

## IGF 2016 Workshop Report Template

Session Title	WS189: Civil Society Experiences from the IANA Transition Process
Date	8 of December 2016
Time	15:00 – 16:30
Session Organizer	Tapani Tarvainen and Gangesh Varma
Chair/Moderator	Tapani Tarvanian (Chair) and Adam Peake (Moderator)
Rapporteur/Notetaker	Martin Pablo Silva Valent
List of Speakers and their institutional affiliations	<p>Robin Gross: IP Justice</p> <p>Farzaneh Badii: Hamburg Institute of Law and Economics</p> <p>Milton Mueller: Georgia Institute of Technology</p> <p>Niels ten Oever: Article 19</p> <p>Aarti Bhavana: National Law University, Delhi</p> <p>Jan-Aart Scholte: University of Gothenburg, Sweden</p> <p>Matthew Shears: Center for Democracy &amp; Technology</p> <p>Alan Greenberg: ALAC</p> <p>Marilia Maciel: Diplo Foundation</p> <p>Klaus Stoll: Global Knowledge Partnership Foundation</p>
Key Issues raised (1 sentence per issue):	<ul style="list-style-type: none"> <li>- Positions and concerns CS had on issues of transparency and accountability.</li> <li>- CS's thinking about community and staff accountability.</li> <li>- The role of governments in new arrangements.</li> <li>- Human rights and ICANN.</li> <li>- Successes and failures from the transition discussions</li> <li>- Barriers to participation. Newcomers perspective?</li> <li>- What went well</li> <li>- Strategies for the future</li> </ul>
If there were presentations during the session, please provide a 1-paragraph summary for each Presentation	<p>Each key issue and discussion had assigned one or more speakers that presented the subject and opened the debate in each case.</p> <p><b>1r Adam Peak set the context of the session.</b> He stated that there is a common understanding that the IANA Transition is a successful case for multistakeholderism, but there was also a need to challenge this view and really talk about the Civil Society experience during the Transition debates, the good, the bad, the unresolved and the future.</p> <p><b>2r Robin Gross presented the positions and concerns CS had on issues of transparency and accountability.</b> Robin stated that the Internet Assigned Numbers Authority (IANA) transition required the community to fix the accountability issues of Internet Corporation for Assigned Names and Numbers (ICANN), and that was something that the whole community and advisory committees agreed on. There were concerns about the lack of mechanisms to make ICANN follow its own rules and the transparency of the whole operation. The community had the right to appoint board members, but was lacking the power to recall them, that's one of the big improvements the transition achieved. As well, the transition also left to the creation of an Independent Review Process (IRP) that will allow to challenge the board's decision if they don't comply with the rules. As well,</p>

transparency is a pre-requisite of accountability, so ICANN has to create a culture of transparency, both in document, debates, lobby, whistleblowing and others. All this is still being worked on the work stream two (WS2).

**1r Farzaneh Badii presented the CS's thinking about community and staff accountability.** Farzaneh explained ICANN Staff are in the things they are in charge of, like reports, recommendations, etc. So, if something goes wrong in those things it makes sense there is accountability towards the community. On the other hand, there is also community accountability, especially of the appointed towards their own community and to not abuse and capture the process because of that leadership position. Regarding Transparency, ICANN document disclosure process has to be improved, since the criteria to reject document disclosure request was far too broad. In the work stream two this is already a subject to be develop thanks to the work done in stream one.

**2r Milton Mueller presented the role of governments in new arrangements.** Milton explained that there was a big debate on the advisory committee's power, especially in the Government advisory committee (GAC). On one hand, the GAC feels powerless, and on the other, the community fears to be taken over by the governments. Part of the tension comes from that the GAC creates an idea of the policy on their own and then the community develops separately the said policy on their own process and debate, therefore, the board has to mediate and understand if the advice of the GAC is relevant enough to be taken into account. This creates the debate on whether the GAC advice should be binding at some level, like going through a process after refusing the GAC advice to ensure that such refusal is well funded. In such a scenario, the GAC would have a very direct power over the final decision, so for the community it was important to stablish a formal advice rule to put some sort of threshold to such process, like a requiring full consensus of the GAC advice in order to trigger that special board process to reject said advice. As well, it was discussed if the GAC was going to become part of the community or keep giving advice. On the Accountability matter, Milton added that one of the challenges of the IANA was to create the accountability mechanism since there was no longer a contract with the USA government. The result is the Post Transition IANA (PTI) structure as a separated body, which is a common ground between the different stakeholder and others like the GAC. There other concern of the civil society community was about the policy development process itself, on this several things were discussed, among them was the use of the legal framework of the California law, since it is applied to ICANN for being California based. On that, the law has some "empowered community" rules that would allow the community to oversight better the role of the board by appealing process and requiring them to approve any by-laws change, especially if is about fundamentals

	<p>provisions.</p> <p><b>3r Niels ten Oever presented the subject of Human rights and ICANN.</b> One of the first issues the community has now in the post IANA world, especially on the Human Rights debate, is the risk of making the work stream two the graveyard if the IANA Transition, since it could become an eternal debate phase. So, the community needs to build a framework of implementation for the WS2 in order to make it effective. On the debate, the new challenge is to understand and agree how human right plays outside the states environment.</p>
<p>Please describe the Discussions that took place during the workshop session: (3 paragraphs)</p>	<p><b>1r Niels ten Oever also opened up the discussion on Success and Failure:</b> Niels said that declaring success is for history, but we can say the community and everyone else involved reached an agreement on a common language creating the communication framework to work. Something was key to being able to solve the transition and improve the multistakeholder work from now on.</p> <p><b>2r Aarti Bhavana and Jan-Aart Scholte presented the topic of Barriers to participation.</b> Aarti presented the perspective as newcomer (at the time of joining) and stated that, the IANA Transition was a big driver for newcomers. That in her experience it takes months to catch up the state of the debate. She found useful that some police development process (PDP) had monthly updates and summaries. In the case of the WS2, there are already nine different sub-groups, this increase the cost of following the process of the WS2. On the other hand, it seems that discussions usually go around the same people, something that gives stability but prevents new people to participate fully. In order to break that ceiling of “community leader” it seems to help starting to work first from one of the constituencies. Jan-Aart Scholte on the same matter said that on of the main barriers for civil society to participate in the process was the meta-processes that happened on the side of the process, like that unofficial calls, corridor talks and exclusive meetings where this were negotiated beforehand without relevant civil society agents being involve, which created a biased result because of an unbalanced reality. Even taking in account civil society, ICANN is not bottom-up, is rather being led by an elite from the academy, NGOs, business and every other sector with experts that required a lot of funds to be up to the task an invest the work and time needed. As well, the unbalanced weight of the English language and one-sided culture is a huge barrier that is usually taken from granted when is a major factor to enable equal rights and opportunities. In the same way, there is also the social capital of being “part of the gang” that requires a lot of factors to acquire and are usually far more easy for some than others. The same goes for diversity, in the case of Civil Society most of the leadership and active members come or live/work at developed countries and urban areas. The problem in the background is that ICANN replicates the social structure inequalities, and that</p>

	<p>cannot be ignored. This are observations, and not expectations towards ICANN, on the Civil Society role. <b>Matthew Shears introduced on what went well.</b> Matthew explained that from a Civil Society perspective, the success was that the process showed the value of having a common goal across the stakeholders, even when it was imposed by outside reality, it forced everyone to be collaborative and compromise in order to reach a desired result. As civil society, we showed we can be flexible but firms, and at the end it comes to dealing with complex group dynamics, something common to all human beings as social entities. The challenge now is to improve these groups dynamics in every aspect, from participation and leadership to backdoor chats. The dynamic should move towards the added value each one can bring, the expertise for instance, and not only language or funding capacities.</p> <p><b>3r Alan Greenberg, Marilia Maciel and Klaus Stoll follow up on Mathew and debate on the strategies for the future.</b> Alan explained that At-Large Advisory Committee (ALAC), as part of the civil society concept, didn't totally agreed with the Non-Commercial Stakeholder Group (NCSG) position, but were in general satisfied with the result. It was remarkable the considerable number of people heavily committed and involved in the Cross Community Working Group (CCWG), especially taken in account the diversity they brought to the process. Part of that success was thanks to the coordination among the members and being able to clear our differences outside the narrow official meetings by using periodically calls during the whole year. This gave the ALAC members the confidence of being a group and not just individuals, especially when it came to learn to live with things and conquer others. Marilia stated that the IANA transition showed that the multistakeholder process does produce something meaningful, and a key point of that success trust, trust not only among people but on the process. The IANA transition gave the right incentives for ICANN to build clear rules and a trusted framework to move forward and be effective. Klaus expressed his concerns regarding the importance of open up to the world and stop being a closed institution that just moves around the world in the side of the public road. ICANN has to make the DNS stable and secure but also have to reestablish the role of the DNS not to lose that ecosystem tool inside the Internet. If we understand that the DNS is a core value and structure of internet, then is not only about abstract health of the system but also about the role it plays in what we understand is a healthy Internet environment. In this post-IANA ICANN should try to use the lesson learned to the core of each group, looking after the win-win situations achieved. As well, Civil society has many inequality problems, one of the is the funds and especially requirement it takes to be an expert involved in the matter.</p>
Please describe any Participant suggestions	<ul style="list-style-type: none"> <li>- One of the participants state that we are yet to define the expectation regarding the democracy level of ICANN, and that</li> </ul>

<p>regarding the way forward/ potential next steps /key takeaways: (3 paragraphs)</p>	<p>civil society currently involved was rather a very small part of the real civil society.</p> <ul style="list-style-type: none"><li>- Another participant stated that as a critic of this session, and a general critic to all IGF sessions, was that they had too many speakers and poor time control. As well, regarding the Transparency debate in ICANN lead by the civil society, NGOs and INGOs are usually not very good at transparency.</li><li>- Gangesh Varma commented (REMOTELY) that civil society is diverse and fragmented, and it was still to be learned from the civil society experience in the IANA transition which cases brought the civil society together to work as a clear and defines stake holder.</li></ul>
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