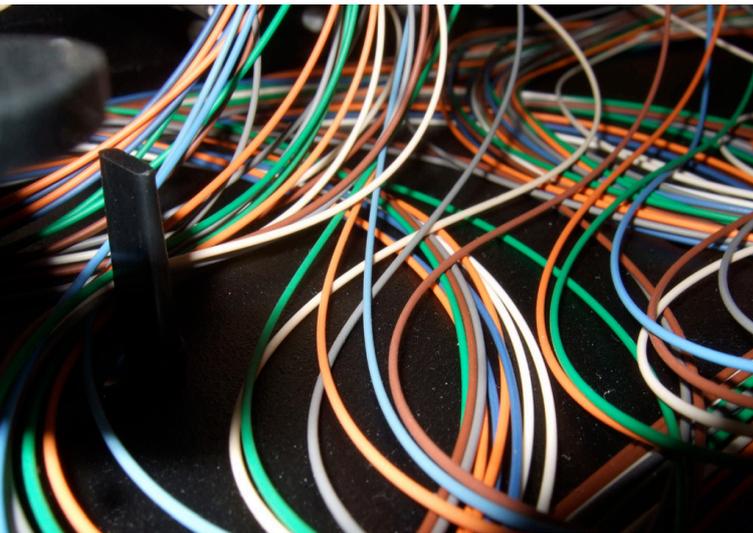


Reforming Internet Governance and the Role of China

Li Yan



This paper examines the issue of internet governance and analyzes the developments and challenges in reforming the current system. With state and non-state actors alike seeking to influence the way the internet is governed, *Li Yan* argues that China has an important role to play in this process. In particular, she argues that China should seek to redress the misconception of its “state-centric” approach to internet governance, strive for greater international cooperation, and promote the further reform of internet governance institutions such as ICANN.

The issue of internet governance (IG) has become increasingly prominent in recent years. It is also a domain which has witnessed fierce competition. As internet governance involves not only Critical Internet Resource (CIR)¹ allocation and management but also the formulation of rules in cyberspace, state and non-state actors alike are seeking to influence the way the internet is governed. Western countries, particularly the United States, play a leading role in this area because of their advantages in terms of technology, resources, and institutions. Since the World Summit on the Information Society (WSIS), held in two phases in 2003 and 2005, the international community has been committed to promoting reform toward a more equitable globalization of IG, but different stages of internet development and national interests have impeded an agreement on some of the major issues. However, the Edward Snowden scandal, which exposed U.S mass surveillance, has provided renewed impetus to further accelerate IG reform. As a

major player China has an important role to play in contributing to the reform process.

Understanding Internet Governance

The understanding of the concept of internet governance has changed over the decades from a technological focus to one of comprehensive governance. From the 1970s to the end of the 1990s, the internet was regarded as a technical tool for information transmission and sharing, with measures such as IP protocol and technical standards regarded as being at the core of IG. With the internet viewed as synonymous with open-

Li Yan is Deputy Director at the Institute of Information Security and Social Development at the China Institute of Contemporary International Relations (CICIR). She was a guest researcher at ISDP in November-December 2014.

ness, freedom, equality, and sharing, its decentralization—and therefore exclusion of government control and participation—was seen as essential, with the private sector playing a leading role in its development.

However, by the turn of the twenty-first century with the internet having attained unprecedented popularity, the limitations of this model became increasingly clear for the following reasons: first, the inadequacy of “bottom-up” decision-making processes and the difficulties of reaching consensus among a broad and disparate range of actors. The rapid advances in internet technology, furthermore, brought new problems which could not be quickly responded to; second, the inability to deal with emerging problems such as cyber-crime and cyber-terrorism; third, the inability to solve certain problems such as regulating state behavior in cyber-space; and fourth, in view of increasing competition regarding Critical Internet Resources, important IG institutions increasingly faced a “legitimacy crisis.” For example, many countries viewed with dissatisfaction the relationship between the International Corporation of Assigned Names and Numbers (ICANN)—one of the most important international IG institutions (see Table 1 below) in charge of CIR, particularly the domain name system—and the U.S. government. Accordingly, internet governance has become not only an issue of technical management, but one of public policy that embraces many different dimensions.

Table 1. Main Internet Governance Institutions and Organizations

<p>Institutions with focus on CIR</p>	<p>ICANN: International Corporation of Assigned Names and Numbers performs two functions -- the Internet Assigned Names Authority (IANA) whereby it controls entries to the authoritative Root Zone File of the Internet and secondly the management of the Domain Name System (DNS) including allocation of Top Level Domain (TLD) names.</p> <p>IETF: The Internet Engineering Task Force produces technical documents and standards related to the design, use, and management of the internet.</p> <p>W3C: World Wide Web Consortium develops Web standards.</p>
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For editorial correspondence please contact Alec Forss at: aforss@isdsp.eu

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<p>Comprehensive governance mechanisms</p>	<p>WGIG: the Working Group on Internet Governance was a United Nations multi-stakeholder working group initiated after the 2003 World Summit on the Information Society (WSIS) to investigate and make proposals for action, as appropriate, on the governance of internet by 2005.</p> <p>IGF: the Internet Governance Forum serves to bring people together from various stakeholder groups as equals, in discussions on public policy issues relating to the development of the internet.</p>
<p>Other international bodies involved in internet governance</p>	<p>IEEE: Institute of Electrical and Electronics Engineers), IEC (International Engineering Consortium), and ISO (International Organization for Standardization). Although these organizations focus on the standards of production and testing of industrial products, related policy will impact the development of the internet industry.</p>

Reforming IG: Progress and Obstacles

In the new millennium, with increasing realization of the need to reform IG, the United Nations held the World Summit on the Information Society. This set the Geneva and Tunis agendas in 2003 and 2005 which

urged stakeholders to discuss deeply the reform of IG. After consulting with all actors, the Working Group on IG (WGIG) made a working definition of IG as follows: “Internet governance is the development and application by Governments, the private sector and civil society, in their respective roles, of shared principles, norms, rules, decision-making procedures, and programmes that shape the evolution and use of the Internet.”² This definition makes two things clear: one is that IG is not only related to technology but also to public policy; the other is that all actors including the government, the private sector, civil society, and individuals should be involved in the process. In addition, WSIS confirms that government should play a “key role” in public policy decisions on IG. The WSIS subsequently set up the Internet Governance Forum (IGF in October 2006 held its first meeting) as a platform for international cooperation on IG. Many scholars believe that the WSIS agenda and establishment of the IGF represent milestones of IG reform.

In the past ten years, IG reform has made notable strides and the function of IG has been improved and enlarged. Besides the original function of domain name system management, IP address allocation, and internet charge settlement, IG is gradually encompassing other aspects such as privacy protection, restriction of the spread of malicious information, and bridging the digital divide. In addition, the level of international cooperation has been significantly improved. To take just one example, in combating cyber-crime, members of the international community have adopted a series of documents or agreements, including “The Budapest Convention on Cybercrime” as well as more regional-based initiatives.

In spite of this, different interests between countries in cyberspace have resulted in disputes on IG which have served to hinder its reform and development. In simple terms, while the international community has reached a consensus on the “multi-stakeholder model” of IG, there are different views on how to interpret and implement this model.³ This is why some observers argue that the international community is divided into two “blocs” (see Box One below): the China and Russia bloc (along with other states) versus the Western bloc consisting primarily of the United States and European countries. The former bloc has firmly advocated comprehensive governance under the framework of the United Nations and re-

garded the UN as an efficient platform to embrace all actors dealing with complex issues related to public policy. For example, on September 14, 2009, China and Russia jointly proposed the “International code of conduct for information security” to the United Nations.⁴ While acknowledging the need for greater international cooperation on IG and the inadequacies of the current system, European countries and the U.S. in particular as founders of the current governance system (by virtue of the advantages of possessing the original technology and mechanisms), insisted that maintaining existing mechanisms is the only right way to practice the multi-stakeholder-model of IG, and sought to prevent other governments from dictating IG affairs.⁵ This has resulted in tit-for-tat exchanges between the two blocs, making it difficult to achieve breakthroughs in IG reform.

The Two Blocs: An Explainer

In simple terms, the “multi-stakeholder” model is often framed as a bottom-up policy process that encompasses a range of actors from governments, businesses, technical experts, and civil society. However, this model is often seen by other countries, especially emerging powers as well as developing countries, as one which favors the economic and security interests of the U.S. They instead advocate that actors participate in the IG process on a more equal footing. In particular they argue for the greater involvement of multilateral organizations, such as the ITU as a UN agency, in which governments play the primary role in public policymaking related to IG.⁶

New Trends in IG Reform

The “Edward Snowden scandal” of the summer of 2013 has become another key turning point in the IG reform process. Milton Mueller, a leading analyst on internet governance, proclaimed that “the event has shaken the foundation of internet governance.”⁷ In September 2013, Brazilian President Dilma Rousseff severely condemned the global surveillance of the U.S. National Security Agency (NSA)⁸ in the United Nations General Assembly. In the same month, ICANN President Fadi Chehadé went to Brazil and met with

President Rousseff to discuss IG reform plans and decided to jointly host the “global multi-stakeholder meeting on the future of Internet Governance” (Netmundial conference), which was held on April 23-24, 2014, and attracted 1,480 delegates from 97 countries; of which 77 countries sent a ministerial delegation.⁹ The conference issued the “Netmundial multi-stakeholder statement”¹⁰ outlining so-called “global principles” and a “roadmap” for future IG reform.

“The fallout from the Edward Snowden scandal clearly highlights the importance of international norms to regulate state behavior in cyberspace.”

This has not been the only development. On March 14, 2014, the National Telecommunications and Information Administration (NTIA)¹¹ of the Commerce Department of the U.S. government announced the intent to transition key internet domain name functions.¹² In October 2014, ICANN, the Internet Engineering Task Force (IETF), the Internet Society (ISO), the World Wide Web Consortium (W3C), and five major regional Internet address registration agencies, jointly issued the “Montevideo statement”¹³ calling for the “globalization” of ICANN and Internet Assigned Numbers Authority (IANA) function. In October-November 2014, furthermore, the International Telecommunication Union (ITU) plenipotentiary conference was held in Busan, South Korea.¹⁴ Although sustaining objections from the U.S., discussions continued on enlarging the role of the ITU as a multilateral organization in IG.

What then does all this mean? Firstly, there are some signs that more and more countries are aware of the harm of key internet resources being controlled by one country. This includes even traditional allies of the U.S. such as EU member states, with the European Commission clearly stating that the internet cannot be regulated on a national basis.¹⁵ Commission Vice-President Neelie Kroes has said, “The next two years will be critical in redrawing the global map of internet governance. Europe must contribute to a credible way forward for global internet governance. Europe must play a strong role in defining what the net of the future looks like.”¹⁶

The relationship between blocs also appears to have changed to some degree. For example, ICANN as part of the “multi-stakeholder bloc” seeks to cooperate with the Brazilian government which belongs to the “sovereignty bloc.” This is the first time that an IG organization has cooperated with a government to hold such a large event as the Netmundial conference. In the Sino-UK and Sino-EU track two dialogues on cyber issues held in March 2014, consensus was reached on changing the U.S. monopoly on internet resources. This has prompted observers to write that, “the shifting alliances suggest that some loosening up of the sovereignty multi-stakeholder polarity could be underway. An internet governance summit supported and promoted by both ICANN and Brazil implies some kind of realignment with potentially significant long-term consequences.”¹⁷

A second trend is that inter-governmental institutions are playing a more active role in the IG process. For a long period, the role of government in IG institutions has been very limited, particularly in ICANN and IETF. In the early WSIS period, a number of countries lobbied to establish an inter-governmental organization to strengthen government function, but met with strong opposition from the U.S. The U.S. only agreed to the establishment of an international “forum,” which later became the IGF. With the issue of cyber-security becoming increasingly prominent, however, it is clear that government function is needed to guarantee implementation of certain policies. The fallout from the Edward Snowden scandal clearly highlights the importance of international norms to regulate state behavior in cyberspace.

Indeed, all inter-governmental institutions are attempting to play a role in IG, with the ITU clearly at the forefront. In 2006, the ITU set up the WSIS forum, which laid a foundation for its participation in IG affairs. Especially at the Dubai conference of 2012, the ITU tried to modify the International Telecommunication Regulations of the treaty to further enhance legitimacy. Although the new treaty has not been approved because of strong opposition from the U.S., the treaty still got more than half of the members’ support, 89, out of a possible total of 144 present, and was duly accredited.¹⁸ At the same time, the United Nations is to set out the reform measures to transform the IGF into a functioning governance mechanism. Specific measures will be introduced in

the next year.¹⁹ Furthermore, the United Nations has set up a working group on internet governance, and jointly promotes the “WSIS+10”²⁰ agenda with the ITU, the United Nations Educational, Scientific and Cultural Organization (UNESCO), the United Nations Conference on Trade and Development (UNCTAD), and the United Nations Development Programme (UNDP), which aims to review ten years of IG practices and help guide the direction of future IG reform. In sum, a more proactive role played by inter-governance institutions within the framework of the UN can be expected in the future.

Thirdly, the globalization of ICANN has become the top priority of IG reform practice. The outcome will have significant influence on the direction of future IG progress, and the whole process will be a prism to reflect the different positions of all actors. China has explicitly proposed that ICANN terminate its contract with the U.S. government completely. The British government has also recommended that the headquarters of ICANN be moved out of the U.S., with the EU proposing that a timeline be established for its globalization.²¹ Under such strong international pressure, ICANN has launched two special working initiatives, IANA Stewardship Transition and Enhancing ICANN Accountability,²² which are responsible for collecting views from all parties and submitting a final outline for ICANN’s transition.

Challenges of Future IG Reform

In view of the current situation, IG reform stands at a historical turning point facing both new opportunities and challenges. First and foremost, a significant challenge remains reconciling differences between countries on how they view internet governance, while seeking to maximize their own interests. For example, while European countries may be more open to a globalization of IG, it is still easier for them to achieve compromise with the U.S. in seeking to gain the maximum share of governance rights. Question marks also surround how countries will jockey for position to try and play a more active role in future IG. A case-in-point is Brazil’s interactions with ICANN, with these two parties from traditionally opposed blocs. Still others, the so-called “swing states”²³ (states which still swing between the two blocs with their position on IG policy remaining unclear), may take a more ambiguous

position. As Clemente argues, “these states may naturally lean towards a state-centric model of governance, but value the benefits of being seen to embrace civil society and non-state actors.”²⁴ In the future, however, the differences on IG issues between the major powers will become more apparent, which will likely force so-called swing states to choose one side or take an independent position. Therefore, we may witness the emergence of new blocs or groups of states. While uncertain, the divisions are likely to become more complex and the competition more fierce.

The second issue is that inter-governmental institutions’ efforts to enhance international coordination will face significant challenges. Internet governance forums and conferences have mushroomed in recent years, and while a positive development in many ways, many focus on pushing forward their own “agenda.” There is a danger, however, that this “decentralization” may lead to little more than a talking-shop on diverse topics with little achieved in the way of arriving at consensus and taking initiative to resolve key practical issues. Therefore, a prerequisite for IG reform is to strengthen international coordination, by integrating energies and resources especially, so as to form a cohesive force for reform. That is why some experts hope through the UN framework to improve coordination at a governmental level first; but this proposal faces many dissenting voices which argue that its only purpose is to exert government control over the internet. In sum, improving the problem of international coordination will be no easy task.

A third challenge lies in breaking the U.S. dominance of Critical Internet Resources and especially its control of ICANN. While the U.S. government has made a statement regarding the stewardship transition of ICANN,²⁵ this in fact has nothing to do with sharing governance resources and power with other actors. Firstly, according to the statement, there are many limits on the final authorization, such as if the international community cannot submit the “transfer proposal” according to the deadline; or if the “transfer proposal” is not approved by the U.S. government, the

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contract will be postponed. As for how to obtain the approval, the U.S. government has not come up with any specific standard or evaluation index. Additionally, while the U.S. government has claimed that it would transfer the management authority to a “Global Multi-stakeholder community,” that is, another international body which would take responsibility for managing or supervising ICANN, it is obvious that the U.S. is seeking to maintain maximum influence. Importantly, the

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U.S. government management of the domain name system actually involves two contracts: the ICANN contract as well as one with the Verisign company (with which the above-

mentioned statement is not concerned).²⁶ The Verisign company is in charge of technically executing ICANN policies approved by the U.S. government. Therefore, even if the transition is accomplished, it might affect the policymaking process of DNS management but it cannot change the status quo of the U.S. controlling DNS at a practical level.

China and the Future of IG

The internet plays a very important role in the economic and social development of China. As of December 2013, the number of Internet users in China had reached 618 million, representing an Internet penetration rate of 45.8 percent.²⁷ The number of mobile phone users is up to 500 million and continues to maintain steady growth. Furthermore, the development of e-commerce has grown rapidly with 302 million people using online shopping; transactions in 2013 alone amounted to 1.85 trillion Yuan²⁸ with China surpassing the U.S. to become the world’s largest online retail market.

As such, China’s government attaches great importance to the development of the internet and the establishment of IG. On February 27, 2014, China’s Central Cyber-security and Informatization Leading Group (CCILG) was formed.²⁹ The establishment of the panel shows China’s resolve to maintain cyber-se-

curity and to accelerate progress toward an information society, and the elevation of these goals to an important strategic height. During the November 19-21, 2014, World Internet Conference WuZhen Summit³⁰ in Zhejiang province, President Xi Jinping sent a congratulatory note stating that “China is willing to work together with other countries, based on the spirit of mutual respect, the principle of mutual trust, deepening international cooperation, respect for cyber-sovereignty, and the maintenance of cyber-security, by jointly building a peaceful, secure, open, and cooperative cyberspace, and establishing a multilateral, democratic and transparent system of Internet governance.”³¹ This demonstrates that as a responsible country, China is willing to promote the IG reform process and make greater contributions to the establishment of a more fair and just IG system. In so doing, I outline some recommendations that China should adopt.

China should firstly make clear its ideology on IG. At present, there are some misunderstandings of China’s position on IG in the international community. Some observers argue that China opposes the multi-stakeholder model of IG, and regard China’s support to the United Nations Framework as a tendency of advocating that the government should dominate all aspects and affairs of IG. Thus, China should effectively respond to and seek to redress such misinterpretations. Firstly, it should clearly raise the issue of how to comprehensively understand the multi-stakeholder model. The model should not be simply understood as private sector-led and governed by bottom-up decision-making processes. Secondly, China should stress that, in view of the complexities of IG, it advocates the “flexible, pragmatic, multiple” application of the multi-stakeholder model; simply speaking, that is an issue-based model which means that different actors play a leading role with different decision-making processes according to the characteristics of specific issues. In sum, the elimination of misunderstanding should be the first step so as to improve international coordination and cooperation.

The second recommendation is that China should strive for greater international cooperation in cyberspace. China should continue to help other developing countries to improve internet access with a focus on internet-related infrastructure. On the basis of mutual benefit and common development, China should enhance coordination on IG with Russia, Brazil, India,

and other new emerging powers. On the other hand, it should seek to bridge divisions by strengthening cooperation with all actors including Western governments as well as the private sector and civil society organizations. Special attention should be paid to the EU countries and finding more avenues for cooperation. In addition, China should continue to support the international inter-governmental organizations and make them become a meaningful part of the IG system. As previously mentioned, the construction of an intergovernmental platform is in a crucial period and which should in the next two years see some progress with potential long-term impacts. China should continue to actively participate in the ITU, GGE, IGF, and other related United Nations agendas, and strive to play an important role.

Thirdly, China should further promote the reform process of ICANN. Only when the problem of core internet resources being in the control of one country is resolved can the international community really share a more secure and just cyberspace. Coordination and cooperation should be somewhat eased with the parties having reached a degree of consensus on this issue. Thus, China should together with the international community keep promoting the reform process through which a new cooperation mechanism can be explored, and so jointly lay a foundation for further governance reform.

Key Points

- Internet Governance (IG) has evolved from being governed by the private sector and mainly concerned with matters of technology to become an issue of public policy embracing many different dimensions. Accordingly, governments have had to assume an increasingly important role to deal with and cooperate on emerging problems such as cyber-crime and regulating state behavior in cyberspace.
- International cooperation on IG has often been characterized by bloc politics, something which has frustrated IG reform. However, more recently there are signs that potentially fruitful international cooperation is taking place. For example, the UN is aiming to trans-

form the Internet Governance Forum (IGF) into a functioning governance mechanism. Globalizing the International Corporation of Assigned Names and Numbers (ICANN) by disentangling it from the U.S. government has also become an issue at the top of the IG agenda.

- In order for substantive progress on IG reform to be made, efforts at greater international cooperation need to be strengthened, and fragmentation avoided. Here China can play a part by affirming its support for the “flexible, pragmatic, and multiple” application of the multi-stakeholder model, eliminating the misconception of its “statist” view of the internet, while also strengthening cooperation with both governmental and non-governmental IG actors and supporting the reform of ICANN.

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² Château de Bossey, Report of the Working Group on Internet Governance, 2005, p. 4, <http://www.wgig.org/docs/WGIGREPORT.pdf>

³ It should be noted here that the author disagrees with those who regard the U.S. and European countries as the “multi-stakeholder bloc” and China, Russia, and other developing countries as the “sovereign-oriented bloc.” In particular China has never opposed the “multi-stakeholder model.” In contrast, China constantly shows its policy stance of supporting “multi-stakeholder” participation in IG in relating international forums and channels. The differences between the two sides are on how to understand and implement this model.

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Contact & Address

Institute for Security and Development Policy
Västra Finnbodavägen 2
131 30 Stockholm, Sweden
www.isdp.eu