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Internet governance

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Internet governance (IG) is a lively, emerging field, and the body of research that explores it is no less emerging and varied. The Working Group on Internet Governance (WGIG, 2005), following the United Nations-initiated World Summit on the Information Society (WSIS) – two entities we will come back to later – has provided the following “working definition” of IG: “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” (WGIG, 2005). The definition, beyond the acknowledgment that IG is about regulating the Internet, is perhaps too broad to be “operationally” useful in drawing precisely the boundaries of the field; however, it has reached wide consensus because of its inclusiveness, and provides several useful, albeit debatable, elements.

A Controversial Definition

First, the definition implies the involvement of a plurality of actors, who deploy a plurality of governance mechanisms (e.g. Malcolm, 2008, Mueller, 2010, Weber, 2010). IG has been described as a mix of technical coordination, standards development, and public policies. Technical coordination is conducted, through norms and the market, by the institutions that manage the Internet’s technical architecture and resources. Standards development is the set of processes by which, through norms and architecture, technical standards are agreed upon and implemented for the operation of the Internet. Public policy governance relates to the development of international policy instruments – laws, treaties, conventions – and addresses, in particular, matters of regulation of issues such as online privacy or other user rights. Internet policies are implemented at the domestic and supra-national levels, and discussed at the global level in non-decision-making venues such as the United Nations-promoted Internet Governance Forum (IGF).

Second, the definition hints at both actor-specific “roles” and “shared” principles and norms. This reflects the idea that every “holder of interests” in the Internet should be able to have a voice heard in the shaping of the network of networks; processes and arenas should be provided for them to do so in a coordinated way. In the context of IG, this concept, called *multi-stakeholderism*, was first applied in the context of the IGF. Hailed in the early 2000s as the “21st-century way” of engaging in world politics, the multi-stakeholder model has subsequently been re-assessed by practitioners and researchers alike (Drake, 2011). While its capacity to bring about tangible policy change remains unclear, it continues to be implemented, both in the IGF and in other institutions such as the Internet Corporation for Assigned Names and Numbers (ICANN).

Historically, the technical community of Internet architects and engineers has focused mostly on infrastructure issues. As access to the Internet expanded globally, a number of regulatory issues around content gained importance and paralleled those related to infrastructure; states, civil society, and businesses increasingly look at the Internet as a battlefield where access to, and control of, content is crucial to building, and maintaining legitimacy. Internet infrastructure questions today are related to both architecture and content - and increasingly, to architecture as a means to perform content mediation functions. On one hand, the arguments of infrastructure providers frequently focus on the associated costs of providing equal service to customers without regard to usage, and free speech advocates advance concerns on discriminatory pricing as a way to silence online voices. Symmetrically, content-related questions take on aspects of architecture: identifying and eliminating spam, viruses, and other unwanted and malicious content; and enabling law enforcement to take appropriate action where possible, often require architectural interventions – which may be overplayed or misused to the detriment of the Internet’s stability, security and openness.

Different groups contest the definition and the perimeter of IG across political and ideological lines. One of the main debates concerns the authority of specific actors, such as national governments, corporate entities and civil society. Governments perform certain IG functions such as regulating abuses, overseeing antitrust measures, and responding to security threats – and they also use content filtering and blocking techniques for surveillance and censorship. Their role in IG remains central and often ambiguous. However, other areas of IG, such as Internet protocol design and coordination of critical Internet resources, have historically been delegated to transnational, institutional entities, and to private ordering (DeNardis, 2014).

Moreover, some scholars argue (Goldsmith & Wu, 2006; Mueller, 2010) that one should be careful about subscribing to two opposing ideological positions, an enthusiastic but naïve technological determinism or belief in the “digital revolution”, and the mere reproduction of traditional forms of state sovereignty as applied to the Internet. One should also refrain from excessively reducing the IG debates to one of its components or arenas, e.g. the United Nations-promoted processes that have led to the establishment of the IGF, or the ICANN, which has occasionally been presented as “running the Internet”.

A Brief History of Internet Governance

IG has emerged simultaneously “as a label, a field of research and academic study, and a real-world arena where stakeholders and interest groups clash and cooperate” (Mueller and Badiei, 2020). While it has been argued that embryos of at least one of these three aspects were already present in the discussions over early internetworking principles, or in the convergence of computing and ICTs, it is arguably only in the early-to-mid Nineties that it became apparent that the Internet posed unique governance problems, both because of its specific underlying protocols and its own standardizing organizations and institutions.

Interestingly, the state of the art in the academic field demonstrates that seminal research work has contributed to co-shape the concept of global governance of the Internet. From Milton Mueller, Lawrence Lessig and Tim Wu’s pioneering approaches to Laura DeNardis’ *The Internet in Everything* (DeNardis, 2020), the IG notion has evolved in practice also due to the analytical questions scholars have been asking through the years about its perimeter, nature and actors. While there are differences in the ways in which periodizations of Internet governance as a concept have been established (see e.g. Bradshaw et al., 2015; Mueller and Badiei, 2020), a few key periods and moments appear to be consensual.

Early debates on “Internet exceptionalism” (1996 to late 1990s)

The first of these revolves around the debates on the understanding of the Internet as being a space of its own, notably from the standpoint of law and jurisdictions. While the first document that comes to mind as a symbol of this phase is the flamboyant 1996 “Declaration of Independence of Cyberspace” by John Perry Barlow, this phase was marked by broader and more grounded discussions about whether the Internet should develop its specific regulation system, more decentralized and multi-centered, and not primarily based on state-centered control (Johnson and Post, 1997), and about “cyberspace sovereignty” (Wu, 1997). These debates informed the analysis of the nascent commercial Internet, with issues such as trademark law, intellectual property law and online dispute resolution becoming central.

ICANN, a controversial newcomer (1998 to mid-2000s)

In the late 1990s, discussions on Internet exceptionalism became “incarnated” in a debate on constructing a new IG institution, or an ensemble of them. Indeed, if there was a consensus about the inadequacy of existing governments and/or intergovernmental organizations to take on Internet policy, the question became how to build a novel IG framework, and who should control or coordinate it. These issues became particularly salient with the creation of ICANN in 1998 (Mueller, 2002). ICANN, while novel for its ability to globally coordinate actors around problems posed by critical Internet resources, was controversial due to the United States’ role in its birth and prerogatives. As a private, yet global, nonprofit corporation, ICANN was empowered by the US to issue private contracts as a way to solve public policy issues, and to have sole authority over the domain name root and Internet address spaces, while at the same time attempting novel “democratic experiments” such as global elections for its Board. Scholars have in turn highlighted ICANN as the epitome of new networked governance for the digital age (Levinson, 2002), examined how nation States and their governments have played a role in its formation and development, especially its ambiguous Governmental Advisory Committee (GAC; Weinberg, 2011), and critiqued the legality – and most strongly, the legitimacy – of its proposed governance model (Froomkin, 2000). This phase was also witness to landmark judicial decisions, such as the Yahoo! vs France case, where a French court ordered Internet giant Yahoo! to block French web users from a number of its auction sites selling Nazi memorabilia (Goldsmith and Wu, 2006).

The WSIS, a global discussion space on Internet governance (2003 to early 2010s)

The WSIS, a United Nations summit, held in two phases in 2003 (Geneva) and 2005 (Tunis), likely epitomizes the third phase in IG periodization– a process around which IG in practice, and the structuration of IG as a field of study, converged. Heavy debates on the IG definition took place during the entire WSIS process, with a variety of positions, ranging between the extremes of critical Internet resources management by ICANN of one hand, and the regulation of the whole ICT spectrum on the other. A central contribution in the definitional efforts was provided by the WSIS-mandated Working Group on Internet Governance (WGIG) in 2004, mentioned in the introduction to this entry. Multi-stakeholderism as a novel governance arrangement soon became a prime subject of multi-disciplinary IG research (see Raymond and DeNardis, 2015), with particular attention paid to the ability of civil society to meaningfully participate in IG processes (Hintz, 2005). WSIS originated a global IG discussion space which carries on to this day, not without criticism of its own, the IGF (see Malcolm, 2008 for an analysis of its early days). Interestingly, the main scholarly IG association, the Global Internet Governance Academic Network (GigaNet), was born out of the IGF and still holds its annual conference on the day preceding its official start.

A “post-Snowden Internet policy”: Rethinking perimeters and emerging issues (mid-2010s to present day)

Discussions about the definition of IG keep on being a core issue in itself. Indeed, the ongoing phase of a hypothetical periodization of IG is marked by a discussion about its perimeter, and the inclusion of several issues as they took center stage in the global political arena. For several scholars including Laura DeNardis (2014), IG *per se* should be distinguished from user practices, uses and content creation and distribution on the Internet, while other scholars argue that IG could meaningfully include the agency of technology designers, policy-makers, and some users as they can lead to unintended consequences with pragmatic effects for power balances on the Internet (Musiani, 2015). Scholars have also argued that the distributed and diffused nature of Internet power may lead to a lack of clarity on where actual authority resides, on “where is the governance in Internet governance” (van Eeten and Mueller, 2013).

Regardless of where scholars may stand in these debates, they reflect a crucial evolution in IG: while political arenas such as WSIS or IGF were closely scrutinized by academics, several issues that *de facto* pertain to Internet governance increasingly developed “in the largely non-institutionalized space formed by transnational Internet services and commerce” (Mueller and Badiei, 2020), including network neutrality; Internet content regulation; censorship and circumvention; private sector-led intermediation and regulation of both content and infrastructure; cybersecurity and information security; intermediary liability in defamation, copyright violations, and disputes over e-commerce practices.

The pre-eminent IG-related issue of the last decade is perhaps – catalyzed by the Edward Snowden revelations, but having its roots in long-standing debates about personal data, identity, and cryptology – that of online surveillance and privacy. Revealing the extent of pervasive online global surveillance, the former NSA contractor arguably opened the era of a “post-Snowden Internet policy” (Pohle and Van Audenhove, 2017), where the world took full measure of the United States’ *de facto* global authority on the Internet and of the depth of the US government’s “dangerous liaisons” with private intermediaries (Musiani, 2013). This opened up a crisis of legitimacy for the US to keep on acting as the foremost actor in IG. Arguably – even if the process was already underway before Snowden – it contributed to the so-called “IANA transition”, the process during which the US relinquished their control of the DNS root, and which originated substantial reforms within ICANN.

In parallel, the 2010s have also witnessed the rise and/or the stabilisation of new IG “superpowers”, notably Russia and China (see e.g. Litvinenko, 2020 and Negro, 2017), pursuing “digital sovereignty” – the idea that states should reassert their authority over the Internet and protect their nation’s self-determination in the digital sphere by increasing their independence and autonomy at the technical, economic and political levels. Legal instruments such as the European Union’s General Data Protection Regulation (GDPR, entered into force in May 2018) posed new conditions to both data protection and platform governance, incarnating a major regulatory challenge for business models based on the harvesting of data and offering “free” services as a counterpart.

Conclusions

Today, IG is an ensemble of techno-political controversies and battles over “control points”, from the deepest layers of Internet infrastructure to the “last mile” of user access to the network, and lead to reconsider the *de facto* public policy role assumed by private information intermediaries as they gather, collect, aggregate, select, present data to actors of the Internet value chain — thereby enacting governance over privacy, freedom of expression, cultural diversity and reputation (DeNardis, 2014).

In the wake of surveillance revelations, privacy, security, anonymity and the “right to be forgotten” issues have become even more prominent discussion topics. Hovering over these issues is the advent of big data and the use of large complex data sets to ascertain facts about groups and individuals. A whole new class of non-human users is also coming to the forefront, such as the “Internet of things,” devices with unique IP addresses which communicate with one another. Combined with filtering technologies and the willingness of commercial companies to supply such technologies to governments that seek to limit access to or production of content by citizens, these features may enhance censorship, manipulation and espionage, which is illustrated by scandals ranging from Cambridge Analytica (2018) to Pegasus (2021).

Internet governance is a “regulative idea in flux” (Hofmann, 2007). Indeed, the search for concepts and tools to make sense of 21st century IG, as a set of practices and technologies and an academic field of study, is open-ended and problematic. IG technologies and political arrangements will likely continue to be subjected to a variety of “stress factors” in the immediate future: increasing pressure to introduce additional regulation at interconnection points; greater governmental control; technology-embedded threats to privacy; reduction of anonymity and its consequences for freedom of expression; loss of platform interoperability; and finally, “creative” uses and misuses of Internet infrastructure and their impact on the Internet’s security and stability.

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