**A DARK MIRROR OF INTERNET USE**
**Garth Graham, July 11, 2014**

**Aligning with a transition in governance**

The At-Large Advisory Committee (ALAC) held it's second "Summit" (ATLAS II) during the ICANN50 meeting in London, June 21-26, 2014.  I was privileged to participate in ATLAS II on behalf of Telecommunities Canada (TC).  This essay is an impressionistic summary of what I'm learning about ICANN's alignment and sensitivity to the world that organizations like TC inhabit.

At ICANN50, it was said that putting the individual Internet user at the "heart" of ICANN is essential, and that ALAC is both the path to doing that, and the key to ICANN's achieving global acceptability.  That's probably true.  But TC is concerned to understand and share the experiences of those people using the Internet for digital inclusion and community development.  As such, it is as close to encompassing an understanding of the changing practices of the ordinary Internet user as it gets. The gap between the respective worlds of ICANN and TC is large and so far, and including my participation in ATLAS II, the pathways for closing it aren't obvious to me.

The first ATLAS was held by ALAC at ICANN34 in Mexico City, March 2009.  ALAC found that the first summit was an effective recruiting mechanism for increasing participation by At-Large Structures (ALSs).  The second Summit was therefore designed to intensify that capacity.  The events of the Summit itself, and the extensive capacity building webinars before it, were intended to "strengthen the bottom up structure of the At-Large community by building capacity and awareness of At-Large policies and process [and to] further develop the At-Large Community's capacity for engagement in ICANN by increasing its knowledge and understanding of the key issues confronting ICANN and ICANN's roles and responsibilities."[1]

ALAC, like much of ICANN, sort of works by consensus.  I think ALAC is probably correct that the ATLAS method is effective in engaging with a coalition of the willing.  But there's a danger in that.  Here is Philip Ball on the wisdom of crowds of like minds.  "Because they copycat (they herd toward relatively arbitrary positions), groups often tend towards consensus to the detriment of accuracy. …. This detrimental herding effect is likely to be even greater for deciding problems for which no objectively correct answer exists….
A diverse group of problem-solvers made a better collective guess than that produced by the group of best-performing solvers. In other words, diverse minds do better, when their decisions are averaged, than expert minds."[2]  In focusing on conformity to the practices of the ALAC community acting within ICANN, it is possible that ALAC is selecting minds expert

[1] http://atlas.icann.org

[2] Philip Ball. 'Wisdom of the crowd': The myths and realities.  BBC Future, July 8, 2014.
http://www.bbc.com/future/story/20140708-when-crowd-wisdom-goes-wrong

Through circumstances predictable only in hindsight, ICANN has become one of the leading explorers or "pioneers" of the changing meaning of governance[3] in a digital age. It is a testing ground for how policy makers respond to the newness of living in a global digital economy. It has recognized that seeking "global acceptance" links it directly to the global acceptance of the Internet itself. If ICANN survives, it will be because its actions mirror whatever the Internet actually is. Perhaps that's why the ICANN50 meeting in London, June 2014, attracted 3400 registrants, the most ever.

Currently it operates in a context of elaborate but entirely internal checks and balances. Like the Internet, the rules that balance its actions are the rules governing self-organizing systems. Because the Internet is an expression of a different way of doing things, it is fundamentally disruptive of relations and practices that aren't based on the principles of organization it expresses. While mechanistic systems are accountable to external forces, complex adaptive and self-organizing systems (CASs) do not report to anyone. They only maintain an internal equilibrium that fits to their environment or they die.

In CAS terms, ICANN's Board doesn't represent a kind of uncontrollable structural weakness. It is merely a functional capability of a larger self-organizing system. It expresses a kind of cognitive capacity, the emergent mind of that system. If that capacity loses consciousness, or goes insane, or atrophies, the entire organism collapses.

ICANN does recognize that it needs to be a consciously active player in a larger CAS, the Internet governance ecosystem. And, if the ecosystem is to survive, ICANN needs to be part of an open coalescence around a common goal. Therefore, while ICANN may remain answerable to no one, it is responsible among others for the IG ecosystem's success. It is an active stakeholder in dynamically operationalizing the principles of organization of a common pool resource. Since the functions of complex adaptive and distributed systems aren't centralized, it has to avoid at all costs the pressure to centralize that the word "accountability" conventionally implies.

But ICANN hasn't yet seen how the wider world in which it operates recognizes or cares about that fit with the functional principles of self-organization incorporated into the Internet's design. If global acceptance of the Internet implies a global recognition of the

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[3] Garth Graham. Taking Internet governance ecology at its word. June 10, 2014. https://community.icann.org/download/attachments/48343654/ecology%20realized.pdf ?version=1&modificationDate=1402436268000&api=v2

Jan Aart Scholte. Enhancing ICANN accountability. London, ICANNfifty, June 26, 2014. http://london50.icann.org/en/schedule/thu-enhancing-accountability/presentation-enhancing-accountability-26jun14-en.pdf

changing nature of governance, then the power ICANN assumes it has now does not align with the global acceptance goal it has set for itself. The accountability or answering that occurs in distributed systems is not the same as it is in mechanistic systems. Why would we ever think there's a need to create a global gatekeeper when to very basis of the Internet's end-to-end principle is the absence of central authority?

ICANN will be globally acceptable only to the degree that it remains dynamically responsive to shifts in the nature of the common goal that the Internet governance ecosystem expresses. It is more important to forecast that weather than it is to answer to mother as to why you failed to wear your rubber boots.


## Accountability as a link to ICANN's acceptability

A major thread in ICANN's exploration of the changing meaning of governance is the corresponding question of the changing nature of its own accountability as it pursues "global acceptability." When ICANN initiated a discussion on enhancing its own accountability in the absence of its historical contractual relationship to the U.S. Government, I contributed the following comment:

> ICANN's open processes of policy development and decision-making provide a basis for an important dimension of accountability that's not usually recognized –
> ACCOUNTABILITY BEFORE THE FACT.
> <http://www.centreforpublicaccountability.org>
>
> Conventionally, being accountable is assumed to be about answering for actions after the fact. But the public comment processes that ICANN already follows allow its internal communities" to explore future organizational intentions and the impact questions of who benefits and who pays to a more intense degree than most organizations. Those conversations can be the basis of a formal explanation of intentions and their expected impact (of a equity statement described as such at the conclusion of policy formulation) before the fact. This provides a scale of measurement of successful achievement of results that emerges from within the issue or situation that provoked the suggested policy change, which can be applied after the fact of its implementation.
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> To the degree that ICANN answers to its own internal communities, such a statement and measurement scale would represent a summary of (rough?] consensus and a standard to judge the consequences of running (i.e. implementing) the code(ification) of policy. It might also simplify the problem of explaining ICANN's actions to a "global" public.[4]

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[4] *To*: comments-enhancing-accountability-06may14. *Subject*: Accounting before the fact. *From*: Garth Graham. *Date*: Mon, 2 Jun 2014 12:02:23 -0700.
**http://forum.icann.org/lists/comments-enhancing-accountability-06may14/index.html#00027**

Meetings on accountability were being held all across ICANN's constituencies.  I attended several of them, including in particular ATLAS II's Thematic Group 4: On ICANN Transparency and Accountability.  Various people were pondering various parts of the elephant of accountability and describing what they thought it was.  When they expressed a summary phrase that expressed their concerns, or their sense of the critical drivers that need to be addressed, I wrote it down.  Here's a partial list of what I heard.

Inward-looking concerns:
- Appeals mechanisms related to decision-making processes
- The existing review mechanisms are too slow
- Checks and balances through separation of powers
- Transparency audits
- Does the ICANN Board account (i.e. answer to) the community?
- The multi-stakeholder model risks capture by business
- If a member feels materially affected by actions of the Board, there needs to mechanisms for re-consideration or independent review
- The qualitative nature of government involvement in ICANN is a critical issue.  Neither the Governmental Advisory Committee (GAC) nor ICANN answer to each other, but the Accountability and Transparency Review Team 2 (ATRT2) placed huge emphasis on their mutual transparency, synergy, coordination and stakeholder engagement capacity

Outward-looking concerns:
- Institutional transparency … to create a culture of accountability and transparency about ICANN
- A bottom-up, multi-stakeholder organization that assists in coordinating a global resource
- Reaffirm the Affirmation of Commitments[5] as a statement of intent
- External oversight
- Global acceptability
- If it's true that "the world is watching us," how?
- Regional voices to coordinate and channels to communicate the content of their coordination
- Define "global" how?
- Protect end-to-end and without permission

As I listened to these expressions, it seemed to me that the balance of ICANN's preoccupation with accountability tilts toward an inward focus.  Given the reality that ICANN does assist in the coordination of a global resource, the sense that the primary enemies are within is probably quite dangerous.  At this point in the evolution of ICANN's

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[5] https://community.icann.org/download/attachments/48342199/affirmation-of-commitments-30sep09-en%20copy.pdf?api=v2

own governance ecosystem, perhaps the need for internal trust is greater than the need for internal verification.

In the ATLAS II Thematic Group 4: On ICANN Transparency and Accountability, the definition I pressed for was:

> *Accountability is the responsibility to answer for how you got done what you committed to do.*

I meant that definition to operate in the context of self-organizing complex adaptive systems, where there is no answering to external authority and outcomes cannot be predicted in advance. It's more of an antiphonal call-and-response, like the Internet when the packet header asks, "Did you get that?" and the receiving server answers, "Yes, I did." That's a difficult context to convey in a roomful of strangers seeking consensus on a complex issue.

In that definition, what you commit to do occurs before the fact. That's what I meant by pointing to accountability before the fact as a methodological component. Statements of impact, or intentions before the fact define the elements or scale of measurement after the fact. By being open and transparent, ICANN has a huge advantage in being accountable over organizations and institutions that are opaque. Its commitments are very readily visible now, and can be made more visible for the purpose of future answering. In that sense, accountability and transparency are rendered self referential, and the scales of measurement emerge organically out the issues and challenges themselves.

When Thematic Group 4 concluded its sessions, nobody signaled that the real debate would then continue online among the experts in ALAC's processes. There were subsequent objections to that definition related to the felt need for external control and punishment. "It doesn't say what happens if you don't meet the target. What makes the world comfortable that someone is looking over ICANN's shoulder?" So, in online discussions in the Group 4 wiki that occurred after the face-to-face sessions and preempted them, the definition got changed to:

> *The responsibility to explain and justify all decisions and actions in light of ICANN's responsibility to act in the public interest.*

Clearly the second definition ignores the possibility of accountability before the fact as an operating principle.

ICANN knows that to account is to answer. So it is asking itself the "big question." In a "global" context, who receives ICANNs answers? Jan Aart Scholte's "non-conclusion" is that "no consensus on ICANN accountability is available."[6] A moment's reflection on the nature of the ultimate CAS, the earth itself, tells us there is not, and must not be, anyone or anything that "represents" the global context. To centralize control is to seek to stabilize the system by external means and, in a CAS, the only stable state is death. That big question

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[6] Jan Aart Scholte. Op.cit.

about global answering blinds us to the fact that it's the wrong question.  What matters to a CAS and its distributed functions is the "willing collaboration between. "[7]  To fix ICANN's status in concrete terms by reference to an external authority is to kill its capacity to evolve its functional role in the Internet governance ecosystem.  What is going to matter is the quality of the feedback loops that allow that CAS to self correct its fit to its environment.

I have tried to describe what that might mean in several different ways and all of them seem to be at odds with the culture of ICANN.  I provoke reactions like, "Too abstract, and too theoretical," to be of use. Even in the case like the definition of accountability, where I thought I'd got something into the record, arcane practices of online debate stripped it away.  Yes, those practices are transparent, but only if you knew they would occur and where they would surface.

## Redefining the global as a federation of locals

Almost all of the ICANN background documents about accountability I have seen are incestuous and inward looking.  Designing accountability mechanisms for achieving global acceptability is forcing ICANN on to very new ground.  But almost everything at ICANN50 and ATLAS II was about meeting ICANN's or ALAC's need and expectations in terms of feeding internal processes.  To turn outward would mean that focus has to change.  This makes the issue I identified, accepting Internet Governance as a local responsibility,[8] very important.  In my town, my local government has to know why protecting the end-to-end principle matters to them.  My own national government, the Government of Canada does not recognize any such responsibility to assist that awareness.  So At-Large Structures like Telecommunities Canada have need for ICANN, and ALAC within it, to help them in making that point.

In the ICANN50 meeting between ALAC and the Board, June 24th, ICANN's CEO, Fadi Chehadé, noted, "We need to put the public back in the center, not just interests. What can we do – short, medium, long term – to put the user back in the center?"  He went on to note, "Multi-stakeholder is the most fragile model.  It depends on each in a balance of power.  That's a feature, not a fault.  It's the fragile unity that makes us one family." But ecosystems as distributed systems are not fragile.  Self-organizing systems supply resilient equilibrium at the edge of chaos.  They are adaptive within their phase space of possibilities.

It's mechanistic systems that are brittle and fracture under stress. People accepting that the external imposition of authority is inevitable believe, "You cannot have a rule if nobody is going to enforce that rule."  Since CAS's are governed by embedded rule sets (the rules are inside each element or individual in the system) that's not a necessary assumption.

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[7] ."  Internet Invariants: What Really Matters. ISOC, February 3, 2013. http://www.internetsociety.org/internet-invariants-what-really-matters.

[8] Garth Graham. Taking Internet governance ecology at its word.  Op.cit.

I have concluded that the Individual Internet user, half of the individuals who inhabit planet earth, are NOT yet at the heart of ICANN. A major cultural shift, a re-framing of its way of doing things, would need to occur to make that happen. Individuals in the world like the Internet in the billions because it is a tool that mirrors their own sense of autonomy and identity. It lets them, not you, relate "end-to-end" to each other in a way they, not you, control. In other words, an epistemological shift has occurred in the world, and the Internet is an expression of that shift, not a cause of it.

The place to look for answers isn't in the creation of new global institutions or in seeking global acceptability. It is in local institutions – in towns, cities and communities, where the chances for individuals to express their interdependences are more intense. To be able to listen to that fundamental shift in the way people think and do things would require a re-framing of ICANN's practices that is far larger than is being anticipated. The real threat isn't centralized authority. It's ignoring a re-distribution of authority that 50% of the planet now holds in their hands. And yet, it's nothing more than being Internet.

Trust (acceptability) resides in the fact that the connection between I and thou is unmediated. Engagement of the "broader community" is a matter of understanding the system in being, not pushing explanations of how ICANN works or how you can participate in ICANN. The system in being, and the Internet that supplies its agency, does not define the world it inhabits in terms of governments, businesses and civil society. Stakeholders are not "mobilized' into groups and then represented. The ultimate stakeholder, the "beneficiary" in development terms, is the individual. When the individual Internet user understands that Internet governance matters to them then it will.

The real external measure of ICANN's success is and will be its contribution to the successful equilibrium and evolution of the Internet governance ecosystem as an ecosystem. It's not that ICANN should act defensively to "prove its independence." It's that ICANN should behave pro-actively to substantiate its interdependence in the Internet governance ecosystem and its ability to protect the interdependent autonomy of individuals.