scientific cooperative and sharing ethos. It diminishes the public domain and open access to such global public goods and leads to a host of lost opportunity costs at both national and international levels.**

- **While there has been a great deal of focus on new commercial opportunities with digital information and on increased intellectual property rights, comparatively little attention has been devoted to the importance of maintaining open access to the source of upstream scientific-and other-data and information produced in the public domain for the benefit of all downstream users, or to the imperative to balance the public and the private interests.** - International Symposium on Open Access and the Public Domain in Digital Data and Information for Science

'Public' as an essential complement to the 'Private'

- **Loss of public knowledge and traditional knowledge of the community**
- **Weak public domain to store and nurture the public data**
  - Specially in the areas of scientific research, health and education

- **The imperative of collaboration and cooperation as a necessity**
  - Isaac Newton "I stood on the shoulders of giants …'

- **WIPO recent addition to agenda 'to work for a rich public domain and access to knowledge …'**
  - Public not as a replacement of private, but both as necessary complements to the other
  - Need for a corrective to the increasing displacement of the public by the private

Bring the Public into ig

- **Current CIR governance gives complete eminence to competition and markets**
    - '1998 principles' specify competition as a mother principle
    - Private sector taken as the sole torch bearer of innovation
    - GNSO largely caters to trade body and business interests

- **Need to build the principle of 'collaboration' into the very heart of the internet – the governance of the CIRs**
    - Collaboration can be a significant thrust to innovation as well (FOSS)
    - Analogy of the (private) shop and the (public) garden

- **Need to create a GTLD that will specifically cater to the need for a digital public domain – the .Global Public Domain**
- Some possible questions on .GPD
    - How will it be administered – at gtld and domain name levels?
    - Pricing and funding issues related to .GPD and its content?
    - Will all content on this domain be fully copyright free?
    - How is it different from creativecommons.org or sourceforge.net?

Global Public Domain – the .GPD gtld

- **.GPD as a public domain space where content, applications will be available on a free and open basis**
  - Versus the default IP of copyright elsewhere
  - Once published on this domain cannot then be made exclusive or private
  - More logical place for collaborative user content on the internet
    - Wikipedia, Youtube etc
  - Recognises that in the digital realm, sharing is non-rivalrous and it is exclusion that has costs, often huge costs

- **GPD will be a significant push to bring more and more knowledge into the public domain**
  - All publicly funded including scientific and academic research
  - Public health knowledge, including traditional knowledge
  - Public education
  - Will need to be available multi-lingually (IDN) – thrust for local public content and traditional knowledge

- **While significant effort will be required at regional, national and local levels to push this agenda of inclusion, at the global level, recognition of this principle through an assigned GTLD name is an imperative**

.GPD concept of public policy / public interest in the CIR space not a pioneering idea

- **GTLD policy proposal of the GNSO suggests differential prices for gtlds for developing countries**
  - on the lines of the ITUs telecom settlements system which is deliberately loaded in favor of developing countries, recognizing such differential pricing as critical to ensuring equitable access.

- **.xxx gtld proposal (before it was rejected)**
- some part of the revenues from the business coming out of this gtld was to be retained for looking at user / parent control options for preventing access to pornographic content

- **NCUC in ICANN**
  - We will still need a 'development constituency' to ig

Global Public Domain and development

- **Development of internet as**
  - Technical development (new protocols, architectures etc)
  - Appropriation by all groups, especially the marginalized groups in society, including by geography

- **While technical development largely arises from scientific research, 'appropriation' also requires significant research in understanding of social change processes and cannot be underestimated**
  - This knowledge creation and sharing needs policy support and public funding (including community funding)

- **Development history has ample evidence that the market alone can NOT provide equitable access – the marginalized and disadvantaged will not be in a position to 'pay for services'**

- **The current spread of the internet is extremely inequitable and the call for the 'Next Billion' is complacent about this inequity**
  - Moving from 1 billion to 6+ billion internet community – "people centred, inclusive development oriented information society" of the WSIS DOP
  - Potential for growth of the internet in the global south which will be negatively impacted by the current slow progress on IPv6 and IDN* fronts

Global Public Domain and development

- **The 'development' of the internet will need very different kinds of initiatives, including governance and policy initiatives, this is the lesson from other fields as well – education, health**
  - Significant push for IPv6, IDN etc. is critical to the 'development of the internet

- **Need to look at 'citizenship entitlement' for all, which should ensure that those left out by the market are also included**
  - Definition of 'internet community' (development constituency in ig)
  - This can be done by the community or community supported projects e.g. Wikipedia, community telecentres
  - In cases where necessary social capital is inadequate, need for the Government to step in to provide the required funding and enabling environment (even here the construction of the domain content should be by and through community as well, no hegemonistic or monolithic role for state)

- **Even WIPO, traditionally strong supporter of stronger IP regime has now recognised the need for a 'developmental agenda' in IP**
  - Need for same move in ig as well ….
  - GPD as a contribution of global ig

Progressive role of CS (or why we are proposing .GPD)

- **CS at IGF needs to take on the progressive mantle and also make forward looking suggestions towards a 'people-centred', 'development oriented' information society as envisaged in the opening paragraph in the WSIS DOP**
  - Need not bear the burden of being completely 'pragmatic'
  - Push / persuade / engage / negotiate / fight Government and business sectors towards progressive agendas

  - "The works that draw the most attention focus on CSOs essentially as transnational pressure groups seeking to influence the behavior of states, intergovernmental negotiations and the policies of international agencies…. CSOs play a role also with respect to the behavior of transnational corporations … Civil society actors have helped make possible genuinely political activity at the global level apart from the system of states" (Wapner, 1995)

  - **"Anti-pragmatic pragmatism" (Brazil Minister for Strategic Affairs at the opening session)**
    - If we sit too much on the fence, iron will enter our soul :-)

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