

Stakeholderism – The Wrong Road For Internet Governance

Karl Auerbach¹

Former (and only) publicly elected Director of ICANN for North America

Yuen Fellow of Law and Technology (Caltech and Loyola Law School)

Norbert Wiener Award (CPSR)

Director: Open Voting Consortium

Chief Technical Officer, InterWorking Labs, Inc.

Attorney at Law (California) and member of the Intellectual Property Section of the California State Bar.

Thesis

A massive black hole lurks at the center of each galaxy . The gravity of that black hole forms and shapes the galaxy.

An equally dark and controlling force lies at the center of most proposals and existing institutions of internet governance - the concept of *stakeholderism*.

Stakeholderism is the idea that organizations, not people, matter.

Stakeholderism is a regressive idea that is in conflict with the principle of democracy.

Democracy is inclusive, *stakeholderism* is exclusionary. In a democratic system nearly every competent living person of sufficient age has an automatic right to participate. Under *stakeholderism* participation is limited to those who can demonstrate a “stake”, usually a financial interest.

Stakeholderism represents a return to the conceptions of oligarchy and paternalism that largely left the conception of political governance with the collapse of the colonial empires after the first world war of 1914-1918.

As surely as the gravity of its central black hole shapes each galaxy *stakeholderism* drives institutions of internet governance to elevate the power of wealthy industrial combinations and diminish the power of people.

Stakeholderism sacrifices cultural, social, and human values and and enthrones money as the measure of interest and authority.

Stakeholderism favors the United States and western Europe over Africa, Asia, and South America.

Democracy (whether in a direct or representative form) is an idea with two parts: First is the idea that governance is a created by and for the people who are subject to that governance. Second is the idea that each individual person has a clear and major role, perhaps an indirect role via his or her chosen

1 Email: karl at cavebear dot com

Web: <http://www.cavebear.com/> Blog: <http://www.cavebear.com/cbblog/>

Open Voting Consortium –<http://www.openvotingconsortium.org/>

InterWorking Labs, Inc. <http://www.iwl.com/>

representatives, in the making of governance decisions.

This paper argues that the proper organic principle for internet governance is that of democracy and that the *stakeholderism* should be eradicated, root, stem, and seed, from existing and proposed structures of internet governance.

What Is 'Stake' In The Internet And Who Is A Stakeholder?

The internet is quickly becoming one of the world's principal means of communication and information dissemination.

Every person on the planet is directly or indirectly affected by the internet.

That means that every person has a “stake” in the internet.

In the history of internet governance this “stake” has not been considered sufficient to permit just anyone to claim the glorious title of “stakeholder”.

Stakeholderism demands something more.

In the world of internet governance, to be a stakeholder appears to require that the claimant be an organization with a real or claimed financial interest in the matter being governed. The door has been opened slightly to recognize non-governmental organizations (NGO's) but these are generally assigned, often grudgingly, an inferior position vis a vis those organizations that can claim a financial basis for their “stake”.

Internet governance appears to be evolving so that individual people, individually or in aggregate, are denied the right to be considered “stakeholders”.

Instead, *stakeholderism* creates a paternalistic system, not unlike that in Africa, India, and Asia during the latter 1800's, in which commercial institutions were considered appropriate spokesmen for millions of disenfranchised residents in the colonies of England, Holland, and Belgium.

Stakeholderism empowers organizational creations over the people who create and sustain them.

Stakeholderism substitutes the creation, the financially interested organization, and denies its human creators.

This conception of *stakeholderism* places authority and power into the hands of the the relatively wealthy who express their financial interests through legal fictions while removing that authority and power from individual people. That, in turn, empowers wealthy nations, such as the US and those in western Europe, and diminishes less wealthy nations.

We see the effects of this empowerment. Internet governance to date has denied personal values in favor of industrial values: privacy and self-expression have been subordinated to trademark and copyright protection. Whether measured by cultural, human, or monetary values the price has been high – this author has estimated that in the domain name space alone the community of internet users is

being coerced by an institution of internet governance, ICANN, into paying as much as \$300,000,000 each and every year to subsidize the trademark, copyright, and the domain name “monetization” businesses.

Is this kind of *stakeholderism* an appropriate foundation for internet governance?

No.

People Are The Atomic Unit Of Governance

Corporations, churches, educational institutions, trade unions, community groups, and local governments do not spring into existence by themselves. They are created by people. They are creations of our minds. We created them as useful ways to organize and channel human activities, agreements, and disagreements.

Each human affiliates himself/herself with many such creations – our employers, our churches, our community groups, our trade unions, our local governments, and the like.

Each of these creations reflects only a small facet of the complex bundle of interests and concerns embodied in each separate person. A person who is an intellectual property owner may also have children, be engaged in community activities, and may be concerned about the health of his or her parents. No single organization constructed around one issue or concern, such as intellectual property, can claim to adequately articulate, much less advocate, how these matters interplay and the resulting positions.

The only place where these interests and concerns can be measured, balanced, and fused is the mind of each individual person. Consequently it makes sense to make each individual person the primary and fundamental building block of internet governance.

This is called *democracy*.

Recognition of the primacy of the individual person and adoption of democratic principles does not mean that we are required to adopt a pure Athenian direct democracy. The internet is too large for that. Representative systems are completely appropriate as long as the chain of representation is short – one level – and that the representatives be chosen by and accountable to the individuals they purport to represent and that the representative scrupulously adhere to the conception we call *transparency*.

How Will Organizations Make Their Needs Known If They Are Not Given A Primary Role In Internet Governance?

Organizations are free, indeed they are encouraged, to make their points of view known to the individual electors who may then consider those opinions, weigh them against competing interests, decide, and eventually vote directly on the matter or indirectly through their chosen representative.

We have great experience today with the power of organized interested interests even when they do not

have the franchise. Consider that in the United States corporations have no vote – elections are open only to individual citizens – yet it is commonly perceived, and indeed it is considered a problem, that corporate opinions are given too much weight rather than too little.

How Would We Organize and Mechanize A Democratic System Of Internet Governance?

To those of us here in Athens (either in person or via the net) internet governance is an interesting and compelling topic.

But to most people, matters of internet governance are arcane and uninteresting.

As a practical matter, we ought not to expect the electorate for internet governance to grow very large.

Yes, there may be large registration and “get out the vote” drives as occurred during ICANN's election in year 2000. But even then the total registration cumulated to less than 200,000 people around the world.

The point to be taken is that we are not talking about internet governance as a system with numbers of electors so large that representative democratic processes would be either expensive or difficult to administer.

The main difficulty of internet democracy is that of registering the electors. It is hard to ascertain who are real humans and who are dogs or artificial creations.

The postal mail method used by ICANN for its year 2000 election worked. But it was cumbersome and in actual practice its success was undercut by human and institutional hostility and inadequate attention to the technical systems needed to support such a registration system.

Finding an adequate registration mechanism for electors is a difficult issue, but it is one that I am sure that we can overcome.

As for the actual mechanics of the elections themselves: We could easily model elections for representatives on internet governance bodies on the elections that are held among shareholders of publicly held corporations. These are usually done over the internet or via paper mail. These are inexpensive and technically easy to administer. But that economy comes at a price, which is that the voter's choices are visible, at least to the vote counter. That is probably not a concern, at least during these early days of internet governance in which the issues are not of a nature that might drive voters to require their votes to be absolutely secret.

No Nominating Committees

ICANN has established a practice, a bad practice in the opinion of this writer, of using nominating committees.

Those nominating committees in ICANN do more than nominate, they also make the final choices.

A real nominating committee would designate a list of candidates. This list ought to be extensible with candidates who obtain their place on the ballot via public nomination.

Nominating committees have a major problem – they compromise on the mundane and sterile. Candidates coming out of nominating committees are often people who have the fewest strong opinions. Those people are often worthy, but they reflect pre-made compromises.

Internet governance requires a dynamic interplay of opinions, especially on the primary organs of decision – boards of directors or trustees - in institutions of internet governance. Nominating committees tend to create directors and trustees who are not vigorous advocates of the electors' will.