Report of
IGF 7
Baku

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Internet Governance Forum – overtaxed and underfunded

„We're all art of a transnational society, courtesy of the Internet"
Kristy Hughes, Index on Censorship, at the Baku IGF

The Internet Governance Forum gets better with higher quality workshops and it has earned the recognition from members of various parliaments (or even ministers) that consultations – even cross border ones - help policy making. The Internet Governance Forum is at risk, with lack of funding, the potential of being captured by big or entrenched (well-established) stakeholders and without a leadership that is pushing the amorphous body forward. Both opinions could be heard at the 7th IGF in Baku, Azerbaijan. The IGF has been initiated by the UN World Summit of the Information Society in 2005. The first IGF was held in 2006 in Athens and has since got both a lot of praise and was heavily criticised.

Freedom of Expression and Human Rights, not only in Azerbaijan

The free speech community was rather satisfied with the Baku meeting. Harsh words on the Azeri government's bad treatment of human rights activists and critical journalists, especially those investigating corruption and the widespread "business activities" of the family of the President Ilham Alijev, were made from day zero. During a pre-conference organized by Expression Online, an initiative by the Institute for Reporters' Freedom and Safety (IRFS), Human Rights Club (HRC) and Azerbaijan Media Center (AMC), the Representative of the Organisation for Security and Co-Operation in Europe (OSCE), Dunja Mijatovic said recent releases of journalists from prison were not enough. The Azeri government instead had to stop targeting and prosecuting critical voices (for a good report on the situation see Expression Online's report here, for an open letter of dissident author Emin Milli, see here).

Legislative changes, especially a stop of criminalization of defamation, were necessary. Mijatovic, according to a press release later in the week, had been granted access to detained journalists

Avaz Zeynalli, the chief editor of *Khural* newspaper,
independent journalist Faramaz Novruzoglu (Allahverdiyev),
executive director of *Khayal TV* Vugar Gonagov and
chief editor of *Tolishi Sado* newspaper, Hilal Mammadov.
(many more names can be found in a report by Human Rights Watch)

The Vice President of European Commission, Neelie Kroes, who put the focus of her press conference Thursday evening on the lack of „freedom after speech", was not granted access to imprisoned journalists. Despite an agreement on a visit with the President, „I stood before a locked door", Kroes complained in her press conference, where she was attacked for a highly critical joint statement of the EU delegation on restrictions on fundamental freedoms. Kroes pointed to the obligations the government in Azerbaijan had subjected to by joining the Council of Europe and the OSCE.

Kroes said she also would follow-up investigating reports about the temporary ban of Expression Online's material during the IGF, and the denial of a booth in the exhibition area (outside the UN controlled space) to the activists. A postcard criticizing censorship (with a travel-logo stamp of Indonesia on the back), too, was said to be banned by UN personel from distribution until the IGF secretariat intervened. The UN and Freedom House in a joint meeting had tried to sort out the issues – the UN according to its rules checks all materials distributed in the venue. Material targeting specific UN member states according to the rules can be stopped.

Should the IGF not have gone to Baku – and should it have thought twice about the 2013 venue, Indonesia (presumably here)? Officials and human rights advocates disagree as they believe IGF should reach out to locations with non-perfect human rights record.

Emin Huseynov, Director Institute for Reporters' Freedom and Safety, one of the organizers of the Expression Online event in Baku wrote to this reporter after the close of the IGF:

„We do not think that was a mistake to organize IGF12 in Baku. It goes without saying that when such a huge international event is organized in a country with an authoritarian regime such as Azerbaijan this opens up a great opportunity for local civil society to raise the issues within international community. The IGF 12 offered us such an opportunity, and thanks to this event, the international organizations, including European Commission, OSCE and Council of Europe had made tough statements on situation in Azerbaijan."

Network Problems during IGF week

Constant problems with the network at the Baku Expo venue during the IGF week were according to a RIPE expert not related to any censorship means. A lot of participants were unable to connect their laptops, tablets or smart phones to the WIFI for much of the conference or could connect with one and not their other device. This problem lasted during the whole week.

IGF discussions about security, privacy and copyright

Civil Society participants reminded about ongoing battles where legislators or regulators tried to „balance" fundamental rights with security or intellectual property requirements. The IGF thread on security, privacy and openness (one of five main themes), saw the most workshops.

Kirsty Hughes, Chief Executive of Index on Censorship in the main session on Security, Privacy and Openness warned against the UK draft Data Communications Bill under discussion. It was a „sledge hammer for cracking a nut", Hughes quoted a hosting company. The Bill will beef up the collection of customer, use and traffic data by Telecommunication companies and allow police and tax inspectors to search for people's "communications behaviours and patterns", according to BBC reports.

Marietje Schaake, member of the European Parliament (Liberal Party), during the same main session warned against an ongoing trend to privatize censorship and law enforcement or at least the collecting and keeping of data by non-state actors. Schaake who spoke in several sessions including one looking into the clash of jurisdictions on the net, also pointed to the fact that the global nature of the Internet made that legislation introduced in one country very well could affect people elsewhere. Therefore not only was the US closely watching the Privacy Directive review underway in the EU, but also she and her colleagues from the EU Parliament had written to Congress to raise concerns over the failed SOPA and PIPA regulations.

Schaake said: „Precisely the global nature of the internet has completely changed the dynamic of the impact that laws have when they are made in one country, but they can have an impact on the other side of the world and so it is not just about looking at the context of one country but also beyond borders and thinking about how those decision-makers can be held accountable."

The multi-stakeholder model is a good way to deal with internet governance issues yet there are those who are not at the table for any multi-stakeholder dialogue, because they risk their lives for what they are expressing. They also have to be included, Schaake said.

More warnings during the conference related to Brazil where despite vital multi-stakeholder debates the Internet was less free than a few years ago according to a Civil Society speaker, or India, which again while having started a national IGF process just recently, has started the largest ever collection of Iris scan data, in an effort to get identification for all its citizens. Privacy risks were detailed in an extensive study commissioned by the UNESCO and presented in Baku. Certainly ever tighter security (or surveillance) bills would make a nice reference for states that are put on the spot for their human rights violations.

The closing ceremony speaker for the Civil Society, activist Valentina Pelizzer, put it nicely: „Autocracy 2.0 hides behind formal online freedom to identify and monitor critical voices which are then silenced in the offline world." Autocracy 2.0 was not only the efficient and effective framework of Azerbaijan, but was „becoming more and more the preferred framework to all the imperfect democracies we live in, in our least, but also most developed countries. Autocracy 2.0 signs conventions, declarations and does not formally restrict the Internet, but uses other laws to shrink the space." One example, she said, was: copyright claims against bloggers.

The copyright issue came up much more prominently during 7th IGF with one stunner already during the opening session MEP Amelia Andersdotter (Swedish Pirate Party) told the IGF participants rather undiplomatically what she thought about the lack of progress in adapting copyright to the digital age: "F*** You, This Is My Culture!" „We hear that freedom of speech must be uphold and protected online", Andersdotter said. Yet there were very few political figures in the world that would drive the issue and also acknowledge the need „to let go of some regulatory barriers".

A German member of Parliament and member of the parliamentarian Commission of Inquiry of the on the Information Society, Jimmy Schulz, had organized a workshop on „rethinking copyright" in what he said was an acknowledgement that some things could not be controlled nationally any more. Discussions on copyright while not consensual had been productive, the International Federation of Library Associations (IFLA) reported.

WCIT – USG and Google push their view at IGF

Certainly, none of the topics above got the same amount of attention and advertisements time as the World Conference on International Communication (WCIT) and the International Telecommunication Regulations (ITR). The ITR, a global treaty on telecommunication, is set to be revised at the WCIT, taking place in Dubai from December 3rd to 14th under the auspices of the International Telecommunication Union. As there have been considerable differences on how far the treaty should include provisions on cybersecurity or cybercrime, on IP routing and IP traffic accounting mechanisms, the Baku IGF became a stage for warnings.

The large US government delegation in particular made WCIT a core focus of its IGF activities. Not only warned NTIA head Lawrence Strickling in his speech during the opening session that a treaty conference in which only member states had a vote was „most definitely not the right venue" for discussions about Internet policy. Even if the ITU would take the suggestions of civil society made during the Best Bits IGF pre-event seriously, and would improve the transparency of the Dubai deliberations, „at the end of the day, only the member states will have a vote", it would not be „multi-stakeholder". Richard Beaird, U.S. Coordinator, International Communications and Information Policy, U.S. Department of State, in a dedicated session about WCIT explained the details of the US position, namely a limited scope for the treaty (limited to classical telecommunication).

The US goal was to „maintain minimal changes" to the preamble and to the standards of the 1988 ITRs in general. The 1988 ITR consisted of 9 pages of text, „and we wish to come away from Dubai with 9 pages of treaty text." Other core essentials of the US position are to keep ITU recommendations

(developed by the ITU-T standardization process) voluntary, instead of making them mandatory, to keep the term „recognized operating agencies" (in order to push back against extending the scope of those who would be subject to the treaty text) and getting rid of most (if not all of the article 6 on accounting, as commercial arrangements had replaced settlements under the treaty anyway.

In a press conference on Thursday, the Head of the US WCIT delegation, Ambassador Terry Kramer, reiterated the USG concerns, for example the potential that some provisions sought for by some UN member states could lead to censorship. But he also acknowledged that it was not the final text of the ITR that was the main concern, given that countries could reject to sign if it would not agree. "It is more the norms, the values, and the future philosophy" that the US was very concerned about. As the climate – for business and investment in the IT industry – was important and therefore the USG thought the conference and the dialogue led around it was very important.

The US position was backed up by US industry representatives, with Google's representatives because of the size of their delegation (19 registered) being most visible and part of many if not most of the workshops. The Google sponsored Best Bits pre-event Saturday and Sunday passed a Civil Society resolution also to confine ITR provisions to the "traditional scope of the ITR" and avoid "regulation of the Internet Protocol and the layers above".

While the Civil society declaration included one sentence on net neutrality, universal services, affordable access and competition, pushed for by some not-US-based civil society groups, the concerted WCIT mantra of the IGF in Baku clearly was critical of anything else than tightly limited future ITRs.

Not much objections to minimalist ITR at IGF

The ITU Secretary General, Hamadoun Touré only made a brief appearance. Luigi Gambardella form the European Telecom and Network Operators agency (ETNO) just had lost the fight to have a sender party network pays principle and a quality of service principle included in the regional position of the CEPT (the greater Europe Regulatory Body). Meanwhile Berec (the EU regulatory body), too, has rejected the ETNO proposal rather bluntly.

Touré once more rejected any notion of a UN/ITU Internet take-over, yet instead said, such allegations were "ridiculous". Instead: "ITU continues to play its role in the reality of the Internet and, as we have done since the Internet's inception. Acknowledging concerns over potential censorship, Touré said, ITU and WCIT had to be „very careful on that". WCIT 12 would be a perfect place to discuss the balance between fundamental issues, like „protecting people's privacy and the right to communicate and protecting individuals, institutions and whole economies from criminal activities."

Discussions on the international Internet-related public policy matters would be reserved for the non-negotiating World Telecom Policy Forum (WTPF, to be held alongside the WSIS Forum, May 13-17). Touré was not present for the rest of the IGF week in Baku. In fact the ITU participation in Baku was very limited.

Other governments speaking about WCIT, Alice Munyua (Kenya) and Franklin Netto (Brazil) pretty much joined the bandwagon, with Netto pointing to existing regulation in Brazil prevented against a mix of telecom and Internet regulation in one treaty. Brazil also was favoring a „treaty of principles, not a treaty that will go to specifics." Kenya still was in consultations to finalize the national and African positions, Munyua said.

India's Minister of Communications and IT, Kapil Sibal, did not touch the issue of the ITR during his opening speech. Sibal on the other hand pushed for a new working group on enhanced cooperation at

the Committee of Science and Technology for Development (CSTD), on which discussions were underway in New York parallel to the IGF (see below). According to well informed sources, US support for such a working group could have been linked to a more ITR-minimalist position of India in the WCIT.

How far apart governments are with regard to the neuralgic points (cybersecurity, settlements, general scope) are at this point, is difficult to say. The designated WCIT Chair Mohamed Al-Ghanim, Director General of the Telecommunication Regulatory Authority of the United Arab Emirates that will host the WCIT, said, a lot of consensus had already been built, and he intended for the meeting in December to spend only one day on those issues already agreed during preparatory rounds to allow nine days for the still contentious issues.

Al-Ghanim invited everybody attending the WCIT workshop at the IGF to attend the WCIT and encouraged national delegations to cooperate with their stakeholders. Several delegations announced that they had open and sometimes large non-government representation on their national delegations. The US delegation according to Beaird has 100 members (with equally large groups from government, business, and civil society and academia, each).

Same old or progressed? Enhanced Cooperation

Several events were completely dedicated to „enhanced cooperation" at the Baku IGF with a complete day pre-event on Monday (by APC and ISOC) and one workshop held by the European Commission and attended by EU Commissioner Neelie Kroes. Enhanced cooperation is the second mechanism established by the WSIS (beside the IGF) and has been the subject of interpretation right from the start, due to its nature as a WSIS „compromise full of creative ambiguity" (Markus Kummer, ISOC Senior Vice President, and former IGF Executive Secretary).

During the Commission's enhanced cooperation session it was Syracuse University Professor Milton Mueller, founder of the Internet Governance project, who reminded everybody, that originally enhanced cooperation was just a „code word that stood for unilateral control of the root zone by the US government."Now people seemed to have „abandoned the codeword" and instead „when I just shake hands over a cup of coffee that is seen as enhanced cooperation." Mueller who was also co-organizer of workshop on Ipv4 markets said the real question was if the root zone oversight would some time be de-nationalized or multi-lateralised. The announcement of the new ICANN CEO and President Fadi Chehade about internationalization, he said, if only being focused on opening more offices outside of the US, fell short of real internationalization.

Kroes welcomed Chehade in office, said she felt much more „comfortable" with the new CEO, and said offices in new places certainly should not be underestimated. But with many additional countries and regions like Africa, India and the PRC joining the party, it could not be that ICANN was „linked with just one country or one part of the market only", Kroes said during her press conference. Changes to the ICANN construct so still are not at all off the agenda, and she said, there was a need to react quickly to deliver „what those parties who are growing, what they are rightly asking for."

Nigel Hickson, former UK government official and now an ICANN employee contrary to Mueller's reminder said the original meaning of enhanced cooperation had lost significance by now. The community should move on. ICANN as well as the technical community, including ISOC, have declared the IGF as one incarnation of enhanced cooperation. Google's Chief Internet Evangelist, perhaps the man with the most panel talks in Baku, described enhanced cooperation as cooperation between different parties and law enforcement in trying to counter abuse in the networks, as bi-lateral or multi-lateral harmonization of laws (for example on what notarisation and digital signatures meant in the digital environment) or a notion of safe harbour for companies.

But pushed by the Indian government – and supported by the US obviously in an effort to win India on a minimal WCIT agenda – a new working group on enhanced cooperation has been proposed at the Second Committee of the UN. While several people during the EU workshop in Baku said there was no need for new bodies (including Kroes, Kummer), chances for the WG to be established under the UN Committee of Science and Technology for Development (CSTD), were rather good, diplomats like Peter Major said. Major had chaired a CSTD working group on yet to be implemented IGF improvements.

Internet governance: headless and on a shoestring

The IGF model and the seventh edition in Baku received a lot of applause. It was unique, and without alternative, said Paul Wilson, CEO of APNIC. It was a model for positive, effective collaboration and key to maintaining a transparent Internet, Jeff Brueggeman, CEO of AT&T said. The IGF was impressive given its growing prominence and participation numbers, said UN Under Secretary General for Economic and Social Affairs, Wu Hongbo, during his short visit to the IGF. Wu also underline the IGF had evolved „despite extremely scarce resources".

According to the IGF website about its funding, for 2012 the body has collected around 315.000 US dollar in donor money. With Switzerland, Finland and the EU being the biggest donors during the first mandate, meanwhile Google has stepped up announcing a 50.000 dollar cheque. The large conference's costs are borne completely by the host countries. Still the lack of money is rather obvious, given for example the reluctance of the UN to fill the post of the executive secretary of the IGF. This was a money issue, Vyatcheslav Cherkasov, UN DESA official, confirmed to this reporter. A budget of 500.000 dollar, according to one European diplomat might allow a proper functioning of the secretariat. For 2013 only around 180.000 USD have been promised so far.

While no money issue, the reluctance to choose a new Chair for the IGF also weakens the IGF. UN Secretary General Ban Ki-Moon could not make up his mind so far to fill the position of his "Special Advisor on Internet Governance". While Cherkasov said, a reason might be too long a list, making choice difficult, there are observers warning that the issue potentially is not high on the agenda of the UN Secretary General.

The IGF during the times of Special Advisor Nitin Desai and Executive Secretary Markus much more had a face to present to the outside world (also the press). Not to talk about the abandoning of daily press briefings or conferences on the opening or closing day, there was also the failure to summarize and measure the IGF's progress in the plenary sessions. Kummer and, even more, Desai, both converts from the "old" UN system, certainly had acted as drivers and ambassadors for the IGF.

The IGF's headless status also could clear the field for capture for those groups who want to communicate their own messages (be it big companies or big states) – and this might keep those away who are not fine with these messages or see the dialogues as unbalanced. One civil society delegate also warned to re-use members of the Membership Advisory Committee (MAG) members as panel moderators or workshop moderators over and over again. One MAG member participated in nearly a dozen panels.

Another delegate even warned against shifting more and more responsibility to the MAG, risking a power grab by that very body. Certainly there are those who envisage a more independent (from the UN) body which could decide about its process. As the IGF had lived for two years without a designated Chair, one should consider the IGF as being an "orphan" and independent of its "parents", yet another delegate said.

Should the MAG for example start to collect the various exiting documents on rights and principles for Internet public policy (from the still not passed Brazilian Marco Civil over the Council of Europe's Internet Governance Principles, the APC's Internet Rights Charter or the IGF's Dynamic Coalition on Rights and Principles itself, to the various principle documents from different governments)? Yet this could make the MAG a constitutional body for the Internet, one delegate warned.

UK Minister Edward Vaizey, Strickling and Kroes all called for a quick decision on the executive secretary post. Civil Society representatives warned that the IGF had to advance and face competition from other new net conference bodies, including the London/Budapest top-down Internet conference or the G8. The IGF would lose ground, one European government representative warned, as it was not sending out concrete messages. Anriette Esterhuysen, Executive Director for the Association for Progressive Communication said: „We have to establish our credibility, influence and effectiveness or we could in fact end up finding decisions are made elsewhere."