Panel 1: Evolution of Western Internet Governance: Norms, Values, Interests, Models and Institutions

Ron Deibert, chair and rapporteur
Rex Hughes, Joseph Nye, John Savage, Harvey Rishikof, Michael Walma

This panel examined what are the norms, values, rules, and principles that have traditionally formed the core of "Western" or "liberal democratic" Internet governance. We discussed from where did these norms, values, and principles emerge and why. Panelists also compared how these norms, principles, and rules are faring today and are likely to fare into the future as cyberspace deepens and expands worldwide as the global communications infrastructure. We considered how norm development in other domains evolved and whether or not lessons might be drawn from those other domains. We also considered what liberal democratic governments were doing to promote these norms internationally, whether there is a coherent vision and strategy, and whether or not they are succeeding in propagating those norms. Consideration was given to the role of the state relative to other stakeholders in cyberspace governance. Finally, we discussed how a rising East Asia might challenge some of the norms, rules, and principles that we traditionally associate with Internet governance.

Below are the framing questions for the panel:

1. How did norms evolve in other domains (like sea, air and space), and what can we generalize from that about the evolution of norms in cyberspace?

2. What role, if any, did US power and influence play in the construction of the Internet governance regime? Assuming US primacy to be in relative or actual decline (an open question in itself) how will that regime be affected?

3. What should be the role of national governments in cyberspace governance, relative to other stakeholders?

4. Are there contradictions between rhetoric and practice in the US and allied governments' promotion of "Internet Freedom"? Can those contradictions be reconciled?

5. Liberal democratic governments share, broadly speaking, a preference for an open and secure commons (or some other metaphor) for cyberspace. What are they doing to promote that shared vision internationally? Are they doing enough? In what venues? Are they succeeding? If so, where?

6. In what ways is a rising East Asia evolving alongside or within the Western model of Internet Governance?

Summary

Panelist 1 began by providing a historical overview of the development of the early Internet, paying special attention to some of the considerations that were given to norms, rules, and principles around those early developments. The Internet was formed and governed by a small group of like-minded computer scientists and engineers who were very much influenced by norms of collaboration and peer review that govern academic scholarship. Those norms and principles were carried over to Internet governance. There was a conscientious attention given to multi-stakeholder governance from the outset – and a strictly limited role for government.

Panelist 2 picked up the historical overview, emphasizing that there were a small number of actors involved in early Internet governance. By the mid 1990s and especially with the development of the World Wide Web, this changed dramatically. The Internet expanded and became the basis for a large volume of economic activity. This expansion raised the stakes, and contributed to a growing concern among a larger number of actors with governance of the Internet. What started out as a small multi-stakeholder governance process was thus dramatically transformed.

Addressing the question of a possible takeover of the Internet by the United Nations, panelist 2 suggested this is the wrong question to ask. Instead, we should be asking about what happens to norms over a longer period of time as technologies and practices change. Panelist 2 discussed at length and in detail the example of another "commons": the oceans. Governance of the oceans changed in the 1940s as technologies of resource extraction changed and resources under the water (e.g., nodules in the sea bed) because quite valuable. There were a series of informal and formal meetings, including a very large United Nations conference in 1974, leading to the Law of the Sea Treaty. The United States (under Reagan) refused to ratify it, but nonetheless follows the general spirit and the norms that have developed over time, and occasionally uses it when it is convenient to buttress arguments in its own interests (e.g., with respect to China's claims in the South China Sea). It is also important to understand the domestic political implications of US foreign policy towards the oceans, and how inter-agency disagreements shaped policy outcomes. Panelist 2 examined another similar case: the GATT and the WTO. Throughout this process, there were similar consternations about US hegemony, including counter proposals (e.g., UNCTAD). The US reached a compromise that transformed GATT into the WTO, and has even accepted rulings against its own interests. The important lesson here is that single-events or forums have less impact than long-term processes of give and take. We can expect some compromises on sovereignty and control over time. With that in mind, it's important to pay mind to what transnational coalitions can be established where shared principles, values, etc can be shored up.

Panelist 3 addressed directly those areas where you are likely to see positive norm development in cyberspace governance, and those areas where you are unlikely to see agreement. Beginning with the latter, panelist 3 examined and then concluded that agreement is unlikely in the areas of rules of the road for cyber warfare, cyber

intelligence, and controls over content. Panelist 3 also pointed out that it is unlikely that there will be broad agreement on certain human rights, like privacy. Finally, panelist 3 argued that anything touching upon national security interests will be out of bounds.

Panelist 3 then turned to areas where we might expect to see positive norm development in cyberspace. First, we are likely to see Declarations, which are often dismissed as empty, but in fact are important vehicles to establish principles and thus hold actors to account. The panelist brought up the example of the preamble to the United States Constitution. We are likely to see a similar declaration of principles when it comes to cyberspace, as these are relatively easy to accomplish. Aspirational values can be laid down in documents and eventually lead to a snowballing effect. Another area where we will see norm development is in the area of information sharing around crises or humanitarian assistance. Panelist 3 brought up the example of the ICRC, suggesting we might see something analogous to the ICRC in cyberspace (Cyber Red Cross?). We will also likely see coalitions developing around enforcement of widely accepted domestic laws, as in those relating to intellectual property. We are also likely to see a growing norm around law enforcement, capacity building, and mutual assistance and extradition treaties. There will be a large swathe of illicit activity in the cyber arena, a kind of underbrush that will be gradually cleared, as governments develop shared interests and values in policing the domain. The "lowest common denominator" norms are those that are likely to form the early basis for cooperation, for example in the United Nations Group of Government experts. But we have to start somewhere.

Panelist 4 began by questioning some assumptions of the questions that framed the discussion. We assume that the West is a coherent unit, and that the Internet is a governed space, neither of which is necessarily true. The panelist also suggested that some of the norms, values, principles that governed the early Internet are not necessarily the same norms, values, and principles which liberal democratic states are promoting internationally.

Panelist 4 suggested that international law applies to cyberspace just as it does to other spaces. It is not a separate "virtual space" separate from "meat space." The same laws that apply in the real world should be extended to cyberspace and this includes, most importantly, the laws of armed conflict and the myriad of laws that govern international relations and telecommunications. He rejected the idea that we need to start from scratch. Panelist 4 outlined some of the complexity of cyberspace governance: what is it that we are talking about when we say Internet or cyberspace governance? Are we talking about technical matters like the DNS system or other more political aspects such as norms or instruments governing state relations? Governments have been caught off guard by the surging cyberspace agenda: it is an area that cuts across the silos of many government departments and agencies, and there was no obvious "fit" with any one of them. This requires a process of consolidation, to some degree, across government agencies. While developing a strategy, we need to be careful what we do domestically in terms of what impact it will have internationally.

Panelist 5 brought up the importance of considering a rising East Asia to global cyberspace governance. The region is booming and it contains some of the most dynamic "wired" populations. At the same time, there are some serious international conflicts brewing, and a large number of swing states. Western liberal democratic governments need to take into account this rising region and build bridges. There are ways to accomplish this outside of traditional state-to-state forums. Panelist 5 thought it is especially important to emphasize student exchanges and university partnerships.

Submitted September 26, 2012

For citation: R. Deibert, rapporteur, Summary for panel 1: Evolution of Western Internet governance: norms, values, interests, models and institutions. Cyber Norms Workshop 2.0, Sept., 2012. http://citizenlab.org/cybernorms2012/