

The web of our strife

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At the 66th session of the UN General Assembly, India proposed the formation of a Committee on Internet-Related Policies (CIRP) to address what it sees as a policy vacuum in internet governance. This CIRP will, in the view of India's government, address the US domination of internet policymaking, and make it more democratic and 'multistakeholder'. As an example of this domination, our government cites the oversight role that the US government exercises over ICANN, the non-profit corporation that controls the net's domain name system, as well as the control it exerts over DNS root servers (with all changes needing to go through the US Department of Commerce).

But many civil society organisations, technology companies, and even a few Indian politicians (notably Rajeev Chandrashekar and P Rajeeve), oppose the CIRP as being a proposal for the UN takeover of internet governance. The role of nation-states in governing the internet has been minimal so far. Many attribute the success of the internet to this lack of interference from governments. They ask why we need to fix something that is not broken? In effect, why regulate something that clearly works without such regulation?

It is clear that this status quo will not suffice for many governments. Various countries - like the US, with its Stop Online Piracy and Cyber Intelligence Sharing and Protection acts, and India, with our Information Technology Act and recent Intermediary Guidelines Rules - look to actively regulate the net. ICANN, supposedly a purely technical organisation, has got embroiled in policy issues too. This was seen in the .xxx top-level domain name debacle, where governments tried to intervene, but ultimately failed. Many such purely domestic regulations, like SOPA, have international implications. Even India's Intermediary Guidelines Rules, for instance, require compliance from internet companies across the world. The US government has seized domain names of Spanish file-sharing websites that are hosted in Spain, even though they have been held to be legal there.

So while international forums exist for internetrelated policy discussions, including the Internet Governance Forum (IGF), they are limited by a lack of actual power to even so much as recommend policy positions. Hence there are forums for discussions, but none for resolving problems. The proposed CIRP seeks to be such a body, "with a view to ensuring coordination and coherence in crosscutting internet-related global issues".

Besides, apart from domestic legislation starting to encroach upon the international nature of the internet, there's another issue: that of countries like Russia and China pushing for a less 'multistakeholder' approach to internet governance. So the status quo is unsatisfactory, the alternatives are worrisome, and attempts at 'enhanced cooperation' within existing frameworks (for instance, through India's proposal for IGF reforms) have failed to find enough backers. Given this, a CIRP-like mechanism might well be the preferred option. Importantly, a singular body within the UN system for internet policy could help ensure that other UN agencies which are even less 'multistakeholder' don't overstep their mandates and start making regulations all by themselves. However, the current CIRP proposal lacks many safeguards that would allay the fears expressed by those who oppose it as 'government control of the internet'. First, while the Indian government has, in its proposal, laid out the CIRP's mandate, it has not laid out the limits of its powers in carrying out that mandate. Second, the CIRP is currently a government body that is merely 'advised' by various stakeholders, with nothing to indicate that this advice will be heeded. This is unsatisfactory, given the internet policy transgressions that are committed by various national governments, as seen, say, in Iran or China. Arguments that the UN system is nation-state-centric do not suffice, since processes that aren't nation-state-centric, such as the Internet Governance Forum, are also being spearheaded by the UN.

If such criticism is addressed, then the CIRP should indeed be welcomed. But we should also be realistic. Governments are effectively being asked to cede certain aspects of sovereignty by being told that the internet is a phenomenon that traditional approaches to policymaking just cannot address. They will not do so easily.

Further, the reality of international realpolitik must be acknowledged - about governments actually following the CIRP. The US, for instance, regularly ignores rulings by the ICJ and the WTO with impunity.

More importantly, and as some cyberlibertarians like Milton Mueller and Adam Thierer remind us, 'multistakeholderism' is only a process (involving multiple stakeholders), and does not provide substantive principles for internet governance (when may websites be blocked, for instance; or who should control the domain name system). Such sobering realpolitik, Mueller believes, is reason enough to be sceptical of the CIRP proposal as it currently stands. He may well be right.

But given the current trend of states individually wielding excessive powers over various aspects of how their citizens access and use the internet, a CIRP-like body may well be what is needed to safeguard democratic principles and innovation on the internet.

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