Civil society in a global multistakeholder policy-making process : the case of the internet and netmundial

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**NANYANG
TECHNOLOGICAL
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SINGAPORE

**CIVIL SOCIETY IN A GLOBAL MULTISTAKEHOLDER
POLICY-MAKING PROCESS:
THE CASE OF THE INTERNET AND NETMUNDIAL**

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WEE KIM WEE SCHOOL OF COMMUNICATION AND INFORMATION

2019

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A thesis submitted to the Nanyang Technological University
in partial fulfillment of the requirement for the degree of
Doctor of Philosophy

2019

Statement of Originality

I certify that all work submitted for this thesis is my original work. I declare that no other person's work has been used without due acknowledgement. Except where it is clearly stated that I have used some of this material elsewhere, this work has not been presented by me for assessment in any other institution or University. I certify that the data collected for this project are authentic and the investigations were conducted in accordance with the ethics policies and integrity standards of Nanyang Technological University and that the research data are presented honestly and without prejudice.

Date: January 21, 2019

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Sherly Haristya

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I have reviewed the content of this thesis and to the best of my knowledge, it does not contain plagiarised materials. The presentation style is also consistent with what is expected of the degree awarded. To the best of my knowledge, the research and writing are those of the candidate except as acknowledged in the Author Attribution Statement. I confirm that the investigations were conducted in accordance with the ethics policies and integrity standards of Nanyang Technological University and that the research data are presented honestly and without prejudice.

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Professor Ang Peng Hwa

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This thesis **does not** contain any materials from papers published in peer-reviewed journals or from papers accepted at conferences in which I am listed as an author.

Date: January 21, 2019

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Sherly Haristya

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“... suffering produces perseverance; perseverance, character; and character, hope. And hope does not put us to shame, because God’s love has been poured out into our hearts through the Holy Spirit, who has been given to us.”

Romans 5:3-5

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LIST OF ABBREVIATIONS

APC	Association for Progressive Communications
APIG	Association for Progressive Internet Governance
APrIGF	Asia Pacific Regional Internet Governance Forum
ASNs	Autonomous System Numbers
CGA	Council of Governmental Advisors
CGI.br	The Brazilian Internet Steering Committee
CI	Community Informatics
CONGO	Conference of NGOs
CRIS	Communication Rights in the Information Society
CSB	Civil Society Bureau
CSCG	Civil Society Coordination Group
CSF	Civil Society Families
CSOs	Civil Society Organisations
CSP	Civil Society Plenary
DNS	Domain Name System
EMC	Executive Multistakeholder Committee
EU	European Union
HLMC	High Level Multistakeholder Committee
IAB	Internet Architecture Board
IANA	Internet Assigned Numbers Authority
ICANN	Internet Corporation for Assigned Names and Numbers
IETF	Internet Engineering Task Force
IGC	Internet Governance Caucus

IGF	Internet Governance Forum
IP	Intellectual Property
IP	Internet Protocol
IRP	Internet Rights and Principles
ISOC	Internet Society
ISPs	Internet Service Providers
IT4Change	Information Technology for Change
ITU	International Telecommunication Union
JNC	Just Net Coalition
LOC	Logistics and Organisational Committee
MAG	Multistakeholder Advisory Group
NCSG	Non-Commercial Stakeholder Group
NCUC	Non-Commercial Users Constituency
NETmundial	The Global Multistakeholder Meeting on the Future of Internet Governance
NGOs	Non-Governmental Organizations
NWICO	New World Information and Communication Order
OECD	Organisation for Economic Co-operation and Development
RIRs	Regional Internet Registries
TCWG	Thematic Caucuses and Working Groups
UN	United Nations
UNDESA	United Nations Department of Economic and Social Affairs
US	United States
W3C	World Wide Web Consortium
WGIG	Working Group on Internet Governance

WSIS	World Summit on the Information Society
WTO	World Trade Organization

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Abstract

The concern over critical Internet resources has led to a development of the multistakeholder model for Internet governance. A key stakeholder is civil society, which is recognised for bringing a diversity of views to contribute to the democratisation of global governance.

Although deliberative democracy theory prescribes diversity of civil society and thus inclusiveness as the normative conditions for civil society to be able to influence the global policy-making space, there is a tension between them. The diversity of civil society poses a challenge for the groups to operate cohesively in order to influence policy-making space. Civil society sometimes sacrificed inclusiveness in order to increase their influence in a policy-making space. This tension suggests a gap in the theory.

Primary data were collected around the NETmundial meeting—the first global multistakeholder consensus-building process in the Internet governance field held in Brazil in 2014—using observation, online documents from the website and several mailing lists of civil society networks, as well as face-to-face and online semi-structured interviews and analysed qualitatively.

This study found that the development of civil society's joint position needed to attend to the various views held by the participating civil society actors on their terms of engagement in the NETmundial in conjunction with the short- and long-term expected efficacy in the related process and in the larger global governance arrangements. This measure needs to be taken in order to enable the joint position of civil society to be legitimately influential when raised to the policy-making stage. These findings modified the deliberative democracy theory by expanding the concept

of output legitimacy to cover both short- and long-term expected efficacy of civil society in the related multistakeholder consensus-building process and in the larger global governance arrangements in order to tackle the tension between inclusiveness and efficacy.

CIVIL SOCIETY AND ITS DIVERSITY ISSUES IN THE GLOBAL INTERNET GOVERNANCE ARRANGEMENTS

On Using Internet Governance, particularly the NETmundial, as the Case Study of this Research

Contrary to a common myth that it cannot be regulated, the Internet requires coordinated management of critical Internet resources to ensure its operability. One domain name must be matched with one unique Internet Protocol (IP) address globally. Otherwise, data cannot be routed to the right destination. This mechanism of the Internet is operationalised under the “centralised coordination” of domain name system (DNS) by the Internet Corporation for Assigned Names and Numbers (ICANN) (DeNardis, 2014).

The necessity for some centralised control in the Internet has triggered contestations as to who should control the Internet. The contestations, reflecting political and economic interests, are directed at the dominant control of the United States over the Internet through the formation of ICANN (DeNardis, 2014) under the White Paper agreement in 1998 (ICANN, n.d.). As an example, after the invasion of Iraq, ICANN with the arguments provided by the US government, re-delegated the country code top-level Iraq domain of .iq to the US-installed Iraqi government, without any consent from the previous owners (McCarthy, 29 Dec 2005) who had been charged in the US federal court for selling computer parts to unauthorised radical Palestinian movement (Boyd, 2004).

To reconcile the conflicting interests, which arise inevitably as the Internet touches many parts of daily life, Internet governance aims to balance between “technical and economic efficiency” and public interests (DeNardis, 2014). In

order to do so, the efforts to govern the Internet, starting from the administration of critical Internet resources to Internet related public policy issues, therefore need to involve multistakeholders. This is as reflected in the definition of Internet governance developed by the United Nations-led Working Group on Internet Governance (WGIG) (Working Group on Internet Governance, 2005).

Research into Internet governance provides an opportunity to examine the roles of civil society in a policy-making process related to Internet. With a contestation on the scope of multistakeholder processes and the role of non-state stakeholder groups in preexisting multistakeholder Internet governance related fora, the NETmundial (The Global Multistakeholder Meeting on the Future of Internet Governance) was a one-off multistakeholder policy-making process that granted decision-making authority to civil society actors. Unlike other multistakeholder processes that were organised merely for consultation purpose, the NETmundial is so far the first and only global policy-making process that granted decision-making authority to civil society actors.

In order to appreciate the current recognition of civil society participation in the global Internet governance, one has to trace the origin of and debate on a multistakeholder approach in the field.

From State-led to Multistakeholder Approach: The Gradual Recognition of Civil Society in the Global Internet Governance

The salience of Internet governance evolved over time as it rose in significance in the agenda of WSIS I and II, the Internet Governance Forum (IGF), and the NETmundial. As the implications of Internet governance became better understood, contestation of the multistakeholder model and the role and

participation of civil society in the global Internet governance softened. Over the series of meetings, the multistakeholder approach and the involvement of civil society became better accepted.

During the preparation leading up to the conduct of WSIS, a high-level meeting to discuss information society-related policy issues, and at the Summit itself, there were controversies on the roles of the multistakeholders. The United Nations General Assembly Resolution 56/183 intended WSIS to be organised along the lines of a traditional UN meeting, but with a modern twist of inviting non-state actors to participate in the preparation processes and the two phases of the summit (Kummer, 2014). It has been argued that WSIS had to be open to the non-state actors because of the growing participation of non-state actors in the governance of information and communication technologies across the globe (Cammaerts, 2011). Although the Summit invited both state and non-state actors as participants, there were no clear guidelines on the roles of non-state actors in the policy-making process (Stauffacher & Kleinwächter, 2005). As a result, at WSIS I civil society actors sometimes had the opportunity to speak; at other times they were relegated to passive observers, or not even allowed to enter certain discussion sessions (Drake, 2005).

From a mandate to discuss the potential links between ICTs and socioeconomic development with regard to the advancement of the goals of the United Nations Millennium Declaration, the main discussions and the outcome of WSIS I were eventually on Internet governance issues. As the Internet was emerging as critical infrastructure for many life aspects, at that time, governments were concerned that the Internet, more precisely, the management of critical Internet resources through ICANN, was under the control of the United States

(Mueller, 2010). In essence, the participating actors in WSIS were faced with a tough question, namely who governs the Internet. The debate centred on three main issues: on the institution that should govern the Internet, the definition and coverage of Internet governance and lastly on the roles of stakeholders (Dany, 2008). The stalemate debate over the term “Internet governance” has made WSIS I into a near-failure. This impasse led governments to ask the UN Secretary-General to form a committee to study the matter (Ang, 2007). This was the Working Group on Internet Governance (WGIG), which was tasked to look into the matter and prepare a report for what became WSIS II (Working Group on Internet Governance, 2005).

The participation of non-state actors in WSIS gradually became less contested after the WGIG Report. The WGIG, which was comprised of 40 members from both state and non-state actors, produced the Final Report that drafted a working definition and scope of issues of Internet governance, assessed the workability of the current arrangement of Internet governance and introduced the term “multistakeholder” in the global Internet governance. In particular, the term multistakeholder was previously never heard in the context of the Internet as the term “private sector leadership” had dominated discussions around the arrangement of the Internet then (Kummer, 2005). Although there were heated debates and much behind-the-scenes negotiation (Ang, 2007), the WGIG Report was eventually accepted in essence in WSIS II as reflected in the Tunis Commitment and Tunis Agenda for the Information Society (ITU, 2006). The endorsement of the WGIG Report saw the term “multistakeholder” accepted into the outcome document of WSIS II, which supported the need for a “global multi-stakeholder forum to address Internet-related public policy issues” (Kummer,

2014). This forum is the IGF. The composition, working procedures, and report of WGIG set “new standards for open and inclusive multistakeholder cooperation” in the global Internet governance (Kummer, 2014)

The WSIS II meeting mandated the creation of the IGF as a forum for policy dialogue for all concerned stakeholder groups to participate as equals. The Tunis Agenda, particularly Paragraph 72, became the foundation of the establishment of the IGF. Formally, the IGF was established under the auspices of the UN Secretary-General and affirmed in resolution 60/ 252 of the United Nations General Assembly. The IGF has met annually since its first in Athens, Greece, in 2006. It is intended to serve as a multistakeholder non-binding policy discussion forum to discuss Internet-related issues and policies. Its mandate is as follows:

- a. Discuss public policy issues related to key elements of Internet governance in order to foster the sustainability, robustness, security, stability and development of the Internet;
- b. Facilitate discourse between bodies dealing with different cross-cutting international public policies regarding the Internet and discuss issues that do not fall within the scope of any existing body;
- c. Interface with appropriate inter-governmental organisations and other institutions on matters under their purview;
- d. Facilitate the exchange of information and best practices, and in this regard make full use of the expertise of the academic, scientific and technical communities;
- e. Advise all stakeholders in proposing ways and means to accelerate the availability and affordability of the Internet in the developing world;
- f. Strengthen and enhance the engagement of stakeholders in existing and/or

future Internet governance mechanisms, particularly those from developing countries;

- g. Identify emerging issues, bring them to the attention of the relevant bodies and the general public, and, where appropriate, make recommendations;
- h. Contribute to capacity building for Internet governance in developing countries, drawing fully on local sources of knowledge and expertise;
- i. Promote and assess, on an ongoing basis, the embodiment of WSIS principles in Internet governance processes;
- j. Discuss, *inter alia*, issues relating to critical Internet resources;
- k. Help to find solutions to the issues arising from the use and misuse of the Internet, of particular concern to everyday users;
- l. Publish its proceedings (ITU, 2005).

Although the mandate of the IGF allowed it to produce policy recommendations and to facilitate the transmission of those outcomes to wider policy processes, the IGF has avoided doing so and has only acted as a deliberation forum. Only paragraphs a, d, e, h, j, and k, which enabled IGF to act as a forum to exchange information and best practices, had been welcomed by all stakeholders. The remaining paragraphs on the “coordination, discussion, documentation and participation” roles of have not been realised (Malcolm, 2014). The realisation of the IGF as merely a discussion forum reflects the heated debate between the “forum hawks” and “forum doves” (Mueller, 2010). The former group comprises the Brazilian, Russian, Chinese governments, and some civil society organisations that intended the IGF to be a forum that formulates tangible outcome, such as “resolutions, official statements, or recommendations”. The latter group comprises developed countries, multinational companies and some Internet technical

organisations who want to maintain the status quo of the IGF as a policy discussion forum (Mueller, 2010).

As a global multistakeholder forum, the IGF raised the profile of civil society, officially recognised as one of the established stakeholder groups in the Forum. With that recognition, civil society is able to influence the IGF. For example, civil society shaped the IGF's Secretariat and Multistakeholder Advisory Group (MAG), which advises the Secretary-General of the United Nations on the agenda of the IGF discussions. Besides that, civil society was able to shape the discussion on "sensitive and difficult" issues of Internet governance in the IGF (Ang & Pang, 2012).

However, without tangible outcomes such as recommendations and no authority to directly impact any Internet policy-making process, the role and influence of civil society are still limited only to the structures, conduct, and conversations of the IGF (Epstein, 2011). There was little chance of civil society influencing Internet-related policy and its process in the IGF.

The NETmundial, which was triggered by the Snowden revelations, took the lead in conducting a global multistakeholder Internet policy-making process, reaffirming the role and equal standing of civil society group in the process. The NETmundial, organised by Brazil from April 23 – 24, 2014, was a landmark in the global Internet governance ecosystem. It was recognised for its pioneering global multistakeholder decision-making process in producing the NETmundial's Principles and Roadmap of the Future of Internet Governance. The document was based on 188 content contributions from 46 countries, 1,370 comments during a period of public consultation from 14 – 21 April 2014 and input and involvement of 1,480 participants from 97 nations on the NETmundial's plenary sessions. The

meeting was arranged to be open to the participation of all concerned actors through the arrangement of open microphone for each stakeholder group to participate and also remote participation for those who could not attend the meeting in person. The meeting committee was also a multistakeholder committee wherein the representatives of stakeholder groups were nominated by their own group ("NETmundial: the beginning of a process," 2014; "Welcome to NETmundial public comments page," 2014).

In sum, the NETmundial was a game-changer in the global Internet governance as it was the first and so far the only global multistakeholder policy-making process that granted decision-making authority to civil society.

The Diversity Issues of Civil Society in the Global Internet Governance Arrangements

The multistakeholder approach has, at least on paper, incorporated civil society actors into policy-making, as evident in NETmundial. The approach enables state and non-state actors from various stakeholder groups to meet in a policy-making space. Any member of the public, particularly from the civil society stakeholder group, has opportunities to operate in an equal manner along with the state actors in the same discussion and decision-making arena.

Civil society is a key element of the multistakeholder approach and has risen in importance in global Internet governance. The civil society stakeholder group, which consists of actors with many different types of entities with different views in various Internet issues (Mueller, Mathiason, & Klein, 2007), bring diversity of views from the wider public into the global multistakeholder process and also disseminate the outcome of the related global governance forum or

institutions back to the public. Together, these two roles of civil society make the global governance arrangement inclusive and more transparent (Nanz & Steffek, 2004, 2005). Civil society also makes the authoritative global institutions more responsive regarding their decisions and thus accountable (Scholte, 2004). In short, civil society contributes to the legitimacy and democratisation of global governance arrangements (Nanz & Steffek, 2005; Scholte, 2004).

Diversity, and thus inclusiveness, is a defining characteristic and strength of civil society, enriching discussions in the deliberation process, but this richness can also hamper their efficacy in influencing policy. Internally, civil society actors can be entangled in battles among themselves in their efforts at managing the diversity, thereby making it challenging for these actors to operate cohesively and to reach shared views that might be raised to any related policy-making space (Gemmill & Bamidele-Izu, 2002). Externally, when diversity inevitably leads to disparate voices clamouring for differing agenda and solutions, it may be confusing for policy makers to decide who they should best listen to. The heterogeneity of civil society therefore can weaken its influence in global deliberation and policy-making spaces (Dany, 2008).

Problem Statements

With the above background, this research therefore aims to examine the research questions below:

1. How did they manage the tension between securing their internal legitimacy by involving as wide civil society actors as possible in their coordination efforts while trying to leverage their opportunities to influence a global multistakeholder policy-making process?

2. What are the diversities that need to be managed by civil society actors when they participated to influence such a policy-making setting?

Organisation of Thesis

This thesis is organised in seven chapters. This chapter, Chapter One, introduces the two-sided coin of the diversity of civil society actors in their participation in the global governance. Diversity is the strength of civil society groups as it is the democratising potential of civil society group in the global governance arrangements, but diversity also creates challenges for them to operate cohesively in order to influence a global policy-making process.

Chapter Two looks at the problems of the diversity of civil society actors in the global governance through the theoretical lens of deliberative democracy theory and also the review of literature on civil society participation in global governance arrangements. By identifying the gaps in those literatures, Chapter Two then defines the propositions of this study. Chapter Three details the methods used in this study.

Chapter Four sets the context for the analyses in Chapters Five and Six by providing the historical background of the civil society participation in the global Internet governance as there is the shift in approaches from multilateral to multistakeholder in the global Internet governance arrangements from the WSIS to the establishment of the IGF. Building up from this historical background, Chapters Five and Six then analyse the coordination efforts done by civil society actors in developing their internal structure and decision-making mechanisms prior to and during the NETmundial processes as the implication of the increasing

opportunities for civil society to participate in global Internet governance arrangements.

Chapter Seven concludes this study by summarising how this study has answered the research questions, its theoretical and practical contributions, unexpected findings, and recommendations for future work.

LITERATURE REVIEW

Global Governance, Democratic Deficits, and Deliberative Democracy Theory

The Internet, by connecting people across the world, has facilitated globalisation. As a facilitator, it also means that a phenomenon related to the Internet that happens in one country may have connection or implication in other parts of the world. In tangible terms, the effort to govern the Internet by any one government may have transnational coverage and consequences and therefore it is no longer a matter to be managed by national governments without consideration of wider implications. This reflects the shifts from the traditional territory-based governance through the authority of sovereign governments (Scholte, 2002) to global coordination mechanisms through the intertwining of local arrangements, regional arrangements, multilateral coordination, and supra-state coordination. Nations-states are no longer the central actor that can control issues in the global governance (Dryzek, 1999). Instead, global governance arrangements have now “spilled over” into the realm of what used to be the domain of the private sector. This means the authority in global governance efforts are decentralised as those efforts occur in multiple tiers and spheres (Scholte, 2002). Governments are now expected to cooperate not just with other governments, but also with public and business entities from across the world in order to address urgent global issues (Reinicke & Deng, 2000).

Given the complexity of global governance, the concept of democracy in the global level also demands something different from the notion of nation-state democracy (Dryzek, 1999). The absence of central authority at the global level opens up opportunities for any interested actors to raise their own agenda at the

global governance arrangements, possibly without being held accountable or responsible for their decisions and actions (Ang & Haristya, 2016). And while democracy in general is all about “the arrangements for making binding collective decisions” (Nanz & Steffek, 2004, p. 316), global governance rests on limited consent from the governed. In other words, global governance often lacks representativeness, public participation and public accountability (Scholte, 2002).

With the above democratic deficits in the global level, then the question is whether order is attainable in global governance? Scholars have proposed some ideas to develop a democratic political order at the global level. Some suggest building a central institution at the global level to enable an accountability system (Held, 2006). Although compelling, the idea has yet to be realised (Dryzek, 1999). There was a proposal to develop a spontaneous cooperative decentralised system at the global level, known as “governance without government” (Rosenau, 1992). In the absence of established authority at the global level, it is envisioned that order still can be achieved and maintained in the global governance arrangements through systems of rule. As the wide-ranging participating actors aim to achieve certain goals by steering the dynamics of control in the processes wherein they try to change the beliefs or behavior of other actors; the recurring patterns of interaction among them eventually will form systems of rules, namely the agreements among the involved participants. These systems of rules have the capability to resolve collective action problems in an interdependent world (Rosenau, 1995).

In “governance without government”, the dynamics of communication are central to the processes of global governance (Rosenau, 1995). Unlike the state-based approach to regulation where the policy-makers are elected to set and

enforce law through sanctions and threat of force, rule-setting and implementation at the global level relies on non-hierarchical steering modes through deliberation (Risse, 2004). Global governance regimes primarily issue “soft law” that is based on voluntary agreement and compliance of the participating actors (Mena & Palazzo, 2012). Arguably, the processes of global governance resonate with the theory of deliberative democracy. Deliberation becomes an important means to democratise the process of global governance wherein the related actors try to persuade, instead of imposing their views on others in a network of actors who have diverse opinions (Dryzek, 2010). In this context then, global governance requires a strong element of deliberative democracy, which is to be contrasted with the aggregative model of democracy in which the majority opinion, most visibly expressed through votes, rules the day. In the latter, diversity is aggregated and papered over. In contrast, deliberative democracy addresses diversity through deliberation and extends the underlying conditions and processes of democracy to achieve a legitimate conclusion (Held, 2006). Deliberation opens opportunities for related actors to deliver their opinions, facilitating the diffusion of ideas from each stakeholder, thereby enhancing the legitimacy of not only the output, but also the process of global governance. Such deliberation enables the challenge and competition of ideas, so that voluntary shared decision-making and implementation agreements might be achieved (Risse, 2004).

Deliberative democracy emphasises the central role of deliberation in political process and the publicness of the act of deliberation (Parkinson, 2006) in order to modify private views into points that can withstand public scrutiny (Held, 2006). Deliberation may be defined in different forms but is primarily understood as a dialogue that aims to produce reasonable opinions and shared views that

would lead other actors to revise or even transform their opinion and preference voluntarily (Chambers, 2003). In the context of a larger setting where the deliberation process may comprise of various arenas, deliberation could involve more than just communication but also decision-making procedures as a means to bring about democratic deliberation (Dingwerth, 2007; Nanz & Steffek, 2005; Thompson, 2008).

With regard to the problem of democratic deficits at the global level as previously explained, this research focused on the potential of civil society as one of the plausible solutions to reduce those democratic deficits. As there is no central legitimate authority in global governance any effort to govern at the global level would be criticised; in particular, the legitimacy to assert its authority over the affected global public would be questioned (Bäckstrand, 2006; Bexell, Tallberg, & Uhlin, 2010; Dryzek, 2010; Scholte, 2002). Such challenges come from the demand of non-state actors, particularly civil society, for their voices to be included and for whoever run the global governance efforts to be accountable to them in global governance processes (Ang & Pang, 2012).

The Democratising Potential of Civil Society Actors as Public Spheres in the Global Governance Arrangements

Civil society, in general, can be defined through its function as a public sphere, as both a process as well as an arena where non-commercial actors engage with each other to discuss and generate public views in order to shape the economic and political authority (Edwards, 2014; Kaldor, 2003).

Civil society has been evolving with changes in the negotiated social contract among individuals and the dynamic of political authority (Kaldor, 2004).

While all the definitions of civil society from the 17th up to the 20th centuries were tied to the territorial state, these days, in an era of globalisation, the conception of civil society is not so bound (Kaldor, 2003, 2004).

These days global civil society actors function as a political sphere where a wide range of actors—individual activists, formally registered NGOs, networks (Kaldor, Anheier, & Glasius, 2005; Scholte, 2002)—willingly and intentionally adjoin themselves to develop public opinion in order to shape decisions at the global level (Castells, 2008; Scholte, 2002). This role of civil society resonates with Anheier's (2007) conception of global civil society as “the sphere of ideas, values, institutions, organizations, networks, and individuals located between the family, the state, and the market and operating beyond the confines of national societies, polities, and economies.” In this context, global civil society is part of the setting to foster democratic potential in society at large (Dryzek & Stevenson, 2011).

The participation of civil society actors in the global governance upholds the values of inclusiveness, transparency and accountability of global governance arrangements and democratises those arrangements (Bexell et al., 2010; Scholte, 2002, 2004). The participation of civil society expands the range and number of actors and views in the global governance arrangements and therefore increases the transparency and accountability of the related global governance arrangements (Bexell et al., 2010). Civil society could help form more inclusive global governance arrangements by bridging wider publics and global governance institutions and also by channeling marginalised voices to the latter. So organised civil society could act as a “transmission belt” in bridging the empowered space and wider societies in the public space (Nanz & Steffek, 2004). They could

monitor the actions of the governing authorities and also increase the opportunities for other civil society actors to participate in the global governance process. Civil society actors could then help uphold the accountability system within the empowered space (Scholte, 2004).

The potential of civil society as outlined above to democratise the global governance arrangements resonates with the theory of deliberative democracy. While deliberative democracy theory used to put more focus on the conditions in the policy-making space, there is a call for this theory to also address the conditions in public spheres (Young, 2001). These days there are more deliberative democracy scholars who address the interrelation between the conditions in the public spheres and the global governance arrangements, more specifically, on the conditions within public spheres that would democratise the policy-making process at the global level. The explanation on the thoughts of those deliberative democracy scholars is as below.

Bohman (2007, 2010) posits two conditions that enable democratisation at the global level: namely communicative freedom generated in global public spheres and communicative power. Communicative freedom means that any concerned actor has the equal opportunities and status to be acknowledged as a member of a public. By communicative power is meant access to influence an authoritative space and process.

With regard to the conditions in the public spheres, Bohman (2007) furthermore states that there are three necessary conditions for a space to be called public spheres: the diverse participants in the space can exercise their communicative freedom by delivering their views and responding to one another's views. In other words, they acknowledge constructively the rights of others as

participants in public sphere; communication must be conducted in the spirit of freedom and equality; the communication must reach a wide audience beyond just face-to-face communication.

He adds that public spheres, which have the potential to democratise global governance arrangements, need to be as distributed as the authorities they interact with. The global public spheres could take the form of decentralised public spheres. Decentralised here means that “a public of publics” rather than an overarching and converged public sphere where all entities participate. He categorises publics into weak and strong publics. Internet publics for him are weak publics, which try to influence global policy-making processes through public opinion; they are strong publics if they can exert influence through formal access to the related processes. Civil Society Organisations (CSOs) who have access to participate in global governance arrangements are considered as strong publics (Bohman, 2007).

Bohman envisions the development of a democratic global public sphere through responsive strong publics that bridge the interaction between wider public with the global governance arrangements. The weak and strong publics in dispersed public spheres deliberate and challenge one another’s views. Those discussions then lead to the formation of numerous public concerns by strong publics. These strong publics need to be responsive to the views of wider and weaker public in order to maintain the public sphere to be free from domination of political authority. Responsive publics will enable free and inclusive public spheres to serve as “a source of agency and social criticism” because they will be able to accommodate numerous perspectives from the public spheres and act as a

bridge between weaker publics in wider public spaces with global policy-making arrangements to raise critics to global institutions (2007).

Public spheres are important, but are not enough. There needs to be a link between public and authoritative spheres to enable the transformation of communicative freedom into communicative power. In other words, civil society needs access to participate in empowered space to enable them to transform their communicative freedom into communicative power (Bohman, 2007). Such communicative power or the political efficacy of public opinion (Fraser, 2007) at the global level ensures that the authority is answerable to the global public spheres and acts in accordance with the public views.

Bohman's view above reflects the idea of organised civil society as a transmission belt in the deliberation process, linking the public sphere as developed by civil society to global institutions. Civil society actors can raise the concerns of the wider public in the deliberation process to ensure those views are acknowledged in the policy-making process, and they can also make the policy-making process more transparent to the wider public. To arrive at these salubrious results, first, the global governance arrangements must be conducive for the participation of civil society actors (Scholte, 2011; Steffek, Kissling, & Nanz, 2007). The settings of the global governance arrangements need to be open for the participation and concerns of civil society actors. Second, civil society actors need to be ready to participate by coordinating themselves (Koenig-Archibugi, 2014). If organised civil society actors have the opportunity to participate under the above condition of global governance arrangements, they then could act as a "transmission belt" that bridges the wider public and global institutions (Nanz & Steffek, 2004).

From the above discussion, it is evident that while civil society could democratise global governance arrangements, to fulfill this potential, civil society needs to be inclusive and also influential in the related policy-making process. In other words, the deliberation process among civil society has to be legitimate first if it wants to contribute to the legitimacy of larger political system (Bohman, 2010). The link between those two wanted conditions of civil society, namely being inclusive and influential, is more clearly seen as stitched together in the concept of democratic legitimacy.

Democratic Legitimacy of Public Spheres to Democratise Global Governance Arrangements

To effect democratic deliberation, a deliberative event has to live up the concept of democratic legitimacy. In this regard, the basis of democratic legitimacy of a political decision-making process in the deliberative democracy approach is not from unanimity, but the deliberation process to form a decision (Manin, 1987). “Outcomes are democratically legitimate if and only if they could be the object of free and reasoned argument among equals” as stated in one of the most cited deliberative democracy articles (Cohen, 2003, p. 347).

Democratic legitimacy, which was used conventionally in the setting of policy-making space, is more commonly used these days in the context of deliberation practices among civil society actors. As civil society participation in global negotiation processes is often questioned by other stakeholder groups for not having representation and accountability functions and thus legitimacy (Scholte, 2002), the recognition of legitimacy of civil society is necessary for the

external purpose of having their views acknowledged and accepted by the governing authority in a policy-making space (Parkinson, 2006). To fulfill their potential to democratise a political system, civil society actors must first ensure their own legitimacy is well in place, namely by securing their internal decision-making process as legitimate (Caluwaerts & Reuchamps, 2014).

The elements of democratic legitimacy had been thought of as two, namely input and output legitimacy (Scharpf, 1998). Input legitimacy deals with the openness of the deliberation process and agenda towards the views of the related participants. The central principle in here is inclusiveness (Caluwaerts & Reuchamps, 2014). Further development in the field proposes a more detailed concept of democratic legitimacy by adding throughput legitimacy. Basically, while input legitimacy refers to the state of inclusiveness in terms of the inclusion of participants and their ideas, throughput legitimacy focuses on the inclusiveness of the decision-making procedures (Bekkers & Edwards, 2007; Caluwaerts & Reuchamps, 2014). It focuses on the quality of the decision-making procedures, on how the various views in the decision-making are treated. This is with an aim for those views to be heard and weight on an equal footing through argumentation, not coercion. In other words, this is to ensure the various views are not only present in the deliberation process, but also being engaged and attended meaningfully during the decision-making process. In essence, input and throughput legitimacy focused on the inclusiveness of deliberation and decision-making processes of a deliberative event.

Meanwhile, the other element of democratic legitimacy, namely output legitimacy, is primarily concerned with the capacity of the outcomes to address

aspects of acceptance and efficacy. A decision is considered legitimate when accepted by the deliberation participants and wider publics. For an outcome to receive assent from the participating civil society actors and wider publics who did not participate in the decision-making process, a deliberative event should have feedback and accountability mechanism in order to justify the decision. Such a mechanism should also allow changes made to the decision to be communicated. Besides that, an output is considered legitimate if it is linked to and has influence on a formal political decision-making (Bekkers & Edwards, 2007; Caluwaerts & Reuchamps, 2014).

Deliberative democracy scholars as explained above share the common vision that civil society group need to be democratically legitimate as in being inclusive with equal opportunities for participation and at the same time be influential in their communication efforts to the global authoritative space and actors. How do civil society actors operate with those two necessary conditions? What are the limits of deliberative practices within civil society that hinder inclusive and efficacious public spheres in their efforts to participate in the global governance debate? To illuminate the above questions, the next section turns to the findings of some empirical research in deliberative democracy theory and global governance on the dynamics within civil society in their participation in global governance processes.

Studies on The Relationship between the Inclusiveness and Efficacy of Civil Society Actors

Research on the relationship between the inclusiveness and efficacy of civil society actors in a policy-making process put more emphasis on the latter. Those studies suggest that the condition of inclusiveness might challenge the internal decision-making processes of civil society actors and accordingly hamper their cohesive functioning (Gemmill & Bamidele-Izu, 2002; Kissling & Steffek, 2008), which would then reduce their opportunities to influence global deliberation processes (Milan, 2014). When civil society cannot speak with one voice, the opportunities of the broader struggle to be heard by other actors is undermined (Rooy, 2004). Because of the requirement of inclusiveness, civil society actors often tried to curb their diversity in order to increase their opportunities to influence a policy-making process. Some studies suggest that the ability to speak with one voice among civil society organisations has made them successful in influencing negotiation processes (Betsill & Corell, 2008). Another study suggests that a more professional and centralised civil society network could more effectively control and shape the agenda setting in the empowered space (Wong, 2008).

Several research have, however, highlighted the consequence of putting too much weight on the influence of civil society groups as this weakens the internal democratic legitimacy of such groups. In the first place, research has shown that there is imbalance of power within the realm of civil society. Some civil society actors are more powerful and influential than others. There are civil society actors who are rich in power as they have the range of opportunities, resources, and capabilities that empower them to raise their views and to exercise influence in the

related negotiations (Corell & Betsill, 2008). Professional civil society actors and organisations from developed countries tend to be more well equipped with the crucial resources such as funding, staff, knowledge and information (Norman, 2017) and in a more favourable position as partners or alliance with the governments than those from developing countries (Kissling & Steffek, 2008). With such power imbalance among civil society, some research found that the condition to speak with one voice sometimes made the coordination efforts more exclusive among elitist civil society actors who have more power in terms of the opportunities, resources and capabilities to participate in global governance processes (Bernauer & Betzold, 2012; Bernauer, Bohmelt, & Koubi, 2013; Betsill & Corell, 2008; Dany, 2008; Kissling & Steffek, 2008; Norman, 2017) and can exert influence in the related negotiations (Corell & Betsill, 2008). Furthermore, they could act strategically by delivering their own views instead of the input derived from consultation with the wider public (Bernauer & Betzold, 2012; Lisowski, 2005; Norman, 2017).

The participation of limited key civil society actors who have insider knowledge of the related global governance processes and issues could even steer the views of civil society group. This was illustrated by one study in which a seemingly shared norm of civil society group on “core labor standards”, which was raised to the World Trade Organization (WTO) and then obtained shared understanding among other governmental and business stakeholder groups, actually concealed the debates behind the numerous other proposed norms from wider civil society actors. The views of other civil society actors who wanted to push for alternative solutions rather than those standards were not reflected in the final framing (Payne, 2001).

Some civil society actors tried to curb the diversity of concerns among them so that the civil society group would have one voice in order for those views to be enunciated and heard clearly in a negotiation setting. The external structure of negotiation settings where civil society participation had limited access induced the self-organisational process and affected the relations among civil society actors. The inclusion of a few selected civil society representatives in the decision-making processes of WSIS has led to the exclusion of many other civil society actors. These civil society leaders afterwards tend to adapt their views in order to maintain their position in the policy-making process (Dany, 2012).

At the international policy-making realm, there is the potential tension between the inclusiveness and efficacy of civil society actors. Civil society actors face a potential tension in managing their normative legitimacy and efficacy because of the NGOisation of civil society, which distorts their internal decision-making process. NGOisation refers to the professionalisation of advocacy networks where more funding is directed to “increasingly professional organisations” that have formalised and centralised structure with highly skilled staff. These professional actors can manipulate the agenda and marginalise other civil society groups. Such civil society professionals can reduce the inclusiveness of internal decision-making process through strategic action by manipulating the opportunity for access and influence in policy-making space. The strategic action of those professional NGOs can wield their influence through distortion of communicative power, thereby hampering wider civil society actors’ participation (Norman, 2017).

The above review of the literature on the relationship between inclusiveness and efficacy of civil society actors in international and global

governance processes suggests the normative arrangements of civil society participation in global governance processes as prescribed by deliberative democracy theory may be different in the real-world practice. Deliberative democracy theory envisions that civil society groups are inclusive and at the same time influential in a policy-making process; research, however, shows that the state of inclusiveness is often suppressed by the elitist civil society actors for the sake of speaking with one voice. The process to manage the diversity of policy concerns among civil society actors is “corrupted” instead of being based on coordination among the wider civil society actors so that they could arrive into what they claim as one voice. This is done in order to increase the opportunities to influence the related policy-making processes. Such contrasting conditions between the theory and real-world practice highlights a gap in the theory. How could then deliberative democracy theory keep up to address the tension between inclusiveness and efficacy in the communication efforts of civil society actors to a policy-making space? Is there other necessary condition to safeguard the coordination process among them so that the shared views of civil society group do not come from a corrupted coordination process for the sake of increasing their efficacy?

Besides the above gap, the sufficiency of deliberative democracy theory in explaining the necessary conditions among civil society actors in their attempts to influence such a policy-making setting is also challenged with the emergence of multistakeholder policy-making process at the global level. The next section provides some literature on the potential challenges faced by the participating stakeholder groups in a multistakeholder policy-making process and then followed with the implication of those challenges on deliberative democracy theory.

The Issues of Global Multistakeholder Consensus-building as a Negotiation Process

With the complexity of global governance and the absence of central authority in at the global level, global governance arrangements tend to be more open to the participation of non-state actors. These actors, particularly civil society actors, aim to raise their views and to influence the related deliberation processes. There are therefore increasing expectation for both state and non-state actors from across the world to collaborate in addressing pressing global issues. In this regard, multistakeholder deliberation process is an approach increasingly adopted in global governance arrangements.

There are several different terms in referring to multistakeholder deliberation process, namely: multistakeholder dialogues (Susskind, Fuller, Ferenz, & Fairman, 2003), consensus-building (Innes, 2004), multistakeholder platforms (Faysse, 2006), and collaborative policy dialogues (Innes & Booher, 2003). This research notices that there is a shared similarity in all of the above terms. While there are several goals of multistakeholder dialogues, namely relationship building, information sharing, agenda setting, brainstorming and problem-solving, and also consensus-building (Susskind et al., 2003), all of the above terms refer to a deliberation process among all related stakeholders where the process aims to build a consensus or joint outcome. The slight difference taken in this research from the definition proposed by Susskind is on the degree of authority of the process to develop a final policy. While Susskind defines multistakeholder consensus-building as a dialogue among all related stakeholder that aims to develop joint recommendations to be further channeled to other official decision-making process, this research defines it as the space to develop recommendations and at the same time the space to formally develop a non-

binding policy based on those recommendations. This definition was adopted because of the arrangement of the NETmundial as a policy-making space. For clarity and consistency, henceforward this research uses the term multistakeholder consensus-building process.

For a dialogue to be called a multistakeholder consensus-building process, several conditions must be met:

1. Inclusion,
 2. A meaningful and timely impactful task for all participants,
 3. Bottom-up organising process,
 4. Begins with “mutual understanding of interests”,
 5. Equal opportunities to participate and be heard and respected,
 6. The process allows participants to unpack the status quo and all assumptions,
 7. Accessible information for all participants, and
 8. “An understanding that ‘consensus’ is only reached when all interests have been explored and every effort has been made to satisfy these concerns.”
- (Innes, 2004).

While the above conditions may serve as an idealised model of a multistakeholder consensus-building process, several scholars suggested viewing it less as an ideal communication process, but more of a negotiation process (Faysse, 2006; Innes, 2004). This is because there are at least three main challenges multistakeholder dialogues potentially face, namely: power relationships, decision-making mechanisms, and stakeholder representation (Faysse, 2006). The participating stakeholders might not be aware of their force to be offered to the process and the interdependence among them. This is where the cooptation of

weaker actors by stronger ones in the decision-making process of consensus-building might occur (Innes, 2004). Accordingly, the stakeholder representatives who are present in the multistakeholder dialogues need to bridge the communications occur in the process with the peers in their own stakeholder groups (Faysse, 2006) and are required to continuously discuss with their groups the available options on the table and the possibilities for their group (Innes, 2004).

With the above challenges, then how should civil society actors coordinate their diversity while at the same time try to leverage their influence in a multistakeholder consensus-building process?

The Research Gap and Propositions

This research argues that making the communication efforts of civil society to a global multistakeholder consensus-building process legitimately influential, requires the development of shared critical distance of civil society. Such shared critical distance, which may be developed through inclusive consultation and decision-making, is essential to achieve immediate and long-term efficacy in the policy-making process. The key in here is the redefinition of the concept of efficacy and hence the decomposition of the criteria of output legitimacy in order to bridge the tension between inclusiveness and efficacy.

While deliberative democracy theory, particularly through the concept of democratic legitimacy, has envisioned the need for civil society to be both inclusive and efficacious in their attempts to democratise global governance arrangements, this theory just provides general procedure-based deliberations. Deliberative democracy suggests that when the various views in deliberative events are discussed through good procedures, namely through inclusive

coordination and decision-making process, those views will eventually lead to good outcomes. More specifically on the context of public spheres, this theory suggests the formation of public views in the public spheres need to be inclusive in the coordination and decision-making processes in order to increase public assent towards the joint views and weight of the views in a policy-making process.

The general prescription on what is considered as a good outcome in deliberative democracy theory, however, does not inform us on how to tackle the tension between inclusiveness and efficacy faced by civil society actors, particularly when they participate in a multistakeholder consensus-building process. While most definitions of civil society distinguish civil society as separate from the authority, however, there is no clear separation of civil society actors from formal public authority in the global governance through the conduct of a multistakeholder consensus-building process (Dryzek, 2012). Accordingly, civil society must juggle between being cooperative and critical (Dryzek (2012) in order to fulfill the needs of the two overlapping avenues they participate in, the consultation process with larger civil society actors and the consensus-building process itself. This is especially when there is an external pressure on civil society group to moderate its views. On the one hand, civil society might wish to play a critical role by disengaging from the external pressures and conditions in order to defend the public interests; on the other hand, there is a need for civil society to undertake a cooperative role to some extent in order to support the rule-setting capacity of the consensus-building process. If civil society insists on its critical stance, this decision might affect the rule-setting capacity of the consensus-building process. However, there is also worry that if civil society is too

cooperative in such setting then they might serve “as a force that bolsters rather than challenges the established global order” (Dryzek, 2012, p. 108).

The necessity to balance between being cooperative and critical implies the need for civil society to have a shared critical distance in their participation in a multistakeholder consensus-building process. Here, critical distance means “the gravity of actors in the public space to uplift public affairs and disintegration or disengagement with empowered space” (Dryzek, 2012). By shared critical distance means the decision on critical distance needs to be consulted to all of the participating civil society actors in the consensus-building process.

This research proposes to stretch the concept of critical distance to cover its long-run influence to enable civil society to be both inclusive and influential in joint policy ideas formation efforts. To pursue the commonly understood definition of civil society’s influence to be merely limited to the weight and incorporation of their views in the final policy document (Bekkers & Edwards, 2007; Betsill & Corell, 2008; Caluwaerts & Reuchamps, 2014) implies that civil society might sacrifice inclusiveness in its joint coordination efforts in order to increase its efficacy in the policy document.

In the same way that the success of consensus-building should be evaluated based on its long-term effects (Innes & Booher, 1999), the measurement of civil society’s influence in such process similarly needs to address its long-term expected efficacy in the larger global governance arrangements. The outcome of a consensus-building process is not merely about producing formal agreements, but there are also second- and third-order effects that emerge while the project is still running or even later after it is completed. The outcome of a multistakeholder

consensus-building process in the long run might include the establishment of personal and professional connections, which leads to:

1. new levels of trust and therefore allow authentic interaction and joint problem solving,
2. new partnerships among the participating actors who start working together outside the consensus-building process, and
3. learning process among the participants that create shared understanding and knowledge or even new ideas (Innes & Booher, 1999).

In order to bridge the tension of both the state of inclusiveness and efficacy in the participation of civil society in a global multistakeholder consensus-building process, this research therefore raises several propositions:

1. For a joint position of civil society to be legitimately influential in a global multistakeholder consensus-building process, it needs to attain shared critical distance developed through inclusive consultation and decision-making processes among the participating civil society actors.
2. The joint position development process needs to engage the various views on terms of engagement of civil society in relation to both of their short-term and long-term expected efficacy in the related multistakeholder consensus-building process and in the larger global governance arrangements.

RESEARCH METHODOLOGY

Overall Approach and Rationale

Deliberative democracy provides guiding principles for the deliberation process to develop a democratic society. It is not your “conventional” theory but a normative theory as, notwithstanding its advantage of producing more legitimate decisions (Mutz, 2008; Thompson, 2008), its claims are not falsifiable (Curd & Cover, 1998). As a solution, deliberative democracy scholars suggest that deliberative democracy theory should be viewed as a middle range theory. That is, it bridges theory and empirical analysis (Mutz, 2008). This research adopts this perspective, focusing on the conditions of input legitimacy (the inclusiveness of civil society’s coordination efforts) and output legitimacy (the acceptance of the decision made) of civil society stakeholder group in the NETmundial.

The research method was selected based on the consideration that a research method shall conform to the proposed research questions (Creswell & Clark, 2011). Because this research aims to examine the coordination efforts of civil society actors, who, as a diverse group, aimed to influence the NETmundial policy-making process, the qualitative approach, particularly the case study method, was used. A single case study with embedded units (Yin, 2017) was used in this research. The single case study was utilised because of the characteristic of the NETmundial as a watershed moment in the global Internet governance and policy-making process. The NETmundial was the first and only global policy-making process that extended formal decision-making authority to non-state actors, particularly civil society actors, who is the focus on this research. The analysis of the participation of civil society during the NETmundial was to investigate the main focus of this research, namely the input and output legitimacy

of civil society's joint advocacy efforts to be considered as legitimately influential in a global multistakeholder policy-making process. This main case was then elaborated in the embedded units of this research, namely the diversity of goals, roles, strategy, and policy ideas of civil society. These embedded units are explained in Chapter 6.

Data Sources and Collection Techniques

Observations

The decisions to conduct observations in several global and regional Internet-related fora and also in several civil society mailing lists and websites were primarily guided by the needs to understand the overall realm of civil society in the global Internet governance field and to develop good understanding of the policy debates and the challenges they faced in the field. Through following email threads and attending meetings, these two goals were met by understanding the overall participating stakeholder groups in the global Internet governance process, the language and Internet governance-related jargons they use, and the policy issues they engaged with. From this examination, the researcher was then better able to grasp the internal condition of the civil society stakeholder group, namely the networks they participated in, the organisations, and actors, the policy issues debated among them and also the challenges they faced to influence global Internet policy-making. With knowledge of the dynamics in the overall global Internet governance debates and within the civil society stakeholder group, the researcher then endeavoured to establish rapport with some of the key civil society actors in the Internet governance realm.

The first participatory observation was during the Asia Pacific Regional Internet Governance Forum (APrIGF) from September 4 – 6, 2013 in South Korea. Attending the forum enabled the researcher to meet the participating actors and learn the language in the Internet governance debates as well as the issues of multistakeholder policy-making approach at the regional level. Attending the APrIGF 2013 also enabled the researcher to build relationships with some of the key civil society actors who were also active in the global IGF.

The second participatory observation was at the global IGF from October 22 – 25, 2013 in Bali, Indonesia. The researcher used the opportunity in IGF 2013 to strengthen the rapport with the actors from the APrIGF 2013, to meet other participating key actors from numerous stakeholder groups in the global Internet governance discussions and to continue learning about the debates on Internet governance-related issues. Further, the role of the researcher as part of the local organising committee of IGF 2013 provided her with a front-row seat in understanding the challenges in conducting a global multistakeholder policy discussion forum. In addition, with a forethought based on the observation result from the APrIGF, particularly on the contention surrounding the multistakeholder approach at the global level, the researcher continued her curiosity on the concept of “horizontal communication” (Beltran, 1980), particularly at the global level. She piloted a research on the challenges faced by civil society actors to be an equal partner with governmental and private sectors in the conduct of multistakeholder dialogue at the global level. Interviews with six key civil society actors have allowed the researcher to grasp not only the challenges, but also the wish of those actors to have democratic deliberation processes at the global level. This finding,

which came as a result from participating in APriGF and global IGF 2013, became the nucleus of this thesis.

The next participatory observation was during the civil society meeting, which took place prior to the IGF 2015 (on November 8, 2015), and also during the IGF 2015 on November 10 – 13, 2015 in João Pessoa, Brazil. Participating in these events enabled the researcher to build rapport with the interviewees and to observe and record the dynamics within the civil society group. These observations helped to develop and sharpen the interview protocol. At the civil society meeting, the researcher was able to present a paper on the workability of multistakeholder approach in the global Internet governance process, co-authored with Professor Ang Peng Hwa. This paper was also presented at one of the sessions in IGF 2015 and became a book chapter as part of the reflections on the 10th anniversary of the WGIG. The presentation at IGF 2015 led to a number of informal conversations that deepened the focus of this research project.

The researcher participated in the following sessions in IGF 2015:

1. Open Forum of the Association for Progressive Communications (APC)¹
2. WS 68 Can civil society impact Global Internet Governance?²
3. The NETmundial Multistakeholder Declaration and the Evolution of the Internet Governance Ecosystem³

Participation in the above three sessions was especially helpful in providing the researcher with the understanding of the types of civil society networks and the degrees of participation of civil society actors in different multistakeholder approaches adopted that were adopted by multiple intergovernmental institutions.

¹ <https://igf2015.sched.com/event/4c1h/open-forum-association-for-progressive-communications-apc>

² <https://igf2015.sched.com/event/4bWU/ws-68-can-civil-society-impact-global-internet-governance>

³ <http://nuovo.netmundial.org/transcript/644>

The researcher made an online observation during the NETmundial's plenary sessions⁴ as travel support was not available. For the most part, remote observation was not an obstacle for the researcher, as she was still able to follow the discussions and know the participating actors, and notice the room arrangements in the plenary sessions. However, the researcher was not able to attend the drafting sessions conducted after the end of the plenary sessions because they were not set up to accommodate online participation. This showed the limitations of online access in a policy-making process. To cope with this limitation, the researcher tried to gather data on the situation during the drafting sessions through interviews and also discussions in the several mailing lists.

Observations were conducted in the publicly available mailing lists and websites of key civil society networks, namely Best Bits⁵, Civil Society Coordination Group (CSCG)⁶, Internet Governance Caucus (IGC)⁷, Just Net Coalition (JNC)⁸, and the Non Commercial Stakeholder Group (NCSG)⁹. Initially, the researcher observed the flow of conversation within and among the networks. Having known the participating civil society actors as gained from previous observation experiences and the online observation conducted in several mailing lists and websites of key civil society networks; the researcher was then able to understand the different characteristics of each network, to identify not only the key civil society actors, but also the network that acts as a hub among the other civil society networks and actors.

⁴ https://www.youtube.com/channel/UCubDqUV2N_lzzxT7JFVtilg

⁵ <http://lists.bestbits.net/arc/bestbits>

⁶ <http://internetgov-cs.org>

⁷ governance@lists.riseup.net

⁸ <https://justnetcoalition.org>; forum@justnetcoalition.org

⁹ <https://gnso.icann.org/en/about/stakeholders-constituencies/ncsg>

The central conduit among civil society networks and coalitions is Best Bits, which grew in significance because of the openness and fluidity of its mechanism and structure. Best Bits is an open civil society network in which anyone who is interested to join its discussion can directly join without having to demonstrate any particular criteria or work. Best Bits also discusses wide-ranging Internet governance-related issues. Its flexible internal decision-making mechanism allows any civil society actors to initiate the development of joint policy ideas and then gain support from other civil society actors who agree with the proposed idea through sign-on endorsement mechanism. Best Bits does not require all participants to agree on the proposed policy ideas before releasing joint statements to the related fora as it does not aim to arrive at a single solution among its participants (Best Bits, n.d.). The central role of Best Bits can be seen through the participation of civil society actors from other networks and coalitions in the Best Bits's mailing list discussions. This was particularly obvious during the NETmundial. At the time, the presence of Best Bits enabled civil society actors to collaborate more widely and effectively in the efforts to develop joint policy ideas. This research therefore scrutinised the activities of civil society actors in the Best Bits' mailing list during the NETmundial processes.

Interviews

Semi-structured interviews with several key actors from the NETmundial committee and civil society group were conducted in this study during the IGF 2015 and video call interviews afterwards. The interviewees of this research were:

1. Adam Peake of ICANN (civil society representative on the NETmundial Executive Multistakeholder Committee),

2. Andrew Puddephatt (former Steering Committee member of Best Bits and the then Executive Director of Global Partners Digital)
3. Anriette Esterhuysen (the then Executive Director of the Association of Progressive Communications (APC) and co-chair of the NETmundial drafting group)
4. Jeremy Malcolm (the co-founder of Best Bits, former coordinator of IGC, and the then Senior Global Policy Analyst of Electronic Frontier Foundation)
5. Matthew Shears (participant of Best Bits and the then Director for Global Internet Policy and Human Rights activities of the Centre for Democracy and Technology),
6. Nnenna Nwakanma (former Steering Committee member of Best Bits and Africa Regional Coordinator of the World Wide Web Foundation)
7. Richard Hill (Steering Committee of JNC and the founder of Association for Progressive Internet Governance (APIG))
8. Robin Gross (the Executive Committee of the NCSG)
9. Stephanie Perrin (civil society representative on the NETmundial High-Level Multistakeholder Committee)
10. Virgilio Almeida (Chairman of the NETmundial)

The researcher used IRB approved informed consent form to get consent from the interviewees (Appendix B). The interviews were then transcribed before being analysed qualitatively.

The interview questions were developed to attain information about mainly four things as below:

1. The background of the interviewees, particularly on their participation in the global Internet governance discussions.
2. The overall conditions of civil society in the global Internet governance.
3. The multistakeholder arrangement of the NETmundial starting from the preparation process up to the decision-making process.
4. The participation and coordination efforts of civil society actors in the NETmundial.

Appendix A provides further details of the protocol questions of this research.

Online Documents

The insights gained from the observation and interview sessions conducted by the researcher as explained above equipped her to further scrutinise the discussions in the related online documents. These insights were particularly helpful as this research relied heavily on the online documents and transcripts in several websites and mailing lists. Moreover, the discussions in these online documents provided the researcher with the opportunity to reveal the views of not just the most vocal and key actors, but also those who are less vocal or unable to come in person to the Internet governance related meetings and thus had to raise their views in the online discussions.

From the NETmundial website, this study analysed several documents and transcripts from the meeting as summarised in Table 3.1. below. The meeting minutes and transcripts were noted down and transcribed by the NETmundial organisers and subsequently were made available in the NETmundial website for download.

TABLE 3.1

The Documents and Transcripts from the NETmundial Website

NETmundial's processes		Links to the documents and transcripts
1 The meetings of the NETmundial committees	1.1 Meetings of Executive Multistakeholder Committee (EMC)	http://netmundial.br/wp-content/uploads/2014/01/EMC-meeting-report_1003_final.pdf
		http://netmundial.br/wp-content/uploads/2014/01/EMC-meeting-report_2002_final.pdf
		http://netmundial.br/wp-content/uploads/2014/01/EMC-meeting-report_0702.pdf
		http://netmundial.br/wp-content/uploads/2014/01/EMC-Jan-27_Executive-report.pdf
	1.2 Meeting of High-Level Multistakeholder Committee (HLMC)	http://netmundial.br/wp-content/uploads/2014/01/HLMC-meeting-report_2402_final.pdf
2 The consultation stage	2.1 First consultation	http://content.netmundial.br/docs/contribs
		http://content.netmundial.br/contributions-pdf.zip
		http://netmundial.br/wp-content/uploads/2014/05/Content-Contribution-Summary_1703_final.pdf
	2.2 Second consultation	http://document.netmundial.br
		http://netmundial.br/wp-content/uploads/2014/05/NETmundial-Comments.xlsx http://netmundial.br/wp-content/uploads/2014/04/NETmundialPublicConsultation-FinalReport20140421.pdf
3 The plenary session	3.1 Day 1 - April 23, 2014	http://netmundial.br/wp-content/uploads/2014/04/NETMundial-23April2014-Opening-Ceremony-en.pdf
		http://netmundial.br/wp-content/uploads/2014/04/NETMundial-23April2014-Dilma-Rousseff-Opening-Speech-en.pdf

		http://netmundial.br/wp-content/uploads/2014/04/NETMundial-23April2014-Welcome-Remarks-en.pdf
		http://netmundial.br/wp-content/uploads/2014/04/NETMundial-23April2014-Setting-NETmundial-Goals-en.pdf
		http://netmundial.br/wp-content/uploads/2014/04/NETMundial-23April2014-Principles-Part-1-en.pdf
		http://netmundial.br/wp-content/uploads/2014/04/NETMundial-23April2014-Roadmap-Part-1-en.pdf
	Day 2 – April 3.2 24, 2014	http://netmundial.br/wp-content/uploads/2014/04/NETMundial-23April2014-Principles-Part-2-en.pdf
		http://netmundial.br/wp-content/uploads/2014/04/NETMundial-23April2014-Roadmap-Part-2-en.pdf
		http://netmundial.br/wp-content/uploads/2014/04/NETMundial-23April2014-Beyond-NETmundial-Panel-1-en.pdf
		http://netmundial.br/wp-content/uploads/2014/04/NETMundial-23April2014-Beyond-NETmundial-Panel-2-en.pdf
		http://netmundial.br/wp-content/uploads/2014/04/NETMundial-23April2014-Closing-Session-en.pdf
		http://netmundial.br/wp-content/uploads/2014/04/NETmundial-Multistakeholder-Document.pdf

The researcher also analysed the online data obtained from the discussions in the mailing list of civil society networks and the mailing list of multistakeholder group. There were 1,999 emails from the Best Bits mailing list (November 2013 – May 2014) and 4,867 emails from 1net mailing list¹⁰ (October 2013 – April 2014). This period was selected because the discussions within this time were mostly directed to discuss the preparation for the NETmundial meeting. The decision to analyse these data was made on the understanding of the different characteristics of each civil society network and coalition being studied. Also, the 1net mailing list was analysed because it was used as an exchange platform among different stakeholder groups. 1net is an online discussion platform for actors from across stakeholder groups; set by ICANN and the NETmundial local committee in preparation of the NETmundial.

Data Analysis

Strategy

This research used pattern matching as its analytic strategy. This technique allows the researcher to compare the predicted pattern or in other words the propositions from the literature with the pattern from the empirical analysis.

The researcher found a pattern matching when the empirical patterns, the one based on the findings from the raw data, appeared to be similar with the predicted patterns from the theory of deliberative democracy. In practice, this means the researcher examined the empirical data in each of the embedded units to see whether the three conditions of inclusiveness, acceptance, and efficacy as

¹⁰ <http://1net-mail.1net.org/pipermail/discuss/>

posed in the propositions above appeared there. As the propositions are confirmed in the empirical data, the researcher then developed the conclusion.

Means

A qualitative content analysis method was used for all data sources, namely the observational data, interview data, as well as meeting minutes, transcripts, and mailing-list messages. Open, axial, and selective coding were applied in the analysis process. In the open coding, categories were assigned to the data in light of the theoretical lens of this research. Then, the newly-formed categories were reviewed to find any linkages between one category to another. Finally, the linkages among those categories were constructed to be presented in this study (Neuman, 2007). The researcher studied the results of the analyses inductively and iteratively until there were emerging empirical patterns that demonstrated the predicted patterns on the efforts and challenges faced by civil society actors in managing the diversity among them in the NETmundial.

Data from the interviews were analysed alongside data from the mailing lists. The interview data with several key civil society actors suggested that there was tension among civil society actors during the NETmundial. The mailing lists were then studied for detailed data on the tension. This back-and-forth analysis between the interview results and the mailing list enabled the researcher to check the reliability of the responses from the interviews.

The Quality of Research Design

Four criteria determine the quality of any research: namely internal validity, external validity, construct validity and reliability (Yin, 2017).

Internal validity accounts for the credibility and authenticity of the qualitative research. The internal validity of this research was strengthened through the use of pattern matching as the analytical technique. As the final result of this study showed a similar pattern between the predicted propositions and the pattern of empirical results therefore such results helped strengthen the internal validity of this research (Yin, 2017).

External validity refers to the generalisability of the research beyond this study (Silverman, 1993), but here it does not carry the same as the logic of generalisability in statistics-based research; instead, it refers more to the terms of the analytical generalisation (Yin, 2017). The findings of this research can shed light on other Internet governance debates to the extent that the related fora are conducted in a multistakeholder approach wherein civil society actors are involved in the decision-making process of the meetings.

For construct validity, this research used validated concepts from previous studies and also used multiple sources of evidence in developing the operational measures and analysing the data to prevent the use of subjective judgment of the researcher in the data analysis (Yin, 2017).

Finally, reliability was strengthened through documenting the procedures of this research explicitly through the development of case study protocol (Yin, 2017).

Reflection from the Data Collection and Analyses Processes

The main reflection from the data collection and analyses processes experienced by the researcher was on the potential bias of the researcher caused by her experience and thought on a multistakeholder approach. As a background, the researcher is someone who has experienced the value of a multistakeholder approach during her role as the national committee member of the global IGF in Indonesia in 2013. The researcher appreciates the multistakeholder approach, as it provides an opportunity for non-state actors to participate in Internet governance-related discussions and policy-making processes. The researcher is, therefore, to some extent an advocate of the sustainability of multistakeholder approach in the Internet governance realm. This tendency as can be seen in the topic of her book chapter and presentation during the civil society meeting in IGF 2015.

The abovementioned view of the researcher along with the selection of the key civil society actors as the interviewees of this research led to an initial bias in analysis by the researcher. The key civil society actors were mostly deliberative civil society types instead of the more radical. The researcher initially tended to agree with the views of those civil society deliberators on the need to have some compromise during the NETmundial's decision-making process and sidelined the views of those who wished for a radical NETmundial final document. As the data collection process and the literature review of this research evolved, however, the researcher was able to reach out and uncover the unpopular and hidden views of the more radical civil society actors, who disagreed with the compromise made at NETmundial. The researcher was thus able to incorporate the views of the more radical civil society actors in the analyses.

FROM MULTILATERAL TO MULTISTAKEHOLDER APPROACHES: THE RESPONSES OF CIVIL SOCIETY TO ITS INCREASING ROLE IN THE GLOBAL INTERNET GOVERNANCE

This chapter sets the context for the explanation and analyses in the next two chapters. It explains the shift in approaches from multilateral to multistakeholder in Internet governance at the global level, starting from the WSIS to the establishment of the IGF and how the participation of civil society arose from there. The guiding questions to explain such dynamics are how and to what extent the arrangement and processes of those fora accommodate the participation of civil society actors, and furthermore, how civil society actors responded to the increasing recognition and at the same time the limit of their participation in the global Internet governance.

The Absence of Civil Society's Decision-making Mechanisms and Structure amidst Its Struggles to Become an Equal Partner in the WSIS I and II

This section explains the implication of the contested right of civil society to participate in WSIS in the dynamics within civil society as a stakeholder group, and shows the need for civil society groups to have internal mechanisms and decision-making procedures to manage the participation of such a diverse grouping. Such a contested right brought forth natural leaders among civil society. Those leaders shaped the norms of participation and the views of civil society group, but without sufficient mechanisms to accommodate the participation of

larger civil society actors in WSIS. Whoever (civil society actors during the WSIS process) got to sit in certain positions stayed there as long as possible. However, eventually such practice received criticisms from larger civil society participants in the WSIS. Before arriving at that explanation, the next paragraph first of all sets out the participating civil society actors in the WSIS.

The overall structure of civil society actors during WSIS is as follows:
(Cogburn, 2017):

1. Civil society plenary (CSP): CSP was the main civil society body for discussion and decision-making on process related issues for all participating civil society actors during WSIS. CSP is a bottom-up initiative developed by Campaign for Communication Rights in the Information Society (CRIS).
2. Civil society bureau (CSB): CSB was a top-down initiative developed by WSIS to link Civil society content & themes (CSCT) and the Intergovernmental Bureau for procedural issues.
3. Civil society content & themes (CSCT): CSCT coordinated the work of the numerous civil society thematic caucuses and working groups on content-related issues and therefore produced official civil society statements in the WSIS process (Mueller et al., 2007)
4. Civil society families (CSF): CSF represented the themes and interest of CSB.
5. Thematic caucuses and working groups (TCWG): TCWG consists of numerous thematic interests within civil society group. There were 14 civil society caucuses and working groups during WSIS, one of them is the Civil

Society Internet Governance Caucus (IGC), which eventually played a central role in the WSIS and IGF.

Although WSIS was intended to be open to the participation of non-state actors, there were still some tensions between the multilateral and multistakeholder approaches in the WSIS preparation processes and also the summit. The participation of civil society actors as an equal stakeholder group was mostly in the administrative matters of the WSIS, but more limited in the substantive matters.

In overall, CRIS played significant roles in shaping the participation of civil society in WSIS and also in coordinating the policy views of civil society group as an input to the WSIS processes (Mueller et al., 2007). The early participation of CRIS campaign in WSIS processes was started in 2001. Some core civil society groups launched CRIS in 2001 in response to the message from the Special advisor to the Secretary-General of the ITU, Mohammed Harbi about the commitment of the ITU to make WSIS open to the participation of non-state actors. CRIS campaign, which had links with the MacBride Commission and The New World Information and Communication Order (NWICO), aimed to influence such a high-level discussions on communication and information policy issues with a mission “to ensure that communication rights are central to the information society and to the upcoming WSIS” (Raboy, 2004). With the leadership of CRIS, civil society actors were given the opportunity to shape the norms of civil society participation in WSIS through the Civil Society Plenary (Cogburn, 2017). Besides that, CRIS was also engaged by the Civil Society Division of the WSIS Secretariat to be an intermediary between WSIS and larger civil society actors in developing

proposals for civil society participation and the scope of WSIS agenda in the WSIS preparation processes.

However, the right of civil society actors to participate and speak in WSIS' policy-making process was debated by state actors (Raboy, 2004). For example, during the meeting processes, the mode of participation was not the same for state and non-state actors. State actors were given the first turn to speak, before non-state actors; non-state actors could not ask for the floor unless they were given the opportunity to speak (Kummer, 2014). Furthermore, there were no clear rules of the participation of civil society actors. A few governmental actors asked civil society actors to leave the meeting room in some final decision-making processes (Kummer, 2014). So, although civil society actors were granted access to participate in WSIS, their participation did not directly result in their influence in the WSIS documents (Dany, 2008).

The tensions between the multilateral and multistakeholder approaches in the WSIS preparation processes and also the summit have made the desire of civil society to participate in WSIS emerged as a contested right. Such arrangements of WSIS resulted in the dominance of a few key civil society actors privileging them to participate in the decision-making processes of WSIS. Accordingly, it created the dominance of a few large Global North NGOs who had experience in UN processes and marginalised larger civil society actors (Dany, 2008). An absence of formal decision-making procedures and organisational structure of civil society group exacerbated the domination within the civil society group. In the absence of such procedures, the key civil society actors who had been privileged to participate, began to set up the structures of the civil society group, enabling them

to prioritise their issues and raise those issues as the input of civil society into the WSIS process (Dany, 2008).

The predominance of some civil society actors, particularly CRIS, eventually faced criticisms from larger civil society actors for the absence of mechanisms for legitimate representation and decision-making mechanisms of the civil society group (Mueller et al., 2007). Non-CRIS civil society actors who participated in the WSIS questioned the authority and the mechanism of CRIS in arranging the nomination of civil society representatives to WSIS. CRIS had not considered developing internal mechanisms to appoint civil society representatives to WSIS II nor decision making to develop joint statements, if any. Inevitably, other civil society actors urged to be included in all of civil society processes and mechanisms in the WSIS (Mueller et al., 2007).

The criticisms from these non-CRIS civil society actors along with the creation of IGF as mandated by WSIS to be a multistakeholder dialogue forum to discuss Internet governance related issues, accordingly increased the participation of larger civil society actors into the global Internet governance realm.

The Emerging Need of Civil Society's Decision-making Mechanisms and Structure along with Its Increasing Profile in the IGF

With the increasing profile of civil society stakeholder group and the increasing participation of civil society actors in the IGF, the need for the civil society group to develop internal decision-making mechanisms and structure became more apparent. However, because IGF is merely a deliberation forum, the influence of civil society actors is limited to shaping the structures and conduct of the IGF, but never in a real policy.

As the central debates in WSIS shifted into Internet governance issues instead of the rights to communicate, accordingly this shift brought the Internet Governance Caucus (IGC) and some civil society actors involved in ICANN issues to the forefront. Founded by Y.J. Park and Wolfgang Kleinwachter in March 2003 in the preparatory processes for the WSIS, IGC was one of the civil society thematic caucuses in WSIS. It is organised through mailing list where its members discuss a wide coverage of Internet related policy and process issues. Members of IGC are individual civil society actors who are part of some civil society organisations, but they participate in IGC in their personal capacity. They come from all parts of the world: Africa, Latin America, Asia, Australia, Europe, and North America. Some of its early members in the WSIS were APC, IGP, IT4Change and the CRIS Campaign (Cogburn, 2017). Meanwhile, the only CRIS affiliate who was able to follow the changing direction of discussion was APC. APC is a civil society organisation and at the same time a network that has members all around the world (APC, n.d.). APC championed the debates on Internet governance in WSIS because it has the capacity to link multiple issues in communication and Internet governance (Mueller et al., 2007).

With the decision of WSIS to continue the unresolved issues of Internet governance through the formation of the IGF, some civil society actors through the IGC decided to keep their participation sustainable in the global Internet governance discussions. The IGC decided to continue its central role in organising civil society involvement in IGF (Cogburn, 2017). The IGC members became a part of “IGF nucleus”, which was active in popularising the term and application of multistakeholder in the structures of IGF. They did it by participating in the consultation process, serving on the MAG and engaging in the dynamic coalitions.

The IGC was able to facilitate the nomination process of civil society representatives for consideration by the UN Secretary-General to be appointed to MAG. They also submitted workshop proposals to the IGF and identified civil society speakers for the IGF plenary session (Malcolm, 2008).

The members of IGF nucleus share the values of “openness, inclusivity and individual freedoms” and made those values the organising principles for the IGF and also their vision for the Internet governance arrangement. The IGF nucleus, particularly those who were active in the civil society group were, for example, Adam Peake, Anriette Esterhuysen, Avri Doria, William Drake, Wolfgang Kleinwächter, Izumi Aizu, Ginger Paque, Karen Banks, Parminder Singh, Katitza Rodriguez, Jeanette Hoffman. The NGOs are APC, Diplo Foundation led by Jovan Kurbalija, Conference of NGOs (CONGO) led by Qusai Al-Shatti (Epstein, 2012).

Besides the IGC, there was also the participation of other civil society network in the IGF, namely Best Bits, which emerged from the IGF Dynamic Coalition on Online Collaboration. Best Bits initially was part of the IGC, but then it (Best Bits) subsequently broke away from the IGC and established itself as a new civil society network of the global Internet governance. The formation of Best Bits was due to the overreliance of IGC on asynchronous communication tools, which slowed the collaboration activities among its members (Cogburn, 2017).

The key civil society actors who participate since the early establishment of IGF particularly aimed to mainstream their belief on bottom-up multistakeholder policy-making approach in contrary to the top-down multilateral policy-making approach of the UN system. They tried to influence the decision on what get to be discussed in the IGF, who get to talk in the discussions, how and by whom to decide that decision were debated in all of the four elements of IGF. The

reluctance to have the IGF make recommendations to other related bodies (Ang & Pang, 2012), however, limits the participation of civil society actors in the global policy-making process of the Internet (Malcolm, 2014). The participation and influence of the participating actors in the IGF are limited to shaping the structures and conduct of the IGF (Epstein, 2012). The participating actors in IGF tried to shape the four key elements, namely the IGF Secretariat, the Multistakeholder Advisory Group (MAG), Dynamic Coalitions, Open Consultations, and the annual meeting itself. The IGF Secretariat, based in the United Nations Office in Geneva supports the MAG. The role of MAG is to advise the Secretary-General on the agenda of the IGF. The Dynamic Coalitions are informal groups from numerous stakeholder groups who work on specific issues and provide substantive proposals to the MAG. Meanwhile, the annual open consultations were conducted in preparation for each annual meeting.

As a result of the participation of civil society in the IGF, which is the meeting of two cultures, namely the bottom-up culture of the Internet community and the top-down culture of UN, the civil society group did not only influence the practices in IGF, but it was also shaped to adopt the legitimization structures of UN (Epstein, 2012). The need for the civil society group to develop internal decision-making mechanisms and structure became more apparent with the increasing participation of civil society actors in the IGF. While initially the nomination of civil society representatives to the MAG was managed by IGC (Nwakanma, 2013, November 27) and also Best Bits (Malcolm, 2013, November 12, 2013, November 20) separately, however, the increasing number of civil society participation in the IGF has created more challenges for civil society group with regard to the questions of representation, legitimacy and structure for their participation in IGF

and MAG (Cogburn, 2017). It is therefore the idea to form a joint civil society nomination network was started in the IGF, which will be explained in details in Chapter Five.

In sum, this chapter has explained that while in general there was a shift in approach from the multilateral to the multistakeholder in global Internet governance, starting from the WSIS to the establishment of the IGF, there were hurdles along the way of adopting the multistakeholder practices. The participation of civil society in the WSIS processes tend to be welcomed merely in the administrative matters, but more limited in the substantive matters. Over time, civil society participation has become more widely accepted. Despite the crucial role of civil society actors in shaping the practices and structures of the IGF, however, they never got the chance to discuss and set the principles and norms of Internet governance as an equal partner along with the other stakeholder groups at the global level (Mueller et al., 2007). This is due to the limited role of the IGF as being merely a discussion forum. The IGF in its entire life has never acted as a multistakeholder policy-making forum. However, this was not until the NETmundial, which was triggered by the Snowden revelations, that allowed the participation of multistakeholder to develop the principles and roadmap of Internet governance. The NETmundial hence became the first global multistakeholder policy-making forum on Internet governance.

The next chapter aims to explain the continuation of the coordination efforts among civil society actors in the NETmundial. Before coming to that explanation, the structure and mechanisms of the NETmundial that enabled the participation of multistakeholder to the forum will be described first to set the context. The conduct of the NETmundial, which granted equal participation to

non-state actors since its early preparation process up to its decision-making process, required civil society groups to develop their internal structure and decision-making mechanisms in order to prepare them to engage in the NETmundial processes.

THE URGE FOR COORDINATION AMONG CIVIL SOCIETY ACTORS IN THE NETMUNDIAL

The Multistakeholder Arrangements of the NETmundial

The application of multistakeholder approach in the NETmundial is divided into three big stages: process formation, drafting process and decision-making. The sequence of those stages is as below (Almeida, 2014; Varon, 2014):

1. Process formation
 - 1.1. The development of NETmundial structure
2. Consultation process:
 - 2.1. Content contributions from the public
 - 2.2. Public comment period
3. Decision-making process
 - 1.1. Plenary sessions
 - 1.2. Decision-making stage

Process Formation

When the Brazilian committee prepared for the NETmundial, the development process of Marco Civil became the source of inspiration to the implementation of multistakeholder approach in the conduct of the NETmundial. Marco Civil is a public interest-based Internet law of Brazil that was developed through multistakeholder participative and collaborative processes for years and then formalised during the NETmundial. Brazil appointed the Brazilian Internet Steering Committee (CGI.br), its national multistakeholder Internet governance entity who led the development process of Marco Civil, as the local committee to

lead the NETmundial processes. Together with I* (read “eye star”) community, which consists of the core Internet technical community (ICANN, ISOC, IETF, IAB and five regional Internet address registries), they defined the NETmundial’s concrete goals and also determined the structure and composition of the NETmundial committees (Varon, 2014).

Four NETmundial committees were subsequently formed, namely the High Level Multistakeholder Committee (HLMC), Executive Multistakeholder Committee (EMC), Logistics and Organisational Committee (LOC) and Council of Governmental Advisors (CGA). The NETmundial’s secretariat then invited all stakeholder groups to submit their representatives to serve in those committees in order to bridge the communication between the NETmundial and all of the stakeholder groups. The calls for global non-state actors particularly to fill in the committee position in the EMC and HLMC. The roles and final composition of each committee are as below (NETmundial, 2014):

1. HLMC: Chaired by Brazilian Minister of Communication Mr. Paulo Bernardo Silva, it was “responsible for conducting the political articulation and fostering the involvement of the international community.” Its members were:

- 1.1. State representatives from 12 countries as co-hosts: Argentina, Brazil, France, Ghana, Germany, India, Indonesia, South Africa, South Korea, Tunisia, Turkey, United States of America.

- 1.2. 12 non-state representatives (three representatives from each stakeholder group):

- 1.2.1. Academia: David Johnson, Derrick Cogburn, Jeanette Hoffmann.

1.2.2. Civil society: Louis Pouzin, Jovan Kurbalija, Stephanie Perrin.

1.2.3. Private sector: Christoph Steck, Joe Alhadeff, Jimson Olufuye.

1.2.4. Technical community: Kathy Brown, Mathieu Weill, Tarek

Kamel

1.3. Representatives from international organisations: Hamadoun Touré

of the ITU, Wu Hongbo of the United Nations Department of

Economic and Social Affairs (UNDESA), European Commission.

2. EMC: It was “responsible for organising the event, including the agenda discussion and execution, and for the treatment of the proposals from participants and different stakeholders.” It was co-chaired by two representatives from the technical community, namely Demi Getschko (from CGI.br) and Raúl Echeberria (from global technical community). Its members were:

2.1. Eight multistakeholder Brazilian representatives appointed by CGI.br.

2.2. Nine non-state representatives:

2.2.1. Technical Community: Raul Echeberria, Akinori Maemura

2.2.2. Academia: Dongman Lee, Matthias Kettemann

2.2.3. Civil Society: Adam Peake, Marilia Maciel

2.2.4. Private Sector: Zahid Jamil

2.2.5. International organisation: Thomas Gass (UN DESA)

3. The Logistics and Organisational Committee was “responsible for overseeing every logistic aspect of the meeting.” It consisted of representatives from the Brazilian government, CGI.br, ICANN and 1net.

4. The Council of Governmental Advisors was tasked to accommodate the participation of all governments who want to contribute to the NETmundial meeting.

After the NETmundial committees were set in place, the process then moved to the development of the NETmundial policy draft document.

Consultation Processes

The NETmundial aimed to identify global principles to govern the Internet and to propose a roadmap for the evolution of the Internet governance ecosystem. For the first agenda, any concerned participant was encouraged to develop based on previous existing sets of principles listed on the NETmundial website¹¹. This list of principles was proposed by the EMC for the considerations of all actors in forming their submissions to the NETmundial. Although there were numerous national, regional, and international efforts to develop the principles to govern the Internet, as listed by the EMC, none of those existing principles had a global scope and support from a multistakeholder perspective (Gasser, Budish, & West, 2015; Maciel, Zingales, & Fink, 2015). The NETmundial document was developed to fill in that gap of global Internet governance principles.

Moreover, for the second agenda, the EMC developed and distributed a set of questions to guide all concerned stakeholders in developing their views to the NETmundial. In consideration of the wide scope of the debate in other spaces, such as the IGF, ITU, WSIS, UNGA and some ad-hoc groups, therefore the EMC set several guiding questions to help the NETmundial participants to develop their submissions (Maciel et al., 2015):

¹¹ <http://content.netmundial.br/internet-governance-principles/>

1. Is there a forum or Internet governance body that develops policy or technical outcomes involved in these issues?
2. If there is, how and why are these issues not being adequately dealt with by that forum or organisation?
3. What are the possible responses to the challenges posed by these issues?
4. How will the possible responses proposed ensure the stability, resilience and efficiency and also comply with principles of equitable multistakeholder participation, accountability, transparency and predictability?

In the first consultation from February 14 – March 8, 2014, there were 180 contributions from numerous stakeholder groups from 46 countries received by the NETmundial committee. The NETmundial Secretariat then compiled and analysed all submissions. Based on the Secretariat's summary, the EMC developed the first draft based on the principles of relevance and consensus. Relevance means the issues were mentioned in a large number of submissions, while consensus means the EMC tried to draft the issues into a language that can be agreed among EMC members and hopefully among actors from all stakeholder groups.

Following the publication of the first draft document on the NETmundial's website, the second round of consultation was conducted from April 15 – 21, 2014. All concerned participants were invited to provide their comments on a website named "Commentpress", which allows short comments in parts of the document. There were 1,370 comments posted on the platform. Afterwards, the Secretariat once again, based all the comments, produced a summary that formed the second

draft of the NETmundial document. The NETmundial meeting was then conducted after the NETmundial draft document was ready.

Decision-making Processes

The NETmundial meeting was held from April 23 to 24, 2014, in São Paulo, Brazil. Those two days were filled with plenary sessions to refine the draft. The plenary sessions were arranged to accommodate as wide participation as possible of all concerned actors from around the world.

This as can be seen in the registration process, which was handled by the EMC through the principles of openness, equality, and flexibility. The EMC invited any actors to show their interests to attend the NETmundial from February 3 to 28, 2014. These expressions of interest were then used by the EMC to monitor the balance of level of participation from each stakeholder group and to develop strategies to manage the issue of overregistration. On the plenary days, there were eventually 933 registered participants with 364 from state representatives, 186 from the press, 160 from civil society, 140 from private sector, 109 from the technical community, 87 from academia, and 51 from other categories (Maciel et al., 2015)

Besides that, the arrangement of rules of engagement in the NETmundial provided opportunities for interaction with the NETmundial participants. There were two working sessions on principles and two working sessions on the roadmap on the plenary sessions. In every working session, the NETmundial participants were given opportunities to deliver their intervention. In each round of interaction, there were four slots for in-person intervention and two slots for remote participation. For the first type of intervention, every participant, including state

actors, needed to queue in each of their line of stakeholder group for the turn to speak. There were four lines of stakeholder groups for the face-to-face intervention. Then, the opportunity for intervention was given to two remote participations (Varon, 2014).

The arrangements of the NETmundial since the beginning up to the hearings in the plenary sessions were relatively well managed, but this was not the case near the final decision-making stage. The pressures and interests of the participating actors to influence the outcome became more obvious. This can be observed in the drafting and the final decision-making processes in the NETmundial. In the drafting process, which was conducted at the end of each day's working session, the drafting groups on principles and on roadmap met to make changes to the document based on the comments made in the online consultation and plenary sessions. Each drafting group composed of the chairs of the working sessions and the members of the EMC as advisers. The drafting room was open to observers with the text and its modifications projected on the screen of the drafting room. The rules of engagement did not allow observers to intervene but they were not strictly enforced. Accordingly, some observers used the connection they had with the members of the drafting groups to interact with them to influence the drafting process (Varon, 2014). Moreover, after the final EMC meeting and right before the final plenary session, the outcome document was presented to the HLMC members. The NETmundial organisers "tried to express deference" to the HLMC members and "probably expected the meeting to be a formality" (Maciel et al., 2015) However, it eventually turned into a negotiation. The HLMC members insisted on some substantive modifications to the text. A few proposed changes were accepted to save the NETmundial process and document

from collapse. The interference of some HLMC members provided an element of top-down approach to the overall bottom-up process that the NETmundial had undergone (Maciel et al., 2015).

With the arrangements of the NETmundial that provided the opportunities for multistakeholders to participate in it in overall, the next section explains the efforts done by the diverse groups of civil society in preparing the development of their internal structures and decision-making mechanisms with regard to the nomination of their representatives to the NETmundial.

The Call to Formalise Civil Society’s Decision-making Mechanisms and Structure in the NETmundial’s Multistakeholder Arrangements

The Formation of Civil Society Coordination Group (CSCG)

As a response to the calls from the NETmundial for all stakeholder groups to fill in the positions in the EMC and HLMC committees with their representatives, some civil society actors then discussed the need to develop a coordination group for the purpose of nomination of civil society representatives to the NETmundial, but also IGF and other external fora.

The nucleus and its subsequent formation process of the civil society joint nomination network can be summarised as follows:

1. The nomination of civil society representatives to the ICANN High Level Panel on the Future of Global Internet Cooperation,
2. The appointment of four civil society interim liaisons to the Brazilian actors,
3. The invitation to submit civil society representatives to the 1net Steering Committee, and

4. The invitation to submit to the NETmundial committee.

The news about the initiative of ICANN in appointing their representatives to be in the High Level Panel of ICANN was a wakeup call for civil society groups of the need to form a coordination group to coordinate the nomination process of their representatives. Initially, several leading civil society networks, namely Best Bits, IRP Coalition, Internet Governance Caucus and Association for Progressive Communications, who happened to be participating in the IGF 2013 in Bali when the NETmundial plan was announced, focused their attention on developing a joint letter to inform the Brazilian actors about the readiness of civil society group to support and participate in the NETmundial preparation processes. While they were discussing the joint statement draft, one of the participants of Best Bits, John Curran, posted a release about the plan of ICANN through the formation of a “Panel on the Future of Global Internet Cooperation” to develop and release a report on the principles, frameworks and roadmap of and for global Internet cooperation (Curran, 2013, November 17). The formation of this panel sparked legitimacy concerns among civil society actors about the manner ICANN filled the Panel with its own selected civil society representatives, instead of the recommendation from civil society itself. The formation of the Panel sparked debate among civil society actors as they had understood that the report of the Panel would be fed into the NETmundial meeting (ISOC, 2013, November 17).

While some civil society actors thought that ICANN had exercised its legitimacy to select civil society actors to be in the Panel of the event it had created (Cango, 2013, November 18; Curran, 2013, November 18), there were several civil society actors who were disappointed with the appointment of civil society actors in the Panel by ICANN. The disappointed civil society actors felt that ICANN had

no right to appoint their representatives because they feared of being prevented to channel their views to the report. They therefore decided that civil society actors needed to have a coordinated action to have their own representatives in the Panel (Tamanikaiwaimaro, 2013, November 18).

They threw the idea to form a joint civil society nomination network to several civil society mailing lists. The idea was to form a joint nomination network in order to have joint nomination process of civil society representatives to the ICANN Panel, NETmundial meeting and also future fora. Initially, the committee did not have a firm nomination mechanism, criteria of civil society candidates and mechanism to form the steering committee (Nwakanma, 2013, November 21). The committee just invited any civil society actors to submit their nominees for the ICANN Panel. They were eventually able to submit their representatives to the ICANN Panel, but only through asking larger civil society actors to curb their legitimacy concerns of the nomination process for a while and to focus on the final two civil society nominees to be submitted to the ICANN Panel. The joint civil society nomination committee had emphasised the tight deadline to submit the list of representatives to the ICANN Panel (Malcolm, 2013, November 29).

After they submitted their representatives to the ICANN Panel, another call came for civil society stakeholder group to submit its representatives to the steering committee of 1net, an online platform set by ICANN and the Brazilian actors to accommodate the discussion of actors from across stakeholder groups to prepare for the NETmundial. The idea of creating 1net emerged from the meeting with civil society in IGF 2013. At that time, it was considered that because there was no cross stakeholders-communication platform, one should be created to gather and manage the views of non-state actors in the preparation for the

NETmundial. The Brazilian Internet Steering Committee as the host of the meeting also stated that they prefer to be in contact with 1net in receiving the views of non-state actors. In order to enable its intended role, Adiel Akplogan as the coordinator of 1net requested all of the participating actors in 1net that come from different stakeholder groups (private sector, civil society, technical community and academia) to put forward several names from each of their stakeholder groups to be assigned as a coordinating committee of 1net. The task of the coordinating committee would be to act as a bridge between 1net and their own stakeholder group (Akplogan, 2014, January 30).

The call for civil society group to submit its representatives to 1net was the beginning of the formalisation of the civil society nomination network into Civil Society Coordination Group (CSCG). The joint civil society nomination committee for the ICANN Panel then initiated another discussion in the civil society mailing lists. The committee informed larger civil society actors about the invitation of 1net to submit a list of civil society representatives to the 1net steering committee. It was conveyed that the same nomination committee that coordinated the nomination process to ICANN Panel volunteered themselves again to undertake the nomination process coordination because of the tight deadline set by 1net to submit the list of representatives. The committee mentioned the existence of the four civil society interim liaisons to the Brazilian actors as a result of their participation in the meeting with the Brazilian actors in the IGF Bali. However, with regard to the 1net invitation, they were open for the larger civil society actors to nominate themselves or others to the 1net steering committee and to discuss the nomination criteria to be used by the joint committee (Malcolm, 2013, December 4).

Although some civil society actors submitted a list of their representatives to serve in the 1net Steering Committee, but there were some civil society actors who opposed the idea of having an interface to participate in the NETmundial. Those who preferred direct contact with the Brazilian committee sent a joint letter to the 1net Chair, Akplogan, questioning the legitimacy of 1net to act as an interface for civil society actors. Akplogan replied that civil society actors have the freedom to participate in the NETmundial directly or through the support of 1net. CSCG then took over the role to nominate civil society representatives directly to the NETmundial organisers.

Further explanation on the efforts of civil society actors to arrange a more formal nomination mechanism through CSCG for their representatives in the NETmundial committee and also to develop their internal decision-making mechanism on the development of their joint position is presented on the next chapter.

THE TENSION BETWEEN INCLUSIVENESS AND EFFICACY FACED BY CIVIL SOCIETY ACTORS IN THE NETMUNDIAL

This chapter analyses the tension between the inclusiveness of civil society's coordination effort and its efficacy in a global multistakeholder policy-making process. By tension means that civil society actors need to manage both conditions in every stage of their preparation for and participation in a multistakeholder policy-making process, otherwise legitimacy concerns from their peers would eventually arise, directed to the one-sided decision of civil society group. In this study, such concerns include the nomination of civil society representatives when the NETmundial was being formed, the need for one coherent joint policy view from civil society actors for the purpose of the drafting stage of the NETmundial and the coordination between civil society representatives and wider civil society actors during the decision-making stage of the NETmundial.

This study found that the pre-emptive concerns and debates during the nomination process for civil society representatives and civil society coordination meeting for the purposes of process formation and drafting stages hinted at the tension between inclusiveness and efficacy in defining their shared critical distance. The real tension, however, developed later during the NETmundial's decision-making stage. When some civil society actors attempted to act without proper inclusive coordination with their peers, the outcome and the decision would eventually receive criticisms and legitimacy concerns from other civil society actors who were not involved in the process.

Managing the Nomination Process of Civil Society Representatives

This part highlights the concerns brought by several civil society actors during the formation of CSCG on the nomination criteria of civil society representatives and also the membership coverage of CSCG. These concerns emerged as the request from the NETmundial for each stakeholder group to submit their own representatives were not followed with clear roles of those representatives in the NETmundial's overall process. The NETmundial committee and other concerned actors were trying to work out the roles of representatives in the committee, whether the representatives should be involved merely in the administrative processes of the NETmundial or also in the substantive content. The unclear roles of representatives had created debates around the nomination criteria of civil society representatives and also the membership coverage of CSCG.

Concerned participants from across stakeholder groups debated in 1net mailing list on the potential role of the future selected representatives in the NETmundial committee. The debates were on whether the selected representatives would serve as a neutral channel to bridge the administrative related concerns of the policy-making process from wider public to the forum committee or they would also act as a decision-maker on policy content. There were two camps on the roles of representatives in the NETmundial committee. The first agreed that there are two different layers to prepare a global multistakeholder policy-making process, namely administrative and substantive related matter. This kind of opinion, however, viewed the debates on the administrative preparation as hiding the real policy debates. This first camp may be exemplified by an email from George Sadowsky (2013, December 20) to the 1net mailing list as below:

... the fight over representation is really a proxy war; the real fight – the hidden fight – is over different opinions on issues, and the representation

fight allows the issue fight to be hidden. To the extent that this is the case, the representation fight obstructs getting to the issues and is counterproductive to our work. Let's get directly to the issues. In doing so, let's realize that agreement on issues cuts across stakeholder silos, and let's rethink how best to structure these conversations.

There was an opinion in this camp that the actors selected from different stakeholder groups in the coordinating committee need not be representative as they only carried administrative role. Mueller opined that the position of representatives in the coordinating committee were for those who were willing to lend their ears to listen to concerns of process related issues from wider actors in the stakeholder group. He expected that those representatives would not deal with policy content. An email from Mueller (2013, December 20) to 1net mailing list said:

I agree that focusing too much on 'representation' obscures dealing with issues. But hey, we are talking about a coordinating committee for 1net, which is administrative and not substantive. This means that the committee does need to be 'representative' in some sense, so that different segments of the community feel that they have channels of communication into it and that their interests will not get ignored as decisions are made about how the substance is discussed. Indeed, in trying to scare up academics to participate, I have been warning them that they should NOT volunteer for this committee if they want to make big contributions to substantive issues; only people willing to listen and try to be stewards and peacemakers need apply.

The second camp of opinion, however, cautioned that there would be a potential overlap between the administrative and substantive roles of the representatives. This concern was as highlighted by the late Michael Gurstein (2013, December 27):

And you are suggesting that there is no linkage/overlap/blurred boundaries between the admin and the policy... I guess that you haven't been following the MAG-IGF where there is a very clear and dare I say oppressive policy control on the activities/ outcomes of the IGF through the errr.. 'administrative structures and appointments in the MAG.'

Gurstein, who was part of the civil society group, expressed concern regarding the potential overlapping roles of representatives in the NETmundial's process. Accordingly, there were debates on the nomination and membership criteria set by CSCG. If the roles of civil society representatives included decision-making on policy content, then where was the fine line between being critical and being cooperative with other stakeholder group to be reflected in the nomination criteria. The other debate was on the composition of CSCG memberships, namely how to ensure that all of concerned civil society entities could take part in the nomination process of civil society representatives so that they could have civil society representatives that would channel the numerous views of civil society actors.

Setting the Nomination Criteria of Civil Society Representatives

There were six criteria in selecting civil society representatives to be in the NETmundial committee set by the Steering Committee of CSCG (Malcolm, 2013, December 22):

1. Able to represent civil society as a whole, not just your individual civil society organisation(s)
2. Able to work collegiately with other stakeholder groups in a multistakeholder setting

3. Able to consult widely with civil society groups and to report back as the process progresses
4. Ability to represent civil society at a senior level in these discussions
5. Broad knowledge of internet governance issues and the range of civil society perspectives on these issues
6. Capacity to participate assertively and creatively.

While the above list of criteria was developed to support the civil society representatives to run their roles well in the NETmundial's committee, those criteria were perceived by some civil society actors as a potential hindrance to raising minority views through the civil society representatives to the NETmundial's process and outcome. The above criteria, particularly the first and second (being able to represent civil society and to work collegially), therefore attracted criticisms and debates among concerned civil society actors with regard to the roles of civil society representatives in the committee.

There were some criticisms on the proposed criteria on the ability of the representatives to work with other stakeholder groups. Parminder Jeet Singh pointed out that the criterion put too much emphasis on the externality of civil society stakeholder group, but neglected the internal side of civil society stakeholder group. He criticised the criterion as giving more attention on the likeability of civil society representatives in the eyes of other stakeholder groups and therefore putting more attention on the relationship building with actors from other stakeholder groups. This criterion was considered as "a subjective behavioural assessment." A "too close" relationship of the representatives with other stakeholder groups, particularly with business group, was considered a

hindrance to the critical stance of civil society group. Singh's view (2014, January 3) was reflected in the excerpt below:

Lets get real! In the civil society that I move around in, being too friendly with a Microsoft, or Monsanto or Shell is not considered a virtue ... It is rather more likely to make you suspect... The main *raison d'être* of civil society is to ask difficult questions, and ask them ceaselessly, from those in power - include big corporates, and those who run powerful tech organisations. Asking such questions is of course not going to make one popular among them. Dont (sic) people here see that by pushing such selection criterion right to the top, one is encouraging a wrong kind of civil society...

“And why does being able to work with grassroots communities, groups organized around marginalised interests and causes, and well of course, in the global context, with developing country govs not considered as the ability to work with other stakeholders. (In an overwhelming majority of global governance spaces, NGOs have not had good working relationships with at least some developing country govs – trade, IT, climate change, development policy, health, education global governance reform.....) It is important to realise that many who can earn a lot of points about being close to big business or IG tech community are likely to (although not , necessarily) cut a very bad picture if they were to try and engage with these other groups that I mention here... So guys, lets open up our sights to look beyond an increasingly narrow global IG's privileged in-space.

A similar opinion to Singh was expressed by Gurstein (2013, December 27), who referred to the potential tension between the role of the representatives in raising the diverse views of civil society group and in relationship building with other stakeholder groups:

surely the issue is to represent 'civil society' interests in their variety and complexity and doing so will necessarily involve upsetting (not playing nice) with other stakeholder groups who are similarly pursuing their interests – with such interests necessarily, at least on occasion, coming into

conflict...And on what possible basis can this kind of matter be determined in advance...

The second kind of concerns was on the first proposed criterion, namely the capability of the representatives to raise views of civil society actors, not just that of their individual organisation. Some were of the view that the most important thing was the willingness of those representatives to listen to the different concerns among civil society actors and then to channel those views to the discussions among the NETmundial committee. This view can be seen in this excerpt from Vladimir Radunovic (2014, January 17) of Diplo Foundation:

However, only 5 people (CS reps in the SC) – whoever they would be (me, you or anyone else) - can't possibly formally represent the full diversity of the CS; we would need dozens of representatives. What is important is that they care about diversity of perspectives/concerns and make sure to bring these into SC discussions at all points.

Yet another concern was the extent those civil society representatives could express their personal views while conveying the views of the civil society stakeholder group. The line between the ability of civil society representatives to represent their individual views and to represent the views of civil society as a whole became problematic as was preemptively pointed out by Gurstein and Doria. Gurstein (2013, December 25) doubted the workability of the first criterion as he thought that it would be challenging for the selected representatives to speak their views.

Hmmm... as I read this what it means is that whoever represents CS doesn't (can't) have an opinion... what sort of an opinion would/ could represent 'Civil Society as a whole'... So the process of selection is done to ensure the least common denominator/ effective representative of any CS values of interests...

Doria (2013, December 23) said the successful civil society representatives would act thus:

I guess I believe that everyone appointed to a task, to a committee, should do their best to make sure all views from CS are represented to the best of their ability and understanding. And of course they will be able to argue from their personal perspective as well and be able to better represent that perspective when that is the appropriate thing. My view of the successful CS representative is someone who can express both their own views and the views of others, and while giving transparent verbal emphasis to their own view I also expect then to be able to make sure that CS views that aren't represented already are acknowledged, understood and taken into account.

But no, I do not beleive (sic) any representative can be singular in their representation and only reposit (sic) the view they came in with. I beleive (sic) that on becoming the chosen one of a group, the group becomes the entity they are accountable to and its diversity views its responsibility.

In parallel with the above criticisms, the overall list of criteria proposed by CSCG was also criticised for not including the criterion of the ability of civil society representatives to bring the views of under-represented groups to the global Internet governance processes and therefore to show linkages and work with under-represented groups (Singh, 2013, December 23).

Meanwhile, the other group/camp of civil society actors cautioned the empirical assessment of the proposed criteria of representing under-represented views. This group said that putting too much focus on representing minority groups might lead them to defend the views of only these groups instead of considering views of larger civil society groups (Doria, (2013, December 23).

Besides the above debate on the nomination criteria of civil society representatives, there was another debate on the composition of CSCG memberships. The debate revolved around how to ensure the manageable involvement of all concerned civil society entities to take part in the nomination process of civil society representatives.

Setting the Membership Criteria of CSCG

While working on the civil society representatives' nomination process to the NETmundial, the founding members of CSCG as the early nomination group realised the need to expand its membership coverage in order to increase its legitimacy as a conduit to run the nomination process. The nomination group had hoped to conduct an inclusive nomination process by enlarging its membership. On the other hand, the group also needed to strike a balance between achieving a legitimate yet efficient process in order to be able to submit the list of civil society representatives before the set deadline. The nomination group therefore tried to enlarge the membership by casting its invitation for any interested civil society networks to join the group, but at the same time aimed to set some membership criteria that needed to be fulfilled by the prospective coalitions. The six membership criteria are as below (Malcolm, 2013, December 30):

1. Is coalition globally representative - all regions covered?
2. Is it non-commercial and public interest oriented (as opposed to business)?
3. Would it more properly fit under technical community, business or government in its categorisation?
4. Is a large part of this coalition's members already covered by one of the existing members?

5. Is the internal governance of the coalition adequately transparent and accountable to its members.

Community Informatics (CI), as represented by Gurstein, then showed interest to join as a member of CSCG as he perceived that the existent CSCG members only dealt with mainstream Internet governance issues but did not have any close links with developmental works and grassroots communities as the larger scope of Internet governance issues. Gurstein stated that CI had a strong linkage and track record of working closely with those marginalised groups in developing countries. He argued that CI needed to be included in the nomination group to ensure the representation of views of marginalised groups in the nomination process (Gurstein, 2013, November 21). On the other hand, civil society actors who focused on mainstream Internet governance issues criticised the absence of discussion regarding Internet governance issues in other civil society networks who worked on non-mainstream Internet governance related issues (Peake, 2014, January 19a).

The request from CI to join as CSCG member, however, was not processed by CSCG at that time. The chair of the nomination group, Ian Peter, responded to CI, saying that because of the short time limit to submit the representatives' name to the NETmundial, CSCG had decided not to take any action to expand its membership after all because a rush decision may have other ramifications. Besides that, one of the nominating committee members of CSCG stated that CI had a local focus and that actually Gurstein as part of CI actually already participated actively in two other CSCG members. Thus the views of CI were considered as already been channeled through his participation in both networks

(Peake, 2014, January 19b). Gurstein perceived this response as a way to exclude the participation of CI and to limit the inclusion of diverging views in the NETmundial (Gurstein, 2013, December 19).

Singh (2014, January 18) responded to the decision of CSCG thus:
Denying political space and role to different groups, and the corresponding claims of those so denied, are both highly political acts... And they are best treated as such... It is not quite right that those who participate actively in such political acts, and obtain political roles (quite a legitimate thing to do), then hold forth on how people should not aspire for such spaces/positions... No personal offence implied, but lets not side step serious issues. Some claims may be weightier than others, and that is fine. Some kind of sorting out would need to be done as part of a political process. One can discuss that. It is entirely possible that Diplo Foundation and its alumuni brings better and more effective (both criteria being important) representation of what is normally considered civil society interests than the Community Informatics Network (CIN) does. It is also entirely possible that NCUC deals with issues more salient to general people (civil society) than does CIN. All of this is quite possible. But such should be the bases, or not, for some group being in there and other not being there... The primary purpose of my comment is just to speak out against technicalising issues of representation. Can you say with confidence that you and other members of the concerned committee or whatever will, say, push the perspectives in the CI's Internet declaration as you would the position i (sic) have heard you articulate. Or others in these committees will do so vis a vis the positions I have seen them so strongly advocate, and also strategise so actively around. Lets be real. We need diversity in the people who represent and not just the views that they claim they will pick up and push with equal force..

CI tried to pursue an independent path by submitting its nomination directly to 1net, but it was not accepted. Gurstein proposed that 1net allow civil society stakeholder group to have two nominating committee, one for civil society actors that deal with mainstream Internet governance issues and the other for civil

society actors that deal with Internet justice. This request was dismissed by the coordinator of Inet, Akplogan, who said that he had no right to deal with the selection process of each stakeholder group. Akplogan asked Gurstein to go back to his civil society colleagues and to finish the internal debate within civil society stakeholder group. Eventually, CI was never able to submit its nomination result. So, CSCG remained the sole conduit of civil society stakeholder group in submitting the list of civil society representatives to the NETmundial (Gurstein, 2014, January 18).

If the debates in the early preparation process of civil society actors for the formation stage of the NETmundial seemed pre-emptive, those concerns were realised when civil society actors became more involved in the drafting and decision-making stages of the NETmundial. The tension was even more apparent in the NETmundial's decision-making stage as civil society representatives held the formal decision-making authority on behalf of civil society stakeholder group.

Developing Joint Position among Civil Society Actors

While the diversity of policy views among civil society actors tended to be more acceptable during the drafting stage of the NETmundial, there was more pressure and demand for them to unite their views during the NETmundial's decision-making stage. Civil society actors tend to be more able to balance between the state of inclusiveness and efficacy of their joint policy ideas formulation process in the submission stage of the NETmundial as the aim in that stage was merely to look for policy ideas. In the later stages, however, the pressure to decide and leverage the level of influence of civil society stakeholder group made some civil society actors force their own definition of influence and goal to

be adopted in the joint policy ideas developed in the civil society coordination meeting prior to the NETmundial meeting.

Managing Diversity of Policy Views in Civil Society's Joint Policy Ideas

Formulation Process

In the first consultation stage where the NETmundial invited all stakeholder groups to submit their views to develop the NETmundial draft document, all of concerned civil society actors, either through particular civil society networks or in their individual capacity, submitted their views to the NETmundial. The Best Bits mailing list probably best demonstrates how civil society groups coordinated in the joint policy ideas formulation process.

In response to the NETmundial committee's call for the principles and roadmap for the future of global Internet governance to be developed jointly, concerned civil society actors from all around the world populated the NETmundial with their proposed principles and roadmap. The idea to formulate joint policy ideas among civil society actors to be later submitted to the NETmundial's input submission period was initiated in the Best Bits mailing list. In the first place, Best Bits called for volunteers in the mailing list who were willing to coordinate the development of policy ideas related to the principle, roadmap and IANA transition.

Three voluntary drafting groups dealt with the issues of Internet governance principles, roadmap and IANA transition to develop drafts of civil society position for circulation to wider civil society networks, organisations and individuals with a hope to reach consensus among them. Achieving consensus would, so it was believed, increase their opportunity to influence the

NETmundial's policy document. However, this goal came with the caveat that to reach consensus among civil society actors was probably unrealistic at that moment. Andrew Puddephatt (2013, November 26) one of the initiators of Best Bits, said:

Given the short timeframes, and the fact that there does not seem to be consensus among all of us on a number of these issues, I think the best way forward is for anyone who wants to lead on a particular submission to let the list know, gather together people who also want to work on that submission, develop something as a smaller group and then share it back with the platform. Obviously, ideally submissions would be able to gather broad agreement among BB participants, but consensus may be too high a bar at this stage.

As it was envisioned that not all-civil society actors could agree to the proposed joint statement therefore Best Bits proposed the adoption of sign-on endorsement mechanism. This meant that an explicit the number of supporters that find resonance in the proposed joint statement could be determined. When others could not agree on any proposed statement, they could submit their individual views to the NETmundial. This mechanism was considered as providing a way to bridge the participation of diverse entities and views within civil society group with the need to proceed in developing legitimate joint policy ideas. The sign-on endorsement mechanism allowed them to demonstrate an appropriate degree of support or in other words appropriate representation of support towards any proposed joint policy ideas when being submitted to the NETmundial.

The utility of the sign-on endorsement mechanism was demonstrated during debates on the proposed joint statement that supported the multistakeholder approach and equal roles of stakeholders in policy-making process of global Internet governance. The Best Bits working groups, which consisted mostly of the

Best Bits steering committee members, at that time proposed a text to endorse a multistakeholder approach with equal stakeholder roles in the global Internet governance. It turned out that some civil society actors disagreed with the proposal because their understanding of the “respective role of stakeholders” meant that the decision-making authority was solely in the hands of governments (Gurstein, 2014, March 5; Singh, 2014, March 5). These opposing civil society actors, who later formed their own civil society coalition called Just Net Coalition (Bollow, 2014, March 6), viewed an equal-role-based multistakeholder approach as providing opportunities for private sector actors, who do not have legitimate policy-making authority, to intrude into a policy-making process with their business interests. This difference of views was a serious matter of concern for the opposing actors because it was perceived to damage the democratisation of the global Internet governance (Singh, 2014, March 6).

The debate shocked many civil society actors. Until then, civil society actors presumed that they shared values on the embodiment of just and equitable Internet for an enabler of human rights. The discussion in the formation of joint policy ideas to the NETmundial, however, had revealed different preferred governance approaches among them to do so (Kimmelman, 2014, March 6). Civil society actors had different understanding of the roles of stakeholder groups in each of their versions of governance approach.

While civil society actors aimed to conduct an inclusive consultation process among them and to arrive at convergent of views, they eventually disagreed on some policy issues. Those, who could agree with the proposed joint statement developed in the Best Bits platform, gave their support by stating their individual names or organisation names in the joint statement. The sign-on

endorsement mechanism therefore enabled a legitimate joint policy ideas formulation process. It allowed greater flexibility for civil society actors to support the views they could agree with.

If figuring out and managing the diversity of policy views among civil society actors posed a serious challenge for them in the NETmundial, it turned out later that managing their different policy ideas was not the only and most fundamental diversity that caused challenges and tension among them.

Managing Diversity of Roles and Strategy in Civil Society's Joint Coordination Meeting

There were many debates on different topics among civil society actors, but this study found the debates on copyright issues during the civil society coordination meeting prior to the NETmundial's plenary sessions to provide the best case to highlight the fundamental challenges to coordinate several different types of diversity among them. This case demonstrates the challenges faced by civil society actors to manage not only diversity of policy views, but also the different roles and strategy of civil society actors in their participation in the NETmundial.

Heading towards the NETmundial plenary sessions, civil society actors became more aware of the need to coordinate their views. Some civil society actors from several civil society entities — Association for Progressive Communications, Article 19, Best Bits, Center for Studies on Freedom of Expression, Center for Technology and Society, Derechos Digitales, Global Partners Digital, Instituto de Defesa do Consumidor, Instituto de Tecnologia e Sociedade, ICANN's Non-Commercial Users Constituency and Web We Want —

decided to arrange a joint civil society coordination meeting prior to the NETmundial plenary sessions (Best Bits, 2014, February 24). The meeting was able to catch the interests of over 130 civil society entities from all parts of the world to participate. The meeting was set to identify shared concerns among civil society actors. Civil society actors tried to find common ground from among their submissions to develop talking points of the civil society stakeholder group, and raise them at the NETmundial plenary session (Best Bits, 2014, April 23).

Initially, the civil society coordination meeting was considered to be successful to a large extent in producing consensus among civil society actors. Later, however, it was revealed that there were actually different stances among civil society actors on the issue of intellectual property rights. These different stances of civil society actors were exposed after one civil society actor, Achal Prabhala (2014, April 29), initiated a discussion on the failure of the coordination meeting to cover his proposed language on copyright:

On April 22, I took part in a civil society meeting along with many of you, when the following language was suggested to be included in civil society feedback to the draft outcome document: ‘resisting the expansion of a sovereign application of copyright on to the global online landscape.’

He advocated for strong copyright restriction in order to curb the threat of copyright threat and to maintain global freedom of expression online. To do so, he proposed an explicit wording opposing the application of the copyright regime on the Internet. However, he found out that his view was not incorporated in the civil society final joint submission (Best Bits, 2014, April 23):

Right to participate in cultural life: everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to

share in scientific advancement and its benefits, and this right extends to the Internet.

Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author. This protection must be balanced with the larger public interest and human rights, including the rights to education, freedom of expression and information and the right to privacy.

Prabhala disagreed with the civil society text, which he considered cautious. The contrast with the initial draft was especially glaring because some civil society actors then had wanted to remove the terms “copyright” and “intellectual property rights” from the civil society submission as a strategy to avoid the protection clauses being included in the NETmundial document (Prabhala, 2014, April 30). He disagreed with the text because he felt that the civil society group needed to resist other stakeholder groups but the drafters of the civil society text had decided to moderate their views to preempt the views of other stakeholder groups.

In his subsequent reflection, Prabhala added that he did not expect to be disappointed with the final civil society submission because he thought that the document would be prepared with care, based on inclusive internal coordination. Eventually, he said he was deeply disappointed because he viewed that as if “either civil society thinks IP is a minor and sacrificable (sic) issue in internet governance, or that civil society's job is to anticipate industry reactions when formulating it's position on IP and internet governance...” (Prabhala, 2014, April 29)

Prabhala insisted that the civil society group should have pushed for strong resistance against copyright in the civil society coordination meeting prior to the NETmundial meeting. He criticised the internal tactics of civil society deliberators

for not being sufficiently critical. He then showed his expectation for civil society actors to be more upfront in their participation in the NETmundial, as evidenced below (Prabhala, 2014, April 29):

There were far too few of us who participated in protest actions at the meeting, and civil society was more anodyne than called for. (On a related note: the surveillance protests with Snowden masks were on the cover of every single Brazilian newspaper the next day). I'm relatively new to Internet governance, but not to activism around issues connected to the Internet. As an activist, I understand my role as having to be better prepared, more informed, more forceful, more sharp, more clever and more ingenious than anything governments and business can come up with, given that I command none of the vast resources of money and power they have. I'd urge this group to seriously consider complementing its more thoughtful interventions with dramatic, unreasonable action if it wants to not only get a seat at the table but actually be **heard**.

Such expectation and preferred strategy of Prabhala was not shared by all civil society actors. Some civil society actors preferred to be more moderate in their position, balancing public interests and copyright protection as best reflected in the reasoning from Jeremy Malcolm (2014, May 4):

... You are proposing that we play more of an 'outside game', critiquing the process and being more oppositional (whereas Stephanie, amongst others, have said the opposite). That is one possible approach, though most of the long-time civil society groups involved in Internet governance have played more of an inside game, working with governments and other stakeholders to try to reach consensus and nominating representatives to multi-stakeholder committees such as the MAG and CSTD working groups.

It is not impossible for civil society to play both an inside and an outside game simultaneously, because certainly there are things that you cannot

accomplish with only only (sic) one approach, and if managed carefully, they can reinforce rather than undermining each other...

So whereas you have compared the approach taken on IP issues within Internet governance processes to those that were used to defeat SOPA and PIPA, I don't agree that we would want to use the same approach... the danger of being too oppositional is that you exclude yourself from the process altogether, and thereby limit your capacity to effect even incremental change.

I believe that there is a lot of space for us to use both tactics, I just don't think that NETmundial, being such an innovative and potentially valuable door into multi-stakeholder policy development that could redound to our advantage in numerous different fora in the future, was the right place to be more oppositional than we were, either on IP or on any other issue. That said, there are other times and places to be radical on IP, and I am completely in accord with that. (Even then, some people will always criticise you for not being radical enough - because I'm not an abolitionist, I've been accused of this. And although I wasn't representing EFF at NETmundial, someone came up to me during the meeting complaining about how "soft" EFF had supposedly become on IP in recent years!)

So I don't think that the approach that we took on the floor at NETmundial or that our representatives took in the drafting sessions was the wrong approach in this context, and to our credit we had been better prepared for this meeting (partly as a result of the pre-meeting) than we had been for previous engagements. As the WSIS civil society coordinating structures disintegrated, there was a time when we were not coordinating at all. WCIT last year was possibly a turning point, and the formation of Best Bits also helped. But due to limitations of time, internal disagreements, and different people taking leadership and not consulting with each other, it remains a bit chaotic, and some mistakes were made. We are definitely still learning how to coordinate well and effectively and there is a lot that we can do better next time.

In summary, there were different stances among civil society actors towards the issue of intellectual property right. Some civil society actors proposed including copyright as part of human rights in accordance with the Article 27 of Universal Declaration of Human Rights, which states, “There must a regime that protects the interests of authors against unfair commercial exploitation of their work” to be added in the NETmundial document. Others were against it with two opinions emerging. The first opinion opposed the copyright regime totally and aimed to make this position explicit in the NETmundial document. The second opinion was also against the incorporation of the clauses as stated in Article 27, but questioned the need to mention the term intellectual property rights or copyright as a special section in the NETmundial document so that hopefully it does not include the protection clauses. However, if the term “intellectual property” rights would be added, then they recommended to also add a sentence “to reflect the balance private rights with the broader public interest” (Ermert, 2014, April 24).

The issue here is not the diverse policy views on copyright among civil society actors, but the extent certain policy ideals needed to be pushed to the final policy document. In their proposed policy views and wordings, civil society actors disagreed on the extent to which they needed to consider international documents and the views of other stakeholder groups while maintaining their normative views in defending public interests.

Civil society actors who held a critical view of copyright regime seemed to adopt a critical stance of the wordings and frontal actions as the approach to influence the NETmundial in radical manner. They disagreed with the approach taken by the other faction of civil society actors as will be explained below that

tried to moderate the position of civil society group in anticipation of the interests of other powerful stakeholder groups.

The other faction of civil society actors, however, considered their short-term and long-term goals and so aimed to balance between critical and cooperative engagement. Their short-term goal was to maximise the potential possibilities of their views being accommodated in the final policy document. However, they took into account external conditions such as the views of other stakeholder group that might obstruct the incorporation of strongly critical views of civil society actors and accordingly might hinder the decisiveness of the NETmundial. They therefore decided to moderate their views.

Managing Diversity of Goals of Civil Society in the NETmundial's Decision-Making Processes

This part aims to show the challenges faced by civil society actors during the NETmundial's decision-making processes in coordinating the diverse goals, roles, and strategy among them. The earlier anticipated concerns among civil society actors on the roles of civil society representatives in relation to the membership coverage of CSCG were realised during the NETmundial's decision-making stage. Civil society representatives eventually held two intersecting roles, namely as a bridge between civil society and the policy-making space for administrative matter, but also as a decision-maker for policy content matter on behalf of civil society group. The challenges faced by civil society actors in coordinating their diversity were exacerbated as there was an absence of appropriate decision-making arrangement in the NETmundial's decision-making processes. The next section, first, explains the flaws in the NETmundial's

decision-making arrangements and then followed with the implications of those flaws on the coordination efforts among civil society actors during the NETmundial's decision-making processes.

The flaws in the NETmundial's decision-making arrangements that triggered a heated negotiation process.

The flaws in the NETmundial's decision-making processes facilitated the intervention by other stakeholder groups in the NETmundial's decision-making stages. The first shortcoming was the lack of communication regarding the openness of the decision-making process to wider NETmundial participants and also the lack of enforcement of the participation rules of the observant during the process. Accordingly, not all civil society actors were aware of the opportunities to be present at that decision-making process. Some observers even tried to intervene in the process by pushing for their views to their representatives in the drafting committee as the rules of participation was not enforced strictly at that time. This concern was noted by Robin Gross (personal communication, November 13, 2015) during an interview:

... And so, that was also sort of get set into the drafting session, the middle of the night where most cases they were trying to really finalize a lot of the text. And, so really, it was just a sort of a breakout session. I mean anybody could come who want it to, but there was not really well publicized and there wasn't really remote participation. So, it's really the people who were there who knew about it and who were not going to party at that night because a lot of people going to party at that night (laughing). We had to participate in those drafting sessions where we would. The rapporteurs would go through some outstanding issues in what people were saying and trying to formulate some sort of consensus and we would haggle over

specific words and sort of be very much give and take and back and forth among the people who showed up and a lot of the people who showed up were from the intellectual property right stakeholder group, you know, the MPAA, and Time Warner, and those kinds of organizations were very active in those drafting sessions, which make sense because that's where the actual document, you know, would come out, and so, it was just a sort of late night debate and discussions in trying to find consensus and trying to find compromises that people could live with...

The second flaw was the intervention by and veto from some governmental members of the NETmundial High Level Multistakeholder Committee (HLMC) in the last meeting of the HLMC, which was the final decision-making stage of the NETmundial. Some governmental actors disagreed with the content of the draft and requested particular text to be removed from the draft. Virgilio Almeida, the chair of the NETmundial, explained that the idea of having the approval from HLMC is to reflect that there is an approval from multistakeholder groups towards the document. However, this final stage of the NETmundial, which asked for the approval of governmental actors towards the penultimate NETmundial's outcome draft, was considered as hurting the overall multistakeholder processes of the NETmundial. This concern was as delivered by Matthew Shears (personal communication, November 9, 2015) as below:

I think it's actually pretty good until the very end game. I think it was quite legitimate that the stakeholders were encouraged, in some cases, even forced by the way it was structured to be actively equal. But, in the end game of the discussion or negotiation, if you want to call that, the primacy of the states became apparent because governments respectively said at the very last minute, 'We don't agree with this or we disagree with the way it was phrased.' So, for example, language on network neutrality was moved to the section that and watered down to move to the section about things we need to discuss in the future. And there were also some changes on

intellectual property... One of the specific issues that there was a huge mass of concern about mass surveillance and in fact that governments were not keen to have reference to mass surveillance... So, I think the problem is that the NETmundial had the right kind of structure, but at the end of the day, there was, it was looking to governments to endorse the manners and speaking to that, the problem with civil society was almost threatening to walk out.

The above conditions triggered a heated negotiation process in the NETmundial's final decision-making stage. Not all of the previous most commented issues were reflected in the final NETmundial document. Some parts of the NETmundial document eventually reflected the intervention from powerful actors in the last HLMC meeting prior to the NETmundial's closing ceremony. This tension is explained in the debates around surveillance, net neutrality and lastly copyright and the role of intermediary during the NETmundial's decision-making stage. These three issues are selected as the controversy occurred in the discussions over those issues during the NETmundial's overall process, particularly in the decision-making stages.

On the topic of surveillance.

Although it was the Snowden revelations that triggered the NETmundial, the final document mentioned the practice of mass and arbitrary surveillance in a gentle manner as below (Geneva Internet Platform, 2014, April 24b):

Privacy: The right to privacy must be protected. This includes not being subject to arbitrary or unlawful surveillance, collection, treatment and use of personal data. The right to the protection of the law against such interference should be ensured.

Procedures, practices and legislation regarding the surveillance of communications, their interception and collection of personal data, including mass surveillance, interception and collection, should be reviewed, with a view to upholding the right to privacy by ensuring the full and effective implementation of all obligations under international human rights law.

In the roadmap section, the statement on surveillance was also watered down:

Mass and arbitrary surveillance undermines trust in the Internet and trust in the Internet governance ecosystem. Collection and processing of personal data by state and non-state actors should be conducted in accordance with international human rights law. More dialogue is needed on this topic at the international level using forums like the Human Rights Council and IGF aiming to develop a common understanding on all the related aspects.

The above final sentences on surveillance in the NETmundial outcome was a contrast to its initial draft that “surveillance should be conducted in accordance with the ‘necessary and proportionate’ principle” (Geneva Internet Platform, 2014, April 24b). The final lines on surveillance do not mention the principles of “Necessary and Proportionate” as strong legal safeguards against mass and arbitrary surveillance practices. Instead, it just calls for a review of procedures, practices and legislation regarding surveillance in accordance with international human rights law and recommends that “more dialogue is needed on this topic at the international level...”(O'Brien, 2014, April 25)

The above final text was the result of the intervention by some governmental actors, mainly the United States government, at the HLMC's last meeting as the penultimate stage of the NETmundial (Geneva Internet Platform, 2014, April 25; O'Brien, 2014, April 25). The United States government insisted at the last minute that the phrase “mass surveillance is fundamentally inconsistent with the right to

privacy and the principle of proportionality” be removed from the document (APC, April 2014). They suggested the wording from the language of the United National General Assembly resolution of online privacy, which had been arrived at through compromise (Radunovic, 2014, April 22).

On the topic of net neutrality.

The final NETmundial document does not include the principle of network neutrality among the list of governing principles of the Internet. Instead, it merely mentions the principle of open Internet. The NETmundial document eventually put network neutrality only in the section of the issues to be discussed in the future. This final mention of network neutrality in the NETmundial outcome was in contrast to the discussions in other space wherein a few days prior to the NETmundial, Brazil adopted the principle of net neutrality in its Internet constitution (Geneva Internet Platform, 2014, April 25).

The removal at the end of the discussion on network neutrality was the result of lobbying by the private sector (Geneva Internet Platform, 2014, April 24a). This removal of network neutrality discussion in the NETmundial document also resonated with the view by Nellie Kroes (2014, April 11) in her email to the HLMC mailing list, which was later disseminated in the EU’s website as following:

I am not convinced, for example, that the outcome document should or indeed needs to touch upon issues such as "network neutrality" and the liability of Internet intermediaries. Both are certainly very important issues in the overall debate on an open Internet, but are the subject of detailed discussions elsewhere.

On Net Neutrality for example, legislators of the European Union are at this very moment engaged in a democratic debate on the "Connected Continent" proposal by the European Commission. I understand a similar debate is taking place in Brazil, on the "Marco Civil". We should not be seen as prejudging the outcome of a democratic procedure on such sensitive topics. As regards the topic of the liability of intermediaries, I believe there is no added value in referring, via potentially contentious language, to an issue which has extensively been debated in many different settings and democratic fora and has in some cases been enshrined in legislation, as is the case of the European Union.

On the topic of copyright and the role of intermediary.

The final text of the NETmundial on copyright incorporated copyright protection in which this clause did not exist in the early draft of the NETmundial document. The final NETmundial outcome stated that “the provision that distribution of information should be consistent with the rights of authors and creators (Geneva Internet Platform, 2014, April 24b; O'Brien, 2014, April 25) as below:

Freedom of information and access to information: Everyone should have the right to access, share, create and distribute information on the Internet, consistent with the rights of authors and creators as established in law.

Protection of intermediaries: Intermediary liability limitations should be implemented in a way that respects and promotes economic growth, innovation, creativity and free flow of information. In this regard, cooperation among all stakeholders should be encouraged to address and deter illegal activity, consistent with fair process.

Moreover, the second paragraph on copyright section above assigns Internet Service Providers (ISPs) the role of intermediary to monitor the activities

of Internet users and to censor content. This was different from the initial NETmundial draft that gave broad protection to intermediaries.

The final text above may be considered as result of the influence from private sector and governments. The wordsmithing on the first line was a result of the capability and resources of giant business, particularly Motion Picture Association and 20th Century Fox and supported by Western Government, namely French Government to influence the NETmundial's plenary sessions and the drafters in the NETmundial's decision-making stage (Ermert, 2014, April 24; O'Brien, 2014, April 25).

The line, which relates intermediary liability to economic growth and therefore might make intermediaries carry the role as copyright enforcements, was concluded at the final HLMC meeting based on the insistence of France and United States Governments. This concern was as delivered by Anriette Esterhuysen (2014, April 29) in the Best Bits mailing list as below:

The BAD news is that the text on internet intermediary liability which was only finalised after the high level committee meeting is the same OECD text which civil society opposed in 2011. France and the US were insisted it be included. It is text that links intermediary liability to economic growth and that opens the doors to intermediaries being made responsible for enforcing copyright. For me that was a huge, huge blow.

Coordination challenges between civil Society representatives and larger civil society actors in the NETmundial's decision-making processes.

The above flaws in the NETmundial processes highlighted the limitations in the capability of civil society actors to coordinate their different positions and in deciding their shared critical distance.

When civil society representatives faced the pressures in the NETmundial's decision-making processes, they had difficulty deciding if they should accede to the appeals from other stakeholder groups. The wrinkle here was that civil society representatives had some uncertainty regarding their role: should they accede to the appeal from other stakeholder group to moderate the views of civil society actors or should they stand firm on the position of civil society actors? Moderating the views might result in a moderated final NETmundial text, but would have the twin benefit of saving the NETmundial process and therefore demonstrating the workability of a multistakeholder process at a global level. Standing firm, on the other hand, came with the risk of the NETmundial being deadlocked and inconclusive.

Every civil society representative in the drafting committee faced the same dilemma in deciding the extent they needed to be cooperative and critical during the negotiation process. Jeannette Hoffman (2014, April 26), a representative from the academic group in the drafting committee, and an active participant in the civil society group since the WSIS, in the Best Bits mailing list, said:

What happened there is that some governments expressed vetos to specific wording of the draft doc. One country expressed reservations to the entire document. The ICANN CEO wanted one sentence to be changed and one word removed. At that point, it seemed at least to me that the process was about to collapse. The only chance to prevent the whole process from failing was to remove or tone down certain paragraphs.

Hoffman (2014, May 1) explained her consideration in giving concession at the final NETmundial's decision-making stage:

While more and more government reps expressed their discontent and the meeting was running over time, I tried to imagine what a failure of netmundial would mean for the future evolution of the multistakeholder

process. For years to come, I thought, we would be stuck with the IG truism that one can have either multistakeholder and chairman reports or more specific outcomes BUT NOT BOTH. We would have faced an agonizing stalemate for a long time despite all the goodwill and efforts to push this fragile baby forward. If we had ended with yet another chairman's report, netmundial would have been interpreted by many as a confirmation of the limits of multistakeholder processes.

While Hoffman emphasized the need to moderate certain parts of the text in order to save the NETmundial from failing to produce an outcome, Anriette Esterhuysen, then Executive Director of the Association of Progressive Communications and who was co-chair of the drafting group, held a different view. Esterhuysen placed more emphasis on the need of civil society actors to defend public interests. In her email to the Best Bits mailing list, she wrote (Esterhuysen, 2014, May 1):

Jeanette, some governments had been part of the editing process - directly and indirectly, and had monitored it very closely. As a drafting group we negotiated and struggled through a difficult process, and we knew that some of the text included did challenge what some government stakeholders wanted. We - Markus and myself as co-chairs - chose to err on the side of what seemed to be the 'mood of the room' on some of these issues. Possibly this was a mistake, and we could have compromised more. I personally might have erred in defending some text - submissions on intermediary liability and surveillance - too vigorously. But I felt that avoiding controversy, when there were issues such as mass surveillance which very many people had very strong feelings about, would not do justice to the process.

The dilemma faced by civil society representatives in deciding their role was also to some extent due to the absence of specific text from the wider civil society community. In their submissions and intervention to the NETmundial, civil

society actors stated their general preferred views without offering any text to support the civil society representatives during those challenging decision-making processes. This difficult condition was admitted by Adam Peake (2014, May 1) as a civil society representative in the Executive Multistakeholder Committee in the Best Bits mailing list as below:

We kept asking for specific text. Something the (sic) we could work with in drafting. Asked on this list and others, asked at the CS meeting on 22nd... We looked through the transcripts and all I remember seeing is general statements (we want to see NN mentioned, blah... and those were balanced by others who said there was no place for net neutrality in the documents). Sorry if I missed anything, but we needed text to work with, and needed support. Where we got help, it worked: thanks particularly to Robin, Stephanie, Avri.

Hoffmann (2014, April 26) similarly raised the same concern in the Best Bits mailing list:

... civil society could have done better by simply submitting concrete wording and back that up with several statements by several organizations. So many interventions during the track sessions were made for the transcript only since they did not refer to specific paragraphs or did not suggest concrete wording!

Civil society representatives eventually made the decision on behalf civil society group in the NETmundial's decision-making processes without sufficient guidance from the larger civil society community. The final NETmundial document, which contained moderated statements particularly on the issues of surveillance, net neutrality, and copyright, is the reflection of the decision and acceptance of civil society representatives to grant some concession during the

process. This decision attracted compliments from but also legitimacy concerns of the NETmundial process and outcome by the larger civil society community.

The disappointment of some civil society actors was shown through the closing statement drafted by limited civil society actors and delivered by Niels ten Oever of Article 19 right after the announcement of the final NETmundial document. This statement was developed by around 50 - 60 civil society actors after the final drafting session. Meanwhile, the opportunity to speak was arranged by some group of Latin America civil society organisations (Oever, 2014, May 1).

In essence, this speech reflected the wishes of some civil society actors to have a stronger NETmundial final policy document. They wished for an explicit mention of the network neutrality principle, a strong statement against surveillance practices and to incorporate due process in the text on intermediary liability in the NETmundial document. The statement of the speech is as below (Best Bits, 2014, April 24):

We would like to thank the Brazilian government for organizing the Global Multistakeholder Meeting on the Future of Internet Governance.

We, as a diverse group of civil society organizations from around the world, appreciate having been part of the process.

However we are disappointed because that outcome document fails to adequately reflect a number of our key concerns.

The lack of acknowledgement of net neutrality at NETmundial is deeply disappointing.

Mass surveillance has not been sufficiently denounced as being inconsistent with human rights and the principle of proportionality.

And although the addition of language on Internet intermediary liability is welcomed, the failure of the draft text to ensure due process safeguards could undermine the rights to freedom of expression and privacy.

We feel that this document has not sufficiently moved us beyond the status quo in terms of the protection of fundamental rights, and the balancing of power and influence of different stakeholder groups.

The above speech came as a surprise to other civil society actors in the NETmundial. This was as best reflected in the statement from Carlos Afonso (2014, May 1) and Hoffman in the Best Bits mailing list as below:

BTW, I would really like to see the list of orgs who signed (or agreed to) the statement. I find it hard to believe that 50-60 orgs were so naïve in grasping the relevance of the moment and the nature of the final document after participating in the event (I assume they all participated?).

In the meantime Hoffman (2014, May 1) wrote:

I was so relieved when we achieved a compromise and prevented the process from failing! And this is why I found it pretty hard to listen to the cs statement and watch you all sitting there with your arms folded and not even a little smile on your faces.

The speech from Oever triggered further discussion among civil society actors on the different expectation they had from their participation in the NETmundial. This discussion led to the formation of another civil society response with a more positive tone towards the NETmundial. The content of the more positive reflection of civil society actors is as below (Best Bits, 2014, May 1):

... We might not succeed in all issues nor will we win immediately. To be truly multistakeholder is to not just admit, but to welcome and integrate

those whose opinions differ from your own, and to give other stakeholders time to understand and evolve their perspectives.

It is not surprising that the first outcome is incomplete and not totally satisfied. This should not be an indication that the process is broken, but instead an indication that the process has only just begun. We must and we will continue to press for more, and we do understand that our battle is one measured in decades, not weekends...

Those civil society actors who supported the above more positive reflection preferred for civil society group to be cooperative to some extent during the NETmundial with a consideration of the history of the limited participation of civil society actors in the global Internet governance and also the challenges in the NETmundial process. This is as delivered by Robin Gross of NCSG in the Best Bits mailing list. She perceived the NETmundial as a victory for civil society group despite some flaws in the process and the losses experienced by civil society group (Gross, 2014, April 26) as stated below:

I don't want us to lose sight of the big picture, and fail to see the really great parts of this document, and that in many ways, this was a very positive step forward in the evolution of the Internet governance and Internet freedom.

Civil society lost ground on the specific wording over the most contentious issues, such as surveillance, copyright, permissionless innovation, intermediary liability, net neutrality, and separation of policy & operations in IANA, but the fact that these issues were mentioned in the governance document itself, is a significant advancement

And the lack of advance planning and announcement of the process because it was being made up on the fly, made it nearly impossible to know what to anticipate and plan for... And despite our

legitimate complaints about the insufficient transparency in drafting sessions and HLMC, frankly, usually those moments are done in complete darkness and the fact that a small handful of the world could see it was a significant step forward in transparency. Next time, the world *will* be watching every proposed comma change, how and from where it came, etc.

But the simple fact the govts and biz had to negotiate with civil society over key language (and wait in line to speak) is another rather remarkable step-forward. There was more transparency over the drafting and adoption of the document than there is in other global governance regimes where we can't see the drafting at all, since a few of us could watch.

The appreciation on the final NETmundial outcome in consideration of the complexity during the decision-making processes was also stated by Afonso. He referred particularly to the issue of network neutrality where he viewed the incorporation of the principle of open Internet was good enough for him. His reflection is as below (Afonso, 2014, April 30):

Finally, it is wrong to say (as they did) that net neutrality was not included in the NETmundial document... Since the term "net neutrality" was causing problems for consensus-building, that was what we (the executive committee) managed to do. It was also recognized that the issue is not simple and merits further discussion, as stated in the Roadmap document. But one cannot say it was not reasonably dealt with in the Principles document.

Afonso furthermore provided his understanding of the existence of two factions of civil society actors who had different tactics when they participated in the NETmundial. For him, some considered their participation in the NETmundial as whether they win or lose. In other words, they considered it a victory in the

NETmundial only when all of their views are incorporated in the final document; otherwise it was a loss. The other faction of civil society actors was, in his perception, a more realistic group where they realised they could get a lot from their participation in the NETmundial, but a lot did not equate with having all their views incorporated into the final document. He viewed these different expectations as arising from the different understanding of the nature of the document and also their understanding of the relevance of the NETmundial meeting with regard to the broader struggle in the global Internet governance.

While most civil society actors just defended their stance, there was one important point that pointed out the failure of civil society actors to coordinate the diversity among them for their participation in the NETmundial. This concern was best reflected in the email from Stephanie Perrin (2014, May 1) as the member of HLMC in the Best Bits mailing list:

... It is clear to me that even though there were many civil society representatives in the meeting between the HLMC and the HMC, many did not realise how close we were to losing the entire game at the 11th hour. Document, strong wording, and (most importantly) the ability to declare the process of Netmundial a success, a conference which moved so many yardsticks in a positive direction, nearly went out the window. This would have been, in my view, pretty close to a catastrophe, on a number of levels, but particularly for the Brazilian government, who had shown true leadership in proposing this conference and in linking up the world. This fact, that we nearly lost everything, was clear to many (most?) governments, who came up to me after I intervened to isolate the representative of the Indian government at that meeting. That it was not clear to civil society, in my view, is a matter of deep concern. I am not looking for thanks, I am just wondering about our collective political maturity.

... while we had an excellent civil society meeting on the day before the conference, truly well organized and stimulating, we did not leave there clear on either the process or the strategy. I would respectfully suggest that this was a serious omission. What were our goals? was it to craft a strong document? was it to find allies in the room, to help us advance our roles and responsibilities beyond the holding pen we were placed in at Tunis? was it to endorse a new kind of multi-stakeholder model? It is vitally important, when preparing for a complex meeting like this one, that we establish some kind of rough consensus on what we are trying to achieve, and how we plan to achieve that. Time was not on our side, but we still needed goals, strategy and tactics.

The core issue faced by civil society actors during the NETmundial as rightly pointed out by Perin was that civil society actors merely discussed their different policy ideas during the NETmundial, but they failed to coordinate their different short- and long-term expected goals, roles, and strategy. This absence has accordingly created the legitimacy concerns and debates among civil society actors towards the decision made by civil society representative and also the NETmundial process and document.

CONCLUSION

This research began with the expectation that the more civil society actors are able to speak with one voice, the more they would be able to influence a multistakeholder consensus-building process and outcome. The emphasis here is on the outcome, namely on the incorporation of civil society's one voice in the final policy document. Instead, this research found that civil society needs to be legitimately influential in raising their views to a multistakeholder consensus-building process. In order to do so, the scope of their efficacy needs to cover both short- and long-term efficacy in the policy-making process and in the larger global governance arrangements. Hence, the concept of output legitimacy needs to be stretched to include public assent and those two kinds of efficacy.

For civil society to be legitimately influential in a global multistakeholder consensus-building process, when civil society actors try to develop their joint position, they must manage and attend to their diversity, not only with respect to roles, but also in terms of their different goals and strategy in conjunction with their short- and long-term expected efficacy in the related consensus-building process and in the larger global governance arrangements. All these must be grounded in inclusive coordination and decision-making processes. These measures must be undertaken in order to enable them to define their one voice in a shared critical distance, standing firm in defending public affairs and disengaging themselves from the external context of the policy-making space in consideration of the larger global governance arrangements.

In other words, the focus is not merely on the final outcome of one voice among civil society actors. Instead, attention needs to be given to the process of how civil society actors might arrive at that one voice. This is because, as this

research found, when the critical distance of civil society group was decided by a limited number of civil society actors, no matter how influential that decision in the policy-making stage, other civil society actors who were not involved in the civil society group's decision-making process can subsequently raise legitimacy concerns of that "one-sided" decision. Moreover, because civil society needs to be both legitimate and influential in a multistakeholder consensus-building process, the measure of success of civil society's participation in a multistakeholder consensus-building process cannot be limited to merely the incorporation of civil society's views in the final policy document. The measure of success must also include their achievement in the larger global governance arrangements.

Civil society actors in the NETmundial tried to manage the inclusiveness and efficacy of their coordination efforts through several activities. This could be seen in their joint nomination process in selecting civil society representatives to the NETmundial committee during the process formation stage, their joint policy ideas formulation process to submit their shared policy concerns during the NETmundial drafting stage, and also civil society coordination meeting prior to the NETmundial plenary and decision-making sessions.

Civil society actors, however, faced challenges and tension in managing the diversity among them. This tension rose to a crescendo when they needed to participate in the NETmundial's plenary and decision-making processes. Civil society actors focused on coordinating policy ideas, but failed to coordinate the other kinds of diversity in their participation in the NETmundial, namely their preferred roles, which indicated various goals they aimed to achieve, and accordingly marked their different strategy. By roles refer to the extent to which civil society actors need to be cooperative or critical in a multistakeholder

consensus-building process. Goals mean the expected efficacy in the related multistakeholder consensus-building process and larger global governance arrangements. Strategy is the embodiment of their preferred roles, in forms of internal and external strategy. Internal strategy refers to the deliberative acts of civil society actors in a policy-making process, while external strategy refers to the action taken by civil society actors outside the policy-making arena, such as protest and demonstration.

From the civil society coordination meeting, there were two camps of civil society with different preferred roles and strategy. The first camp was for critical role. They urged civil society group to express its stance critically and explicitly against the application of copyright regime on the Internet through strong wordings and frontal actions for their participation in the NETmundial. Meanwhile, the other camp utilised cooperative role. They decided to moderate the views of civil society group as an attempt to increase the likelihood of the incorporation of their views and accordingly to support the NETmundial to be decisive. Although they were also against copyright protection on the Internet, but they decided not to mention the terms “copyright” or “intellectual property” explicitly on the civil society’s joint position. Instead, they used the terms “the right to participate in cultural life” with an intention copyright would not be included as a special section in the NETmundial final document and thus prevent the inclusion of the protection clauses. While there were these two kinds of roles during the civil society coordination meeting, but the joint view of civil society group only presented the views of those with cooperative stance. This is because civil society actors with critical views, although they participated in the civil society coordination meeting, but the decision-making was finalised by only

limited civil society actors. Accordingly, the seemingly shared critical distance of civil society group was actually not agreed by all of the participating civil society actors in the civil society coordination meeting.

The absence of shared critical distance among civil society actors was exacerbated because of some flaws in the NETmundial process. The deficiency of decision-making arrangement, which facilitated the intervention by other stakeholder groups in the NETmundial's decision-making processes, left civil society representatives unable to consult with larger civil society actors in order to arrive at their final decision. Those civil society representatives were hesitant at first because they knew they needed to moderate the normative policy stance of civil society group as they faced the pressures from other stakeholder groups that might jeopardise the NETmundial processes. In the end, they accepted the NETmundial final document, which contained a toned-down version of their views, after considering that demonstrating the workability of the multistakeholder approach at the global level would help future participation of civil society actors in global Internet governance.

The one-sided decision of those civil society representatives to moderate the views of civil society group, however, led to criticisms from other civil society actors who had different goals in the policy-making process. The civil society representatives along with other civil society deliberators who supported a cooperative attitude in the NETmundial argued that the incremental changes as achieved by civil society group in form of the toned-down NETmundial document ought to be considered as a victory in such a multistakeholder policy-making process. Their justification was that there are risks to the future participation of civil society actors in the global Internet governance if civil society actors insisted

on their normative stance. Civil society actors who expected to achieve radical changes in the NETmundial, and so insisted on explicit strong stance of civil society actors to be heard and incorporated in the policy document, criticised the weak position of civil society group in the NETmundial before powerful actors. One of the civil society radicals even delivered an impassioned speech on the dissatisfaction of this faction in the closing session of the NETmundial. This action suggests the need for civil society to accommodate both short- and long-term expected efficacy in the multistakeholder consensus-building process and in the larger global governance arrangements in order to enable civil society to be legitimately influential in raising its joint position to the related process.

Implications

Theoretical Implications

From the above discussion as well the literature, civil society actors need to be inclusive if they wish to be influential in global governance arrangements. The most appropriate normative theory envisioning the democratising potential of civil society actors in the global governance arrangements is the deliberative democracy theory. The theory has the conditions of inclusiveness within public spheres and also the need of those views from public spheres to be influential in the related policy-making processes.

Some empirical studies, however, have found that inclusiveness among civil society actors challenged their efficacy in policy-making processes (Gemmill & Bamidele-Izu, 2002; Kissling & Steffek, 2008). The ability of civil society actors to speak with one voice increases their opportunity to influence a policy-making process. This view emphasizes the shared voice of civil society actors as a

final product. Diversity made it more difficult to speak with one voice, which decreased the likelihood of their views being heard in the policy-making space. Accordingly, those studies said that civil society actors often tried to curb their diversity in order to arrive at one voice with the larger aim of strengthening their efficacy in the policy-making space.

In contradistinction to those studies, this research found that over-emphasizing outcome, namely the oneness of civil society group, while neglecting the process of developing that outcome would eventually raise legitimacy concerns from the larger civil society community. When the one voice of civil society group was developed only among limited civil society leaders, no matter how influential that voice in the decision-making stage, the policy position would eventually be challenged by the larger civil society community. This finding suggests that the shared voice of civil society actors should not merely be the end-product, but also should be part of the process. The voice of civil society group must come from wide coordination among all concerned civil society actors in the policy-making process. This coordination may be done through the development of shared critical distance among civil society actors, which needs to be consulted widely in order to take into consideration the diversity in goals, roles, and strategy among them in developing the critical distance.

The above findings suggest that in a multistakeholder policy-making process, the legitimacy of civil society is intertwined with its efficacy and even a precondition to attain its influence in such process and further global governance arrangements. In order to attain both wanted conditions of inclusiveness and efficacy, it takes the redefinition of the latter to include the short- and long-term

expected efficacy of civil society in the related consensus-building process and in the larger global governance arrangements.

This research therefore modified the deliberative democracy theory at both the normative and empirical aspects by stretching the concept of output legitimacy among civil society actors in their coordination efforts to influence global governance arrangements. Normatively, civil society actors need to be inclusive and attempt to be influential in policy-making processes. But this research has found that legitimacy, particularly at the output level, needs to be broadened to include the short- and long-term expected efficacy in the related multistakeholder consensus-building process and in the larger global governance arrangements. Stretched output legitimacy is critical to bridge the tension between the state of inclusiveness and efficacy faced by civil society in a multistakeholder consensus-building process. At the empirical level, civil society actors must coordinate their diversity in terms of policy ideas, roles, short- and long-term expected influence, and also strategy in an inclusive coordination process so that they could arrive at legitimate yet influential shared critical distance in the policy-making process.

The findings of this research also question the vision brought by deliberative democracy scholars of a seemingly neutral bridging role of civil society actors in the global governance processes. The participation of organised civil society actors in the global governance arrangement is often envisioned as a bridge between weaker publics in wider public spaces with global policy-making arrangements. They are envisioned to raise the critics and views of wider publics to the related global institutions (Bohman, 2007). The participation of strong civil society actors, namely those who are in the policy-making committee, is therefore viewed as a transmission belt between the deliberation process within global

institutions and wider public spheres (Nanz & Steffek, 2004). Those civil society actors can raise the concerns of wider publics to the deliberation process and make sure those views are acknowledged in the policy-making process.

This research instead found that a multistakeholder policy-making setting, which grants formal decision-making authority to civil society actors such as the NETmundial, creates an intersection of the two roles of strong civil society actors, i.e., bridging and decision-making roles. Such strong actors functioned not only as neutral bridges that channeled the concerns of the wider public into the policy-making space, but also as a decision-maker, administratively and substantively, on behalf of the civil society stakeholder group.

Practical Implications

Based on the above, this research therefore has several practical implications with regard to the mobilisation of civil society actors in the global governance arrangements:

1. Civil society actors need to coordinate not only their different policy ideas, but also their different goals, roles, and also strategy inclusively for their participation in a global multistakeholder policy-making process.
2. The administrative and policy content roles of civil society representatives in the policy-making committee should be made clear from the early preparation stage. This clarity will help civil society representatives and groups to set their coordination arrangements.
3. Civil society actors need to form both a static joint policy statement, and also a dynamic shared critical distance, in form of specific proposed policy

text, to enable them not only to transmit, but also to engage in a multistakeholder policy-making process.

4. Civil society could consider the use of sign-on endorsement mechanism as a technique to accommodate the acceptance from concerned civil society actors towards the proposed shared critical distance.

Limitations and Recommendations for Further Research

The major limitation of this study is its single case study approach. Further, NETmundial was unique as it was the first and, so far, only global multistakeholder policy-making process that granted non-state actors a formal share of decision-making authority. One obvious path for future research is to investigate other multistakeholder fora.

Future research could examine the mechanisms and elements by which the diversity of civil society actors are managed so as to enable them to converge on policy positions. While this study has introduced the need for civil society actors to have shared critical distance in their joint efforts to influence a global policy-making process, further research is needed to examine the coordination process between the civil society representatives and wider civil society actors throughout the policy-making process. Some potential research questions to address this issue are: How could civil society actors coordinate their diversity and be prepared to cope with when their proposed normative policy views are negotiated in the process? Who among civil society actors and how do they determine the degree of compromise that they can have in supporting the policy-making process to arrive at an outcome while at the same time not to have their views be compromised too far from their initial position?

Although it seems challenging for such diverse group of civil society actors to converge their policy ideas, goals, roles, and strategy; this research suggests that there is still some hope for civil society actors to attain a legitimate shared critical distance among them. This needs to be done with a mindset not to force the participating civil society actors to arrive at consensus, but to the development of “meta-consensus” (Dryzek, 2010), namely to allow the diversity among them to be recognised. The acknowledgement of the diversity among them, however, needs to be done by simultaneously linking their diversity with their leverage or bargaining power as a whole stakeholder group in a multistakeholder policy-making process. By recognising both elements, they could then coordinate their shared critical distance by considering what they might get or loose in that present policy-making process and future engagement if they decide to be cooperative or critical to the pressures and interests of other stakeholder groups.

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APPENDICES

Appendix A. Case Study Protocol

Section A. Overview of the Case Study

1. The background information and issue of the case study

This research was initiated in consideration of the increasing acceptance and at the same time the challenges faced by civil society actors to participate in a multistakeholder policy-making approach in the global Internet governance arrangement. As triggered by the Snowden revelation, the Global Multistakeholder Meeting on the Future of Internet Governance (NETmundial) becomes a watershed moment in the global Internet governance. The NETmundial is the pioneer of multistakeholder policy-making process in the global level that grants formal decision-making authority to non-state actors, particularly civil society actors. This research therefore examines the NETmundial as the case study in this research to delve deeper on the coordination process of diverse civil society group when they aimed to influence the NETmundial's process and policy outcome.

2. Research question and propositions

This study has two research questions. First, considering that civil society actors who participated in the NETmundial consisted of rich composition, then how did they manage the tension between securing their internal legitimacy by involving as wide civil society actors as possible in their coordination efforts while trying to leverage the opportunities to influence a global multistakeholder policy-making process? Second, what are the diversities that need to be managed by civil society actors when they participated to influence such a policy-making setting?

In answering the above research questions, this research forms several propositions. The overall proposition of this research is: Civil society actors need to pay attention both to the input and output legitimacy of their joint views development process in order to have legitimate yet influential shared critical distance in a multistakeholder consensus-building process. This proposition is further broken down into:

- 2.1. Civil society actors need to manage their diversity of roles for the development of their shared critical distance through an inclusive consultation process.
- 2.2. Civil society actors need to agree on their shared critical distance in order to safeguard the state of inclusiveness of their consultation process.
- 2.3. The shared critical distance would enable them to have legitimate yet influential views when raised to the multistakeholder consensus-building process.

3. Theoretical framework

Deliberative democracy theory is used in this study, with a particular emphasis on the concepts of input legitimacy, output legitimacy and the efficacy of civil society actors in a global multistakeholder policy-making process.

Some suggested key readings to learn more about deliberative democracy are:

- 3.1. Bohman, J. (2007). *Democracy across borders: from Dêmos to Dêmoi*. Cambridge: MIT Press.

- 3.2. Dryzek, J. S. (2010). *Foundations and frontiers of deliberative governance*. United States: Oxford University Press.
- 3.3. Parkinson, J. (2006). *In deliberating in the real world: Problems of legitimacy in deliberative democracy*. Oxford: Oxford University Press.
- 3.4. Scholte, J. A. (2011). *Building global democracy?: Civil society and accountable global governance*. Cambridge: Cambridge University Press.
- 3.5. Steffek, J., Kissling, C., & Nanz, P. (2007). *Civil society participation in European and global governance: A cure for the democratic deficit?* Hampshire: Palgrave Macmillan.

Section B. Overall Data Collection Plan

1. Type of evidence to be expected

This research aims to look for empirical data that reflects the main case of this study, namely the input and output legitimacy of civil society's joint advocacy efforts in order to be legitimately influential in a global multistakeholder policy-making process. Input legitimacy in here means the inclusiveness of civil society's coordination efforts; meanwhile output legitimacy refers to the acceptance towards the joint position of civil society group. Furthermore, to support the analysis of the above main case, this study looked whether the three conditions of inclusiveness, acceptance, and efficacy appeared in the embedded units of this research, namely the diversity of goals, roles, strategy, and policy ideas of civil society in the NETmundial.

2. Expected preparation prior to fieldwork

- 2.1. Applying for the Institutional Review Board (IRB) approval: Before conducting the fieldwork, the researcher applies for IRB, which consists of the informed consent form and the interview guideline, to be further approved by the IRB Board.
- 2.2. Gaining understanding on the global Internet governance field: The researcher also needs to gain initial understanding on the overall global Internet governance arrangements and the participating stakeholder groups in the realm. These include an understanding on the historical background of global Internet governance in the WSIS, WGIG, and IGF, the language and Internet governance related jargons used by the participating stakeholder groups, and the debated policy issues they engaged with.
- 2.3. Establishing contact with the interviewees and developing protocol questions: The researcher needs to establish contact with the interviewees through emails before conducting the interviews and to develop preliminary questions for the planned interview sessions.

Section C. Data Collection Procedures – Interview

1. Interview design

The interviews are designed to provide information about:

- 1.1. The background of the interviewees, particularly on their participation in the global Internet governance discussions.
- 1.2. The overall conditions of civil society in the global Internet governance.

- 1.3. The multistakeholder arrangement of the NETmundial starting from the preparation process up to the decision-making process.
- 1.4. The participation and coordination efforts of civil society actors in the NETmundial.

1. The roles of people to be interviewed

This research aims to interview civil society actors who were active in the preparation and the meeting of the NETmundial. They could be part of the NETmundial committee or larger civil society actors in the NETmundial. Due to the wide realm of civil society in the global Internet governance therefore this research selects key civil society actors, in the first place, as an entry point, namely those who play central roles as a coordinator or committee of the related civil society networks.

2. The means and procedures

The potential interviewees are approached by email. Afterwards, upon positive indication for interview, the interview questions and informed consent form are sent by email for the interviewees to prepare for the interview session.

With the availability of travel funding, the interview sessions are conducted face to face at the IGF 2016 in Brazil. The interviewees are informed about the informed consent form (see appendix B) and then they sign it prior to the interview session.

Since the IGF participants mostly have a fully occupied schedule during the whole week of IGF, some interview sessions are not possible to be conducted at the venue. However, the potential interviewees indicate their availability to have

an interview session via Voice over Internet Protocol (VoIP), in this case is Skype. Several follow up interview sessions with the interviewees at the IGF 2016 are also conducted via VoIP.

For the other potential interviewees who cannot attend the IGF, they are approached by email and then the interview sessions are conducted online.

3. Protocol questions

3.1. About the interviewees and their affiliated civil society organisation and network

3.1.1. The vision, mission, and goals of their civil society organisation and network in the global Internet governance.

3.1.2. The views and goals of their civil society organisation and network in the NETmundial.

3.1.3. The internal mechanisms of their affiliated civil society organisation and network when they participated in the NETmundial.

3.2. Civil society in the global Internet governance

3.2.1. The overall mapping and condition of civil society in the global Internet governance.

3.2.2. The participation of and coordination efforts among civil society as one stakeholder group in the overall global Internet governance realm.

3.3. The NETmundial arrangement

3.3.1. The overall processes of the NETmundial since its early announcement in IGF 2013 up to its plenary sessions.

3.3.2. The extent to which the NETmundial processes reinforced the participation of civil society.

3.4. Civil society in the NETmundial

- 3.4.1. The overall participation of and coordination among civil society as one stakeholder group in the NETmundial.
- 3.4.2. The challenges and tension among civil society during their participation in the NETmundial, especially those that impacted the incorporation of their views in the NETmundial outcome.
- 3.4.3. The kinds of diversity that help or hinder civil society influence in the NETmundial.
- 3.4.4. The processes, struggle, tension, and final results in managing the diversity of civil society actors in order to arrive at to some extent legitimate joint arrangements.
- 3.4.5. The inclusiveness, transparency and accessibility of their coordination works.
- 3.4.6. The discrepancy between the proposed views of civil society and the NETmundial outcome.
- 3.4.7. The basis or considerations for incorporating (or not) the views of civil society.
- 3.4.8. The conditions of successful or unsuccessful influence for civil society actors.
- 3.4.9. Their response and acceptance towards the NETmundial for the discrepancy between their proposed views and the NETmundial outcome.
- 3.4.10. The impact of the legitimacy of civil society joint arrangements on their influence in the NETmundial process and outcome.

3.4.11. The selection process of civil society representatives to the
NETmundial committees.

3.4.12. The interaction among the civil society representatives, large civil
society actors, and the NETmundial committees.

Section D. Data Collection Procedures – Observation

1. Observation design

The conducts of observation in this research are designed to provide
information about:

- 1.1. The overall realm of civil society, namely the participating networks,
organisations, and actors, in the global Internet governance field.
- 1.2. The policy debates among them.
- 1.3. The challenges they face to influence global Internet policy-making.

2. The events and mailing lists of civil society networks to be observed are:

- 2.1. The NETmundial plenary sessions.
- 2.2. Sessions in the global IGF and regional IGF that discuss about the
NETmundial and also about civil society participation in the global
Internet governance.
- 2.3. Civil society coordination meeting conducted prior to the IGF.
- 2.4. The mailing lists of key civil society networks in the global Internet
governance, namely Best Bits¹², Civil Society Coordination Group

¹² <http://lists.bestbits.net/arc/bestbits>

(CSCG)¹³, Internet Governance Caucus (IGC)¹⁴, Just Net Coalition (JNC)¹⁵ and Non Commercial Stakeholder Group (NCSG)¹⁶.

Section E. Data Collection Procedures – Selection of Online Documents

1. The selection and analysis of online documents in this research are designed to provide information about:
 - 1.1. The views of the less vocal civil society actors and those who are not able to participate in person in the Internet governance related meetings
2. The criteria of documents to be analysed
 - 2.1. Relevant documents and transcripts from the NETmundial website, namely:
 - 2.1.1. The meeting minutes and the meeting transcripts of the NETmundial committees.
 - 2.1.2. The policy ideas submission from all concerned actors to the NETmundial during the NETmundial's consultation stage.
 - 2.1.3. The NETmundial policy draft documents and final policy outcome
 - 2.1.4. The videos and transcripts of the NETmundial's plenary sessions.
 - 2.2. The discussions in the mailing list of civil society networks (Best Bits, CSCG, IGC, JNC, and NCSG) and the mailing list of

¹³ <http://internetgov-cs.org>

¹⁴ governance@lists.riseup.net

¹⁵ <https://justnetcoalition.org>; forum@justnetcoalition.org

¹⁶ <https://gnso.icann.org/en/about/stakeholders-constituencies/ncsg>

multistakeholder group (1net¹⁷) from October 2013 – April 2014.

This period was selected because the discussions within this time were mostly directed to NETmundial preparation process.

¹⁷ <http://1net-mail.1net.org/pipermail/discuss/>

Appendix B. Informed Consent Form

INFORMED CONSENT FORM

Please read this consent agreement carefully before agreeing to participate in this study.

I am Sherly Haristya whom currently a doctoral student under the supervision of Prof. Ang Peng Hwa at the School of Communication and Information, Nanyang Technological University, Singapore, would like to kindly request for your participation to join as an interviewee in a study with the details as below:

Purpose of the Research

This research aims to study the roles of civil society in developing and shaping the deliberative system of global Internet governance through their concerns of legitimacy towards the NETmundial and NETmundial Initiative.

What you will do in this study

Upon your agreement to participate, we kindly ask you to participate in an interview for less than 60 minutes. Moreover, we might ask you to participate in a follow-up conversation via email or Skype with a maximum duration of 30 minutes, if necessary.

Risks

There are no foreseeable risks associated with participating in this study.

Voluntary Withdrawal

Your participation in this study is completely voluntary. You may skip over any questions or you may withdraw from the study at any time without penalty. However, it is important to us that you answer as many questions as possible.

Confidentiality

The results of this study may be published and only upon your request, your name will not be attached in any of the published documents. However, it is preferable to state your name as this research would like to emulate the spirit of transparent global governance.

Further Information

If you have any questions later about the study or your rights as a participant in this study, please contact Sherly Haristya at sherly001@ntu.edu.sg or Prof. Peng Hwa Ang (Supervisor) at tphang@ntu.edu.sg.

If you have any questions regarding this study and would like to talk to someone other than the researcher(s), you are encouraged to contact the NTU IRB at Block N2.1 B4-07 76 Nanyang Drive Singapore 637331, or by phone at +65-65922495, or by email at irb@ntu.edu.sg.

Thank you very much for your time and participation. We highly appreciate your great support for this research project.

Statement of Consent:

The purpose and nature of this research have been sufficiently explained and I agree to participate in this study. I understand that I will receive a copy of this form to take with me.

Signature/ Name/ Date