

From: Alejandro Pisanty
Date: 16 November 2019 at 04:20
To: Wim Degezelle
Cc: bpf-cybersecurity@intgovforum.org



Dear Wim,

thanks for sending this so promptly. I apologize for missing the meeting - not only was it at the time I teach but today in particular our head of department was visiting our class. That said, I have listened to the recording, and studied the output document.
Comments:

1. the call was indeed very productive and I'm even sorrier to have missed it. It is highly recommendable to listen to it more than once.
2. the output paper from the BPF for this year is impressive work. Kudos to all coauthors, for an extremely useful, valuable, well-written, and reference-worthy paper.
3. I perceive a general theme that may be missing from the integral picture. Agreements and normative documents listed (as well as others in Internet and cyberspace governance) are mostly either in the multilateral or intergovernmental field or in the multistakeholder field in which governments are absent or relatively marginal. These are not only two fields but two distinct regimes; the first, which we laypeople like to call "Westphalian", is well-known and is hugely preferred by governmental actors. The more full MSH regime is adopted outside government while governments overtly fight it or dislike it, marginalize it, try to coopt or capture it, or in the best case reluctantly participate in it. From this follows:
 3. a. The actual practice of cybersecurity (in its many meanings, fields e.g. national, public, etc., and other nuances) occurs in an intersection of these regimes. The CISO of a large corporation, the people at a national or university CERT, the firms offering managed cybersecurity services, etc. are using stuff that comes from the Internet, more MSH-like side, like MANRS, agreed practices, blacklists, information-exchange agreements which may be informal, NGOs to help propagate knowledge, etc., as well as governmental and intergovernmental stuff, like MLATs, forensic investigations, the Budapest Convention, Interpol, and so on. They live and work at the intersection of both regimes in what becomes a unique, distinctive regime in itself.
 3. b. Countries and companies perform a form of arbitrage between regimes, and leverage their wins in one for pushing for wins in the other. Thus an authoritarian country with no actual respect for multistakeholderism may come to the IGF (or a regional event) and convince some people of their approach to content regulation, or even only *claim* approval, then cite it as precedent in national law and policy that uses cybersecurity as a pretext for content and behaviour restriction. Or some firms may use the MSH space to garner support from civil society for their approach to lobbying for governmental and intergovernmental conventions that will exempt the companies of responsibilities and liabilities regarding cybersecurity as well as content moderation. The US used to be a master in this game, which one can almost say they invented (remember the games between Commerce and State in WSIS) and has now backed off a bit, but others have understood it and we are in disadvantage.

This leads to point 4 of the teleconference's call for a session program, "norm implementation experiences", as well as to the previous points. Some norms will never be applied because they have been agreed upon by governments that do not have a chain of command to ISPs etc.; others, well thought out in MSH space like MANRS, can barely be supported in the intergovernmental regime except in a few cases in which a government may order or incentivize MANRS adoption.

I hope this can be seen as a contribution to the document, which I would gladly develop further in it, as well as to the session, in which I would volunteer to speak briefly with the text in the paragraphs above, if it were found relevant. This has been published already in Spanish, in the Mexican Review of Public Administration. My paper there is in a special issue on National Cybersecurity which I coordinated and which contains a dozen of great papers, one of which by our BPF co-member Anahiby Becerril, whom you cited in the teleconference and in the paper.

Cheers all and looking forward to see you in Berlin in a few days.

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