IGF 2016 Workshop Report: WS149 - Increasing confidence in stakeholder legitimacy

Session Title	Increasing confidence in stakeholder legitimacy
Date	9 December 2016
Time	10:45-12:15
Session Organizers	Samantha Dickinson & Jovan Kurbalija
Issue Facilitators	Dominique Lazanski, GSMA (Private sector)
	Roxana Radu, DiploFoundation (Civil society)
	Jim Prendergast, Galway Strategy Group (Private sector)
	Samantha Dickinson (Technical community)
Rapporteur/Notetaker	Samantha Dickinson

Summary of session:

Context:

> The topic of stakeholder legitimacy has been discussed very little in the area of multistakeholder Internet governance, so the aim of this workshop was to begin the discussion and raise awareness of the issue in stakeholders who participate in different Internet governance processes and forums. The original plan was to have four breakout groups, but the fixed layout of the room made this difficult, so the final format was a discussion amongst all participants, with the topics for the four breakout groups discussed sequentially, with separate facilitators for each of the breakout group topics.

> There was a brief presentation at the start of the workshop to set the scene and explain the difference between input and output legitimacy. Input legitimacy is about the how fair a process is perceived, and a part of that is the perception that all stakeholders participate equally and equally abide by the agreed rules of procedure. Output legitimacy focused on the quality and "fit for purpose" outcomes that a process produces. The presentation quoted from the 2015 paper by Gasser, Budish and Myers West[1] to explain why legitimacy was an increasingly important aspect to tackle in multistakeholder Internet governance processes:

>> "Legitimacy becomes most important when conflicts arise during the multistakeholder process. In these instances, the groups had to assert stronger forms of legitimacy"

---

[1] [1] U Gasser, R Budish, S Myers West (2015) "Multistakeholder as Governance Groups: Observations from Case Studies", http://cyber.law.harvard.edu/publications/2014/internet_governance

Discussion:

The participants in the workshop were from governments, civil society, the private sector and the technical community. There were no participants from intergovernmental organizations in the workshop.

The four breakout group topics were clustered around the following areas:

1. Is there a need to prove the legitimacy of stakeholder groups and their members, and if so, what are ways that legitimacy can be established?
2. Stakeholder groups and their configurations
3. Levels of stakeholder representation (individuals through to aggregated groupings)
4. How do stakeholders manage the participation of entities or individuals that are not deemed to have a high level of legitimacy in a process?

However, given the newness of the topic to the Internet governance community, and the enthusiasm of the participants to raise a number of issues that they had not had the opportunity to discuss in public before, the structured questions for the breakout groups became general guides for open discussion.

Issues raised in the session by participants:

- There is no "one size fits all" approach that can be used to establish legitimacy that will work across all Internet governance processes. Do we need "policy menus" for ways to improve stakeholder legitimacy?
- Internet governance is currently using an understanding of "multistakeholder" that was developed during the WSIS process, 2003-2005, but the environment has changed and the number of stakeholders have grown, so it may be time to rethink and revise the model for today (and tomorrow).
- Legitimacy can mean having a basic understanding of the topic.
- Legitimacy can mean having "skin in the game".
- Silos created by grouping stakeholders into separate groups can create competition and doubts about the legitimacy of other stakeholders. One possible way to prevent the need to justify stakeholder legitimacy is to bypass the concept of stakeholder groups completely, and focus on issue- and interest-based discussions.
- Legitimacy shouldn't be an attribute assigned solely to those who have the resources to "show up" and participate.
  - Lack of resources makes it difficult for some incoming stakeholders to understand the basics of issues and processes, let alone be able to participate long enough to establish their legitimacy in the eyes of existing stakeholders.
  - There are challenges in using quality of input or participation as a guide to legitimacy as unpaid stakeholders, or stakeholders who do not get paid to

do Internet governance as their full-time day job, are often expected to participate on the same level as people who are fully funded to concentrate on particular Internet governance processes as a full-time job.

- It is important to find ways to enable newcomers to establish legitimacy in the eyes of the established community they are entering so they feel empowered to participate early. (It was noted that newcomers who have a negative early experience in a process often drop out of that process and never return).

- The culture of stakeholders being able to "speak in my personal capacity" while being paid or nominated to represent a wider group of stakeholders can present challenges to the perception of the legitimacy of input.
  - Equally, giving "equal weighting" (one voice, one input) to one person speaking for a wider group of stakeholders and who may be the only dissenting voice in a process where the assenting voices are individual's, not collective views, can pose challenges for the perception of the legitimacy of outcomes.
- It is not always the stakeholder or stakeholder group that works to assert its legitimacy, but sometimes it is the entity facilitating a process that has the authority to make decisions about which inputs to consider relevant to the process (e.g. calls for public comments).
- Methods of establishing legitimacy within stakeholder groups or communities:
  - Self-selection of members in long-established trust networks is an informal way of blocking members (or would-be members) that are not viewed as being good-faith players. But can also be problematic as it can prevent newcomers being able to enter processes.
  - Peer pressure can be an effective way of "culling the herd" of players who won't respect the process and its community's rules.

Other issues raised that were not directly related to legitimacy of stakeholders, but were related to the difficulty of ensuring a greater range of voices can be heard in the multistakeholder model include:

- The possibility of having different levels of participation and engagement, so that there is the possibility for less resourced, or incoming/new stakeholders to engage at the edges before moving into "deeper" participation models.
- For stakeholders from developing countries, multilateral processes can be viewed as more open to the input of developing country stakeholders, due to the "one country, one vote" model used. Multistakeholder processes, on the other hand, because of the resource constraints on developing country participants, can exclude their voices and therefore be viewed as less legitimate venues for decision-making.
- As well as legitimacy of stakeholders, there is also the need to consider legitimacy of goals: not all goals in Internet governance are created equal.

- Process legitimacy can alienate stakeholders: if the process is made so complex, it prevents all but the best-resourced and well-versed insiders from participating.
- Transparency is an important factor in assuring others of the legitimacy of the process and its actors. However, transparency is not the same thing as publishing hundreds of transcripts and mailing lists; too much information can result in making the process non-transparent. Better ways are needed to make processes easily accessible and understandable to newcomers.

Ways forward:

Participants expressed interest in continuing the conversation on the topic of stakeholder legitimacy after the meeting. A mailing list will be created for interested stakeholders to continue discussions on the topic.

To encourage further thought on the topic, the online documents for the four breakout groups will remain available for continued online contributions through to the end of January 2017.

Participants were encouraged to widen the conversation to the Internet governance processes that they participate in, with the aim of gathering more ideas and existing practices to increase trust in the legitimacy of and between stakeholders in those processes.

Based on the mailing list discussion, interested participants may propose another, more advanced, session on this topic for IGF 2017.

Information about the mailing list, as well as links to the online breakout documents (also available via the IGF 2016 Sched page for the session) will be made available at:

http://linguasynaptica.com/stakeholder-legitimacy