SEPTEMBER 22, 2014
Why work internationally?
Andrew Puddephatt

930am
Congress of Vienna, 1815 – three areas of international law they focused on – treatment of rivers & diplomats, and the abolition of the slave trade. Treaty and other IL obligations govern states – for instance, in situations of secession or disintegration of states, treaty obligations

International politics and how actor-behaviour changes at community, national and international level:

- Decisions made by states at the international level are different from those they make when they are reflecting domestic forces at the national level. (**Robert Putnam, sic, on two-level game theory** based on observations of trade negotiations at Bonn)
- Domestic policy is not a guide to international behavior – need a separate advocacy strategy
- "International politics has its own dynamics and forces that shape state behavior"
- There is a democratic deficit internationally – appointed diplomats or state/corporate organisations. **Andrew says** this is why civil society ought to be present in international politics and negotiations.
    - **Anja asks** whether this civil society undervaluing happens only in IG. **Andrew responds** that participation is greater in some arenas, like the scientific and technical communities in climate change, when it comes to decision-making, states throw civil society out of the room.
    - **Gene says** civil society is undervalued across the board, but there are some arenas where civil society participation has been deeper in some sectors (climate change), but for him, the major difference between national and international advocacy is that for other actors, policy wins or losses do not end the policy battle. The losers continue fighting in different arenas.
    - **Grace says** she has seen civil society undervaluing in trade negotiations at the WTO as well. Where CSOs have been successful in influencing policy, it's because they've worked well with their own progressive governments.
    - **Claudio on the TPP**: Says there's no space for civil society to participate in trade issues – and sometimes, not even legislators have a say. Chile, Mexico and [-] are unaware of trade negotiations for over 4 years. In many cases, informal negotiations are the only thing that works.

- Where's civil society been active?
    - The movement towards the establishment of the ICC; corporate accountability in supply chains; landmines treaty; **net neutrality in EU (says Shai)**.

Commented [GH1]: But is there not democratic deficit in civil society as well? A **legitimacy** question, **Andrew says**.

    - **Anja says** ACTA was opposed due to strong civil society participation. Poland had a public demonstration against the ACTA. **Andrew says** parliaments and legislators felt the need to get involved with the public and civil society, because they felt that this rang with the public. And in the US, the temporary shutdown of Wikipedia and Reddit. **Deborah says** civil society is still reactive, and we're not setting the agenda.
    - SOPA/PIPA: understanding civil society and Google mobilization v. Hollywood money. **Gene says** that to understand corporate influence v. civil society influence, you've got to remember that Google was also fighting/lobbying against its own antitrust case, and lobbied against SOPA/PIPA at the same time. We've just got to remember to leverage corporate influence to civil society benefit.
    - **Claudio says** the Marrakech Treaty – in 100 years of IP, there was no treaty focused on access to knowledge and the Marrakech Treaty focused on access to the visually impaired.
- International impact on Internet policy:
    - WIPO – Berne Convention, Marrakech Treaty.
    - Data protection systems in the EU – exporting of standards

What drives change?

- Technology; policy & regulation; [-]
- Networked communications environment – the layers.
- On the Internet especially, the organic growth of the Internet is a function of permissionless innovation. And it is *fast* – the example of how the Internet has reached 50M users in Africa in 5 years, as opposed to 38 years for radio and 13 years for TV.
- How IG works:
    - Technical governance is functional, MSH. *Rough consensus and running code*.
    - **Andrew says** that this functional/technical model is why the Internet is struggling to accommodate a global, overarching regulation model (for copyright, net neutrality, human rights).
    - At the international level, the importance states give to the Internet has changed and increased (Egypt example). And now, geopolitics on/about the Internet has increased and become more complex.
    - International norms of democracy and legitimacy and human rights are being challenged, **says Andrew**. Putin asserting Russian sphere of influence in Crimea and the UNSC, for instance.
    - Countries are "routing around" global institutions, creating bilateral or regional treaty arrangements (IBSA, OECD), and also caucusing within them (G77, Latin American bloc, WCIT blocs).
    - **Andrew says** international law is fragmenting – "*no homogenous hierarchical meta-system is realistically available*", says the ILC. So we ought to be looking for practical forms of global cooperation, with MSH participation, on Internet policy issues.

Koskenniemi, The Gentle Civiliser of Nations
"Koskenniemi, while sympathetic to Victorian liberals, is constantly uneasy about Western liberal constitutionalism because its imperial implications and practical consequences tend to suppress the voices of the particular."

Applies to civil society as well as governments – a legitimacy crisis born of ignorance of the true needs of people. I can't, for instance, claim to speak for any majority in India. Michael Oakshott's

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1145am

International Internet-related public policy
Andrew & Lea

The UN Systems map.
Technical bodies running the Internet map.

Commented [GH2]: Get maps for simplification and clarity.

Competing governance models:

- Traditional institutions are intergovernmental, bureaucratic and centralized, but they are representative, legitimate and accountable.
- Technical governance of the Internet is bottom-up, multi-stakeholder and efficient, but it is undemocratic, unaccountable and subject to corporate capture.
- Public policy issues that are

Centralised management or decision-making:

- Lea says it may not be possible to map a centralized system, but that it may be desirable to create a centralized knowledge sharing and management.
- **Anja talks** about a clearing house for knowledge-sharing. The question is how high up in the UN these bodies or centralized management has to be – Anja and Deborah believe that this body, if at all, should be structured like the IGF is structured, under the Secy-Gen directly.
- **Gene says** it makes sense to leverage civil society actors
- **Shahzad asks** whether there're ways to map or understand priority areas of engagement, and to leverage other CS actors who will assist.
- **Lea says** it's easier and more manageable if you map governance institutions based on the issues you're interested in.

Commented [GH3]: Unspoken assumption is that each actor in the room is clear about what issue we are addressing.

1215pm

International power mapping
Andrew

- Mapping power: Who has power, how is it exercised, incentives for changes.

- To know how to incentivize and change behavior, you've got to investigate and understand the *motives* for behavior: distribution and cultures of power, and the main actors and their incentives.

Distribution of power:

- Governments and government blocs:
  - There're some individually powerful governments: the US, Russia (Sergei Lavrov has the President's ear, and has been at the forefront in advocating methods that seeks to 'drag the Internet back into an intergovernmental governing space'), Brazil (NETmundial), EU (data protection, etc., may represent choice), India.
  - **Edet says:** Russia v. China – for instance, Russia has a marginal presence in Africa, but China has a huge investment presence.
  - **Gene says** we've also got to map power in different ways: strongest military, economic, investment/profit base.
- Alliances (OECD, G77) and blocs (EU, African bloc inside ITU, Latin American bloc, G77). Blocs work hard to maintain bloc coherence. The EU, **Andrew says**, spends 90% of its time consolidating its position, and 10% of its time reaching out to other states/blocs.
- Regional/international courts: EU, African Human and People's Court, Inter-american, etc.
- Other power centres:
  - Companies (defining dynamic is their competitiveness) – telecom companies (ETNO), social media (Google, Twitter), content producers (Disney, Newscorp, Sony), and their battles over intellectual property.
  - Technical community: ICANN, the I* organisations (**Andrew says** he gets a sense of hubris from the techies)
  - Media/public perception
  - Civil society – we may have a moral force
  - Experts/ academics/ special processes (Frank La Rue with his 2011 report and 2012 GA Resolution on human rights and the Internet).

Culture of power:

- Are these normative or *legal*? In human rights, the UDHR was normative, and took another 20-30 years before *legal compliance* through the ICCPR/ICESCR was instituted.
- Soft law norms adopted voluntarily – contractual, quasi-contractual or merely an informal oral agreement that is implemented.
- Policy generation – who, when, process.
- Rules of the game: Hidden rules of informal processes that players know, but naïve, less informed people like me don't.

Incentives:

- He who loses from change is strongly motivated to oppose it, but he that may gain from it is strong, but not very strong (because the gain is unclear, like in the

Commented [GH4]: Does enforceability matter? How and why?

Source of law debate.

Commented [GH5]: Apply this to civil society. Who in civil society want change in the issue/area/forum you are focusing on? Who wants to keep status quo and who doesn't?

Scottish referendum). The losers will fight you hard, and the winners may not support as strongly.
    - The US will fight an inter-governmental IG model – because it loses there, but with a different model, that's not a clear gain, so support will not be lukewarm.
- Internal and external incentives for change: Silicon Valley beginning to realize economic impact of post-NSA surveillance revelations (research suggests USD 35-40M opportunity cost due to people choosing not to attach
- To map incentives: seek **penalties** from not-changing.
- **Shahzad says** we've got to find ways around policy-laundering. Plus regional mechanisms in South Asia don't work for various reasons. So we've got to find another way to cohere on Internet-related issues are the regional level.

To create your own strategy:
➢ Find the Internet process best matching our goal (national/international, issue-based,
➢ Understand power-players and their motivations: Are you an insider or an outsider?
➢ Look for incentives for change.
➢ Are there public or media pressures to build on?
➢ Framing appropriate message for different groups (George Lakoff, sic, on framing).
➢ Match goal to appropriate time frame: a domestic legislation could take 10 years; an international treaty may take 15-20 years.
o If your change is incremental, do you have the tools to evaluate the impact of incrementalism on big change?

Commented [GH6]: What tools?

2.10pm

Privacy, surveillance and data protection
Mike Rispoli and Alexandrine Pirlot de Corbion

Claudio: manage projects, human rights
Shahzad: digital rights issues, technology and human rights
Fatou: FOE and access to information; advocacy at national/regional levels
Charles, GPD: manage, Internet policy
Daniela: Centre for Studies on FOEX and Internet
Sophia: litigation, constitutionality
Deborah: Internet rights and policy
Anja: tickle people to think more about IG
Gabriel: Bitcoin and privacy, research
Joana: ITS, researcher and activist, netgov and human rights
Edet: FOE and access to info online
Catherine: communications and social media
Grace: policy and legislation in IG
Lea: manage projects, Internet governance

Shai: digital rights and global South
Victor: [-]
Donny: Internet rights and governance
Tahmina: FOE online
Andrew: strategic policy analysis
Mike: communications and privacy
Alex: advocacy and privacy

Advocacy fundamentals:

- Maintain/increase credibility
- Generate and communicate evidence
- Accountability
- Establish/cultivate partnerships and networks
- Assess risks
- International advocacy:
    - Theory of change
    - Insider/outsider – in informal processes, strategise
- Developing an advocacy strategy:
    - Identifying the issues (your theory of change)
    - Analysis (evidence-based)
    - Objectives/goals (SMART)
    - Targets (your audience)
    - Identifying allies
    - Tools
    - Monitoring/evaluation – introspect

Stages of advocacy:

- Problem & policy solution (could be a case, a legislation, etc.):
    - The problem tree [problem, causes, effects]
    - Advisors/influences and decision-makers
    - Advocacy:
        - Targets/ allies/ adversaries
        - Mapping each's importance, influence, knowledge, interest (picking the stakeholder has to be determined by your funding, time constraints, other campaigns, etc.)
        - Message to your target
        - Medium/ tools – for instance, letters, reports, white papers, meetings, etc.
        - Activity – lobbying, conference, etc.
    - **Communications**
        - **Purpose (clarity about end goal, output)**
        - **Stakeholders – know who all your stakeholders are**
        - **Research your audience**
        - **Field test**
        - **Implement**
        - **Assess and adjust**

Commented [GH7]: Alex would be more engaging and clear if she used examples to illustrate each point and impact.

- **Tell the story –**

- Gamma, Finfisher. Can turn on mike, phone, track keystrokes. Campaign against grant of license for export from Switzerland (3 days).