

GOVERNING INTERNET GLOBALLY: A NECESSITY

Dian Triansyah Djani¹⁾
Yanyan Mochamad Yani²⁾

¹Kandidat Doktor Hubungan Internasional, Universitas Padjadjaran

²Guru Besar dalam Ilmu Hubungan Internasional, Universitas Padjadjaran
email : yan2m@hotmail.com

Abstract

In the age of globalization, many questions were raised on the benefit and negative aspects of globalization and whether the world can manage globalization. The internet, as an important element of globalization, has contributed to many positive aspects of everyday lives but has also created discrimination, unevenness and has negative bearings on individuals as well as governments. Questions arise on the necessity of governing internet and the need to strike the right balance between ensuring that the negative impact of internet are properly managed through proper governance and the need to ensure that growth, creativity and preservation of rights that are needed in a globalized world continue unabated.

Keywords: Global Governance, Governing internet

Abstrak

Di era globalisasi, banyak pertanyaan yang muncul tentang manfaat dan aspek negatif dari globalisasi dan apakah dunia dapat mengelola globalisasi. Internet, sebagai elemen penting dari globalisasi, telah berkontribusi pada banyak aspek positif dari kehidupan sehari-hari tetapi juga telah menciptakan diskriminasi, ketidakmerataan dan memiliki pengaruh negatif pada individu maupun pemerintah. Pertanyaan muncul tentang perlunya mengatur internet dan kebutuhan untuk mencapai keseimbangan yang tepat antara memastikan bahwa dampak negatif dari internet dikelola dengan baik melalui tata kelola yang tepat dan kebutuhan untuk memastikan bahwa pertumbuhan, kreativitas, dan pelestarian hak-hak yang diperlukan di dunia yang terglobalisasi terus berlanjut.

Kata Kunci: Global Governance, Governing internet

¹ PhD Candidate in International Relations at Padjadjaran University, Indonesia.

² Professor in International Relations at Padjadjaran University, Indonesia.

1. INTRODUCTION

It is without question that in a globalized world, internet has touched upon many aspects of our daily lives and transforming the world. Data shows that 3 billion people are connected by internet and in a few years expected to be 5 billion internet users. The Asia-Pacific region will lead the mobile data traffic growth -- generating 16.8 Exabyte of traffic in 2014 for a 40.2 percent share of the world. World Bank estimates that an increase in broadband connectivity by 10% will increase economic growth by 1%. In 2013, 672.985.183 websites existed in the world and on July 1st of 2014 there are 992.374783 websites, and before the end of 2014 it is expected to reach 1 billion websites in the world.³ Noting the increase of popularity and usage of websites, no wonder that the World Wide Web (www), which was invented at the CERN complex, has been coined as the most powerful force for globalization, democratization, economic growth and education in history⁴.

It is evidently clear that internet and the advancement of information and communication technology have contributed significantly to the development and growth of the global economy. In order to compete

internationally, countries and individuals need to have access to internet and related technologies and services that furnish the functioning of the internet. Issue of real time information and delivery capabilities, efficiency, increased productivity, transparency and accountability of actions, all are dependent on the growth of the internet.

Such as in the case of globalization, debates arise on whether the need to leave internet development alone to propel growth and creativity or to ensure that internet is managed properly so that the benefit accruing from internet can be distributed evenly and the negative side of internet controlled, so as not to cause damage to the fabric of society and the interest of states. Striking the right balance between internet freedom and the need to govern internet is similar to the argument on many issues related to globalization. Should countries leave market alone to operate as expected by the free market argument or should government instill laws and rules to ensure that welfare and distribution of benefit are duly taken into account?

³ See "Total Number of Websites", <http://www.internetlivestats.com/total-number-of-websites/>

⁴ Jerome Glenn, Theodore Gordon and Elizabeth Florescu, *2008 State of the Future*. Millennium Development Project (Washington DC: UN University), p.22

2. GLOBALIZING OR GOVERNING INTERNET

Taking the similarity of internet with economies, the hyperglobalist thesis argues that economic globalization is bringing a “denationalization” of economies through the establishment of transnational network of production, trade and finance. Hyperglobalizers share conviction that globalization is constructing new forms of social organization that are supplanting, or that will eventually supplant, traditional nation-states as the primary economic and political unit of society.⁵ While the skeptical thesis referred to the regulatory power of national governments to ensure continuing economic liberalization. The questions then arise on what would be the effect of internet development toward nation-states and are we able to hold the wave of globalization.

While the transformationalist thesis referred to globalization as a central driving force behind rapid social, political and economic changes that are reshaping modern societies and world order (Giddens, 1990, Scholte, 1993, Castells, 1996)⁶. Government and society have to adjust to a world in which there is no longer a clear distinction between

international and domestic, external and internal affairs. Globalization is conceived as a powerful transformative force that is responsible for a ‘massive shake-out’ of societies, economies and institutions of governance and world order (Giddens, 1996). Taking the cue of these thesis, then one should ask the question of whether internet should also be considered as a powerful transformative force that would disrupt the current world order and whether nations would lose their relevance in the world stage and the process of de-nationalization is happening.

Nevertheless, it has become a fact of life that internet is here to stay and that the world will not regress to the dark ages of rudimentary postal delivery. Argument that supports the freedom of internet not only refer to issues of human rights such as freedom of expression, but also the unobstructed development of internet; not only in term of content but also infrastructure and innovation. Internet should continue to flourish and the global society should have open access to internet with the simple *raison d’etre* that any effort to govern internet would be detrimental to innovation and ability of internet to empower the common peoples. Treating internet as public goods would provide ample room for its development. The more global its

⁵ See Held, D., McGrew A., Goldblatt, D. & Perraton, J. 2000. *Global Transformation: Politics, Economics, and Culture*. Oxford: Blackwell Publishers Ltd. p. 3

⁶ *ibid.* p. 7

usage, the more benefit and welfare effect internet will bring.

On the other side of the debates is the fact that, like any other goods or services, there is possibility of the negative usage of internet that would affect the interest of government as well as individuals, thus the necessity to govern internet. The question then is will governing the internet affect its development? If the theory is true that globalization is a force that could not be manage and has evolved into a natural phenomena, then is it worth the effort to even try to govern the internet.

Noting that in the current world order, nation states are no longer the sole centres or principal forms of governance and many stakeholders are involved in the development of internet, ranging from inventors and investors to industry and civil societies, emerge the important question of who should govern and who should ensure adherence and implementation of governance. A system of global governance without government in the contemporary world order has been happening in the realm of internet, albeit in a limited way such as in assigning Domain Names (DNS) and Internet Protocol Addresses. But is it sufficient?

3. NECESSITY FOR GLOBAL GOVERNANCE

Regardless whether a global dedicated multilateral and multi-stakeholders institution/body is not yet in existence and whether internet can really be governed in this era of globalization where trends are toward a *laissez faire* approach, there are several arguments that necessitate efforts to govern internet.

First and foremost, if global consensus on internet governance is not available, individual countries will adopt domestic laws and legislation tailored to their interests, which could contradict global or neighboring countries' interests. The issues of domestic sovereign authority versus global commons become omnipresent. A spaghetti bowl of domestic regulations not only would cause confusion to providers of internet services, inventors, corporations, standard setting organizations, etc., but also dispute in many fronts. Uncertainty regarding the prevailing legal systems would affect many parts of the internet, such as movement of data over national borders, jurisdictional issues of ownership and providers, security and privacy of data in transit, etc.

Second, as a result of non-existence of global rules for the conduct of internet, countries would also decide to govern themselves by providing their own internet

architecture, standards, and internet language, which at the end would lead to 'balkanization' of the internet. Continuous pressure on China on internet censorship and IPRs would provide ample excuse to develop China's own internet architecture in the Chinese language, technology, standard, culture and interest as the basis. The philosophy of the internet as bringing together the world into a borderless society and as a global tool of communications would disappear. Localization and fragmentation of the internet will emerge.

Third, internet should be considered as a global commons and thus need for global approach and global norm shaping and norm sharing. In order to avoid chaos and a lawless internet environment, code of conduct or redlines on how to behave should be established. Adequate protection toward individuals from the negative side of internet should be provided by governments, which have the authority and trust to undertake the task. In so doing, and taking into account the cross-border nature of internet, so as not to differentiate treatment between one country with another, there should be a common understanding on what and who to be protected, and in what circumstances.

Fourth, the current debate on the human rights aspect of internet has increasingly come to the forefront. As in the

case of deliberations of human rights in various forums (offline), the debates on human rights in the internet world (on-line) cover similar basic arguments. On issues of fundamental and basic human rights, there is a similarity of views. However, on the debates on culture, religion, traditions, way of life affecting human rights, etc. there exist differences of view. What constitute as censorship in the developed world might not be the same in the developing world. Blasphemy toward a certain religion might be considered as a valid reason for censorship or filtering while for others it is considered as freedom of expression. The simple case of internet casino and gambling whereby in many developed countries are permitted, while many developing countries such as Indonesia have not allowed internet gambling due to religious and moral considerations, is a perfect example.

Continuing debate on the rights of individual *vis-à-vis* the internet has emerged. The traditionally rights of individual in the offline world would not be a debatable issue to be accepted in the on-line realm, such as: Freedom of Expression; Freedom of Thoughts, Conscience and Religion; as well as other rights under the International Covenant on Civil Rights and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights

(ICESCR). However there emerge additional rights related to the internet such as: Right to be Forgotten; Right to Privacy; Right to Access of Information and technology, etc.

Emerging trend also relates to the right of countries to protect themselves under the guise of its responsibility toward their citizen. There are different ways to look at the issue of surveillance. As in the case of Snowden's leaks of the National Security Agency (NSA) and Julian Assange's Wikileaks which have caused considerable damage and retaliatory action by the United States' government to the individuals concerned, which some quarters have considered as violating freedom of expression. A further investigation also revealed that the NSA has conducted internet spying on various individuals, citizens as well as foreigners, which also constituted violations of many rights of individuals.

On the other side of the fence, censorship that has been undertaken by other governments such as China's "great Firewall of China" filter keywords against China's government policies and Iran's slowing down bandwidth during demonstration to avoid clashes, are considered as against freedom of expression. Even though the argument given is to avoid content of internet instigating religious intolerance, hate crime, racism and bigotry that would disrupt public order. Other

examples that fall within the grey areas of internet censorship, among others, are Turkey's mandatory filtering system to "protect families from harmful content" and Thailand's filtering against *lese majeste* (crime of violating majesty). Noting that, there is a need to find common ground on what constitute as universal right under the internet realm, necessitates the importance of having internet governance.

Fifth, there is critical need to work together to address various internet standard as to avoid proliferation and to ensure that the internet functions well globally. Global governance on internet standard becomes more important with the rapid development of the internet. Non-state and non-profit institutions have mostly developed Internet technical protocol and interoperability across the internet, such as TCP/IP, Wi-Fi, MP3 and HTTP that are commonly recognized. Standard setting institutions, normally are non-political institutions, nevertheless there are interest, particularly in the design of standards that have economic and political consequences.⁷ Also, technical internet organizations mainly concentrate on the technical aspects without taking into account socio-economic and political considerations.

⁷See Denardis, Laura. 2014. *The Global War for Internet Governance*. New Haven and London: Yale University Press.

Moreover, representation in the standard setting institutions does not reflect equitable representation, particularly noting that many developing countries are becoming new entrants and important players in the development of internet.

Another important argument that necessitates governance is the need to cooperate on addressing overcapacity and exponential growth of the internet while infrastructure could not cope with increasing demands. Noting the rapid development of internet users there is worry that the Critical Internet Resources (CIRs) available in the world today is not adequate enough to fulfill the rising demands of internet address (IP addresses). Due to usage of Internet Protocol Version 4 (Ipv4) that are outdated for current use, remaining reserve of addresses need to be allocated and decision to be taken to jump into a newer design that would fulfill demand, such as the IP version 6 (Ipv6). Such a move requires political decisions and technical consideration that necessitate the involvement of governments in an intergovernmental function to decide on norms and standards so as to avoid breakdown of systems. The need to address jointly the issues of adequacy, accessibility, security and stability of the system, provide reasoning to have governance.

Sixth, as in the case of many international regimes, global governance provide a consensual norms, rules and regulations that contribute to building trust, transparency, accountability, predictability and legitimacy. A multilateral framework provides confidence and assurance for global compliance, including in the realm of internet. On specific issues that affect the global community, common stances and rules are needed to combat cyber threat including cyber terrorism, threat/disruption of financial institutions and transnational crime on-line, etc.

Seventh, the importance of having a global collaboration to govern internet would ensure division of benefit of the internet to all layers of the global society, including to the developing worlds, as it would be profitable to all to find win-win solutions. Governance could also address digital monopolization and exclusive ownership of technology. In the same vein, it could provide incentives and protection for future invention and innovation.

Finally, as often been mentioned, application of information technology and the expansion of global competition will fundamentally change the patterns of global accumulation.⁸ Noting this important fact,

⁸ Coicaud, J-M. & Heiskanen, V. (ed.) 2001. *The Legitimacy of International Organizations*. Japan: The United Nations University.

distribution of welfare and benefit of development could be further accelerated if there exist a guidelines/code of conduct that can be provided by internet governance. Capacity building and, special -and-differential treatment for least developed countries is needed to narrow the digital divide, which could only be realized if there is commitment addressed to many of the stakeholders of internet. Moreover, pocket of internet underdevelopment still exist even in many developed countries that have also to be addressed, and without the additional push through governance, many will be left behind due to globalization.

4. DIFFICULTY IN GOVERNANCE

Although it is inevitable that internet needs to be governed, the question arise is that are we able to govern internet globally? Noting the various layers of governance issues involved, among others, issue of technical and infrastructure of the internet, content layer, and socio-political consideration. There is a question of governance of the internet itself(which encompass technology, innovation, intellectual property rights, etc.) or internet as a media of transferring information (content of the internet).The scope of issues under the

ambit of the internet is so vast that a comprehensive approach would take time in the making while the development of technology and the internet itself is so rapid that there is fear that there will be not sufficient time to catch up.

Getting a global consensus involving multi-stakeholders with differences of interest and objectives would not be an easy task. Even the idea of governing the internet has created strong objections, which has clearly been shown at the Second World Summit on Information Society (WSIS) in Tunisia, which found it difficult to even elaborate on the definition of internet governance.⁹ Starting on a negotiation path on internet governance also involves the need to decide on who shall sit at the negotiating table, whether solely representative of governments or members of society and private sector to be included.

The actors involved in the negotiation is closely associated with the outcome document that is expected on internet governance, whether a legally binding document of an intergovernmental nature or a loose code of conduct or guidelines that would involve adherence by many including the private sectors. Utility of a loose document without enforcing provisions would certainly gain more support and is able to be negotiated in a much rapid pace, in line with

⁹ See <http://www.wgig.org/docs/WGIGREPORT.pdf>

the development of the internet itself. However, without a legally binding and dispute settlement mechanism to ensure adherence, one might question the usefulness of such a document.

Another related issue is the link between the outcome document for internet governance with the scope of issues that is included in the document. If a comprehensive all encompassing global agreement on internet governance is expected, then the process of negotiations will be tedious and the time needed to complete would be enormous.

Issues of harmonization of prevailing domestic laws with international agreement on internet governance emanating from the negotiation will also come into the fray. Nation-states would relent some of their sovereignty to global rules, which would not be easily accepted and will depend on whether the state is a producer/developer of internet technology or a more of a “user” of the internet. Issue to be governed would also determine nation-states involvement. On transnational and anti-cyber crime cooperation there are incentives to join a multilateral agreement on internet. But on state security involving surveillance and censorship would not be easily accepted. Debate will continue on individual privacy versus state security, as well as norms,

traditions and cultures, which are not easily, reconcile.

Effective enforcement of global internet rules would also be questionable; noting the characteristics of internet that is cross-border in nature, having global reach, real-time and rapid development, as well as having a global impact. Enforcement would also have to be clearly defined, not only with regard to the target of enforcement but also the sanction that is possible in a globalized world. Controlling internet might be costly and a technological challenge.

Governing internet in a global world necessitate a multilateral body with multi-dimensional stakeholders, as global regulator. Problems arise that, at present, the existing multilateral bodies i.e. international organizations consist of intergovernmental forum where nation-states are the main decision and policy makers, or separate forums for private sectors or NGOs. A multi-stakeholders organization has as yet to be effectively established. Bearing in mind that discussions on internet involves the issues of infrastructure, standards, contents as well as socio-economic and political consideration, thus necessitate a joint approach and collaboration to ensure effective implementation of global norms and regulations.

Also, noting that the scope of issues that need to be addressed within the ambit of internet are vast and comprehensive in nature, there are no single international bodies that are able to discuss all issues related to internet in one single breath. Many United Nations bodies as well as other international organizations have started discussing parts of the internet discourse in a specific manner and under their respective responsibilities. As an example, in the intergovernmental realm, the UN Human Rights Council have produced a resolution on internet freedom¹⁰, the WTO discuss moratorium on electronic commerce¹¹, and the WIPO discussed internet issues related to the protection of intellectual property rights. Duplications and contradictory outcomes may result since every international body has their different responsibilities and constituents. Therefore, it becomes imminently clear on the need to have an overarching international body encompassing all the spectrum of internet if one would consider global norms to govern internet.

5. CONCLUSION

Global governance of internet would not diminish nation-states role since government would remains an important actor in ensuring implementation of global consensus. However, nation-states are no longer the sole centres or the principal forms of governance or authority in the world. Thereby, there is an urgent need to strike the right balance between the interest and rights of individual, corporations and sovereign rights and interest of nation states. Having the right balance between internet freedom that would ensure rights and continuous development of creativity and innovation with internet governance that would rule over the negative aspect of internet.

Governance does not hamper globalization but provide direction for managing globalization. The arguments which claim that internet in the era of globalization will develop much faster without the intrusion of rules and regulations have not been proven rights, since governance have always existed in many specific case of the internet through standard setting bodies, non-governmental institutions, individual countries with specific internet domestic laws. Nevertheless, there have not been any comprehensive all-encompassing rules for the internet in existence.

¹⁰See *UN affirms Internet Freedom as A Basic Rights*, http://bits.blogs.nytimes.com/2012/07/06/so-the-united-nations-affirms-internet-freedom-as-a-basic-right-now-what/?_php=true&_type=blogs&_r=0

¹¹See *WTO Electronic Commerce Briefing Notes*, http://www.wto.org/english/tratop_e/ecom_e/ecom_briefnote_e.htm

The question then, should we create a global governance of the internet with a supranational bodies such as a Global Internet Governance institution/organization covering all stakeholders. The fact remains that creating common norms and consensual criteria in designing an acceptable formula for governance is not an easy feat. Regardless of the difficulties and challenges in governing internet, it becomes a necessity to globally govern internet, either comprehensively as a whole or partial/incremental approach on specific internet issues while maximizing the availability of International Organization/Thematic/Specialized Organization. Embracing a wider support from the world population for internet governance is a necessity.

- Eriksson, J and Giacomello, G. 2007. *International Relations and Security in the Digital Age*. London: Routledge
- Held, D., McGrew A., Goldblatt, D. & Perraton, J. 2000. *Global Transformation: Politics, Economics, and Culture*. Oxford: Blackwell Publishers Ltd.
- Jackson, R and Sorensen, G. 2010. *Introduction to International relations: Theories and Approaches* (Fourth Edition). Oxford: Oxford University Press
- Jerome Glenn, Theodore Gordon and Elizabeth Florescu, 2008 *State of the Future*. Millenium Development Project (Washington DC: UN University
- Park, Susan, 2013. "The UN Human Rights Council's Resolution on Protection of Freedom of Expression on the Internet as a First Step in Protecting Human Rights online". *North Carolina Journal of International Law and Commercial Regulation*. Vol 38 No. 4:1129-1157

BIBLIOGRAPHY

- Baylis, J and Smith, S. 2005. *The Globalization of World Politics* (Third Edition). Oxford: Oxford University Press
- Coicaud, J-M. & Heiskanen, V. (ed.) 2001. *The Legitimacy of International Organizations*. Japan: The United Nations Universty.
- Denardis, Laura. 2010. "The emerging Field of Internet Governance". *Yale Information Society Project*. Yale Law School.
- Denardis, Laura. 2014. *The Global War for Internet Governance*. New Haven and London: Yale University Press.