WHAT DO WE ALL MEAN BY ?ROADMAP TO FURTHER EVOLVE THE MULTISTAKEHOLDER INTERNET GOVERNANCE ECOSYSTEM??

- Area: ROADMAP FOR THE FURTHER EVOLUTION OF THE INTERNET GOVERNANCE ECOSYSTEM
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Abstract

A roadmap is a process intended to achieve a particular goal. Discussions at NETmundial regarding a roadmap to further evolve the multistakeholder Internet governance ecosystem should therefore: 1) foster a common understanding of this goal among all participants and 2) sketch out a possible process to move forward with corresponding milestones. This contribution addresses these two elements as input into the Sao Paulo discussions on this topic.

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The key prerequisite for any fruitful policy-making discussion is a shared vernacular among participants, i.e. all actors put the same meaning behind the same words.

This contribution is therefore an issue-framing input to advance the collective understanding of NETmundial participants of the expression “roadmap for the further evolution of the Internet governance ecosystem”. It will analyze each component of it in turn and propose a few questions to help shape the discussion during the meeting regarding the way forward.

Hereby, an important point of reference is the definition of Internet governance agreed during the WSIS Tunis Summit: “the development and application by governments, the private sector and civil society, in their respective roles, of shared principles, norms, rules, decision-making procedures, and programmes that shape the evolution and use of the Internet” (Art.34 of the Tunis Agenda).

1. INTERNET GOVERNANCE IS ABOUT THE ELABORATION AND IMPLEMENTATION OF REGIMES

a) Regimes. The Tunis Agenda definition clearly echoes the widely accepted definition of a regime as: “sets of implicit or explicit principles, norms, rules, and decision-making procedures around which actors’ expectations converge in a given area of international relations” (Krasner, 1983).

Internet governance is therefore about the various arrangements or regimes (“shared principles, norms, rules, decision-making procedures, and programmes”) that allow concerned stakeholders to address specific issues regarding the Internet.

b) Elaboration and implementation. The Tunis definition mentions the “development and application” of such arrangements or regimes as two complementary dimensions of Internet governance. This means appropriate processes to develop standards and policies and - when needed - dedicated institutions to implement them operationally.

Experience demonstrates that stakeholders that will be needed for the implementation of standards or policy frameworks need to actively participate in their elaboration.

2. THE MULTISTAKEHOLDER INTERNET GOVERNANCE ECOSYSTEM

a) Involvement of all stakeholders. Internet governance is described in the Tunis Agenda as the responsibility of “governments, the private sector and civil society, in their

respective roles". Although this is generally considered as the endorsement of the multistakeholder approach by the Heads of State gathered in Tunis, the term "respective roles" was voluntarily ambiguous and widely divergent interpretations remain.

We believe however that it should not be understood as a pre-established and rigid structural separation of responsibilities between stakeholder groups. Rather, there is a need to identify and engage, on an issue-by-issue basis, the relevant stakeholders from each group, who either have a direct influence on the issue or are impacted by it and must thus be associated with developing a solution.

Furthermore, in a multistakeholder approach, the respective roles are not set in stone: the involvement of the different stakeholders can vary according to the issues addressed, the venue where they are discussed and the stage of the discussion. There is not a single way to implement a multi-stakeholder model.

b) The existing institutional ecosystem. A distributed set of institutions and processes (including IETF, W3C, the RIRs or ICANN) already exists to handle the different issues related to the governance of the Internet as a system. This existing ecosystem produces many types of arrangements, from a distributed repartition of responsibilities in the allocation of resources (the RIRs), to voluntary technical standards (IETF and W3C), to enforceable contracts (ICANN).

Although their modus operandi is highly variable, these processes and institutions are open to all willing participants and their multi-stakeholder nature was essential to enable the network to successfully grow and serve close to 3 billion users.

3. EVOLVING THE SYSTEM FURTHER

If the multi-stakeholder Internet governance ecosystem is the set of mechanisms and institutions that allow the development and implementation of shared issue-based regimes by different stakeholders, what needs to be "evolved further" in this ecosystem? Discussions so far seem to have identified three complementary tracks in that regard:

Track 1: The first task in front of us is to continue to improve the existing system in terms of inclusion, transparency and accountability. NETmundial will help actors understand where discussions on these aspects are currently under way and how they can engage.

Track 2: A second discussion concerns the globalization of ICANN and in particular the current role played by the US Department of Commerce in the workflow of the so-called IANA function. Evolution seems now possible in a topic that was considered taboo for a long time and NETmundial will naturally address it.

Track 3: However, a third dimension is essential and deserves close attention during NETmundial: How to handle governance ON the Internet? This is the one we would like to focus upon here.

The Tunis definition of Internet governance covers “the evolution and use of the Internet”, a distinction that can be referred to as: governance OF the Internet and governance ON the Internet. Governance OF the Internet deals with the Internet as a network system, while governance ON the Internet deals with the rules applicable to how people use the network.

Contrary to what many might believe, this distinction is not a separation between technical and policy issues: there are policy dimensions to technical issues and technical aspects in policy decisions. What is at stake is rather a distinction between two different challenges: on the one hand ensuring the interoperability, security and resilience of the network itself; and on the other hand managing the coexistence of different norms in cross-border spaces. The Internet is based on a layered architecture and its governance should be layered too.

The current ecosystem of multi-stakeholder institutions mainly deals with the governance OF the Internet as a system (protocols and standards, allocations of addresses, and names policy). But governance ON the Internet lacks similar multi-stakeholder processes and structures to handle challenges related to the use of the network, i.e. on the application, content and social layers.

A key meaning of “further evolving the multistakeholder internet governance ecosystem” is therefore: how to develop global processes and - if needed - institutions to handle issues related to the use of the Internet, such as privacy, freedom of expression, cybercrime, etc… In other terms: what could be the overarching framework that can produce multi-stakeholder, distributed and issue-based regimes to address these issues?

A key aspect of this discussion will be how any evolving multi-stakeholder Internet governance ecosystem integrates existing policy-making structures at the local and global level, including nation-states and intergovernmental organizations. Another important question is the evolution of the role and responsibilities of the Internet Governance Forum (IGF).

4. DEFINING THE COMPONENTS OF A ROADMAP

NETmundial is not a stand-alone event and it will not finalize decisions. It is rather the starting point of a process to foster convergence of visions and ultimately produce an improved institutional framework. This is particularly true for the important third track topic (governance ON the Internet).

It is useful here to remember that any development of policy or institution goes through three stages: issue-framing to define shared objectives; an iterative process to develop a draft framework; and ultimate validation by the relevant stakeholders, either through formal agreement or voluntary adhesion. The post-Sao Paulo roadmap could be built on these three stages.

The Internet & Jurisdiction Project is facilitating since 2012 a global multi-stakeholder dialogue process on a limited but cross-cutting issue: the development of a due process framework for transborder requests regarding domain name seizures, content takedowns and access to user data. Based on this experience, the facilitation team would like to propose here, in their personal capacity, three methodological questions that, if discussed at NETmundial, could help define the next steps in a roadmap.

a) What high-level common objective?

Discussions in Sao Paulo in the sessions dedicated to the roadmap will naturally reveal a diversity of proposals regarding the ultimate objective and potential institutional architectures to “further evolve the multistakeholder Internet governance ecosystem”.

A key ambition of NETmundial should however be to identify a common formulation defining a high-level overarching objective acceptable by all participants. This is necessary to open the subsequent discussion of the various options under at least a common aspiration.

Operational questions are:

- How to document discussions in Sao Paulo in a synthetic manner to identify the areas of convergence and the various options?
- How and by whom should such a synthesis be prepared during (or after) the meeting?

b) What process to develop a recommendation?

The international agenda is already dense and numerous events gather the different stakeholders in various formats. However, a series of independent events is not sufficient to develop such a comprehensive institutional reform. A bounded in time, transparent and inclusive dialogue process allowing all categories of stakeholders to participate is most probably needed.

In this perspective, NETmundial could discuss the following operational questions:

- Which combination of actors can/should initiate such a dialogue process?
- Who can participate and how?
- Who can provide a neutral support function?
- How can existing meetings be leveraged?

c) How to validate the results of the process?

Irrespective of the ultimate framework proposal that the dialogue process would produce, it would require endorsement by a general consensus of actors, or at least a critical mass of them, to be implementable.

It is too early to discuss how formal such an endorsement would need to be. The discussions at NETmundial should therefore focus on setting the timeframe for such a process and the venue where it could be finalized.

5. POSSIBLE ROADMAP MILESTONES

In this contribution, we argued that there are several tracks towards the further evolution of the multi-stakeholder Internet governance ecosystem. We highlighted in particular the importance of Track 3, i.e. the development of a framework for the governance ON the Internet and the need for a dedicated dialogue process to do it.

Numerous discussions indicate a growing consensus towards setting 2015 as the target deadline for this discussion. The post-Sao Paulo roadmap should leverage existing milestone events to structure the work:

- The September 2014 IGF in Istanbul will be a natural moment to review the results of NETmundial after all stakeholders have had time to consult and discuss. It could thus catalyze agreement on how to organize the dialogue process to develop an improved ecosystem. The IGF consultations in May could decide to include dedicated workshops and a plenary session on that topic in the agenda.

- Great uncertainties remain on the format of the WSIS+10 review in 2015 and consultations are underway in that regard. But, whatever its format or location, this event appears as a potential natural target milestone for the end of the process.

- An open question is whether an additional event (NETmundial 2015?) should - or not - be inserted in an already dense agenda of international meetings, in order to facilitate the discussions and the preparation of the WSIS+10 review

- Finally, many other events, including local and regional IGFs or conferences by existing international organizations, will naturally provide opportunities for further exchanges and outreach along the work of the dialogue process.

The discussions about the evolution of the Internet Governance ecosystem have reached an unprecedented level of international interest and the initiators of the NETmundial event should be thanked for providing the opportunity for serious discussions on this topic.

The time between NETmundial and the WSIS +10 constitutes a rare window of opportunity to build up a common governance framework that our increasingly connected societies need in the 21st century.

We hope this contribution will help participants in NETmundial map the way forward in an efficient and productive manner.