

## Today's Paper » OPINION

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### For an unfettered Internet

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A global debate has been raging on the issue of the mechanisms and principles of Internet Governance (IG) ever since the exposé that the United States and the National Security Agency (NSA) were engaged in wide-ranging mass surveillance of international traffic. Brazil is holding a global multistakeholder meeting in April on this issue, while the European Union (EU) has released a communiqué on “Europe’s Role in Shaping the Future of Internet Governance.” The issue boils down to the mechanisms and the role of various stakeholders in this space.

The International Telecommunication Union (ITU) pegs Internet reach at 40 per cent of all households in the world and 2.7 billion people online. The good news is nearly 1.3 billion are women; the Internet has bridged the gender divide with nearly an equal number of women as men being online. About 200 million are in India with Internet penetration being a measly 11.4 per cent; 95 per cent use social media online, with roughly 90 million being Indians. The Internet has become an intrinsic part of our daily lives in our pursuit of knowledge, information, innovation, entertainment and in articulating dissent.

The year 2013 will widely be known as the one in which whistle-blower Edward Snowden told us that powerful governments had pierced the cover of privacy that is so dear to us and which is at the core of free expression. The Indian government’s position, in 2011, at the United Nations General Assembly (UNGA), and yet again in November 2013 in another U.N. meeting, has been to demand “a multilateral body for the formulation of international Internet related public policies.” The government would like this body to be under the aegis of the U.N. “with all stakeholders and relevant international organizations in ‘advisory capacity’ within their respective roles.”

There is no denying that the current Internet Governance (IG) framework is imperfect, especially with the U.S.’s strong influence and legal proximity to IG-related mechanisms — all these need to be transformed for the Internet to become more democratic and inclusive. Given the emerging issues and the changing nature of the conflicts, and the fact that the discourse within the IG space is broken, these existing processes cannot address these concerns sufficiently. A lot of fixing, enabling and rethinking and even strengthening is required. The Internet Corporation for Assigned Names and Numbers (ICANN), is a good place to start; decentralisation and renegotiating ICANN’s cozy relationship with the U.S., as rightly pointed out by the EU, are some of the steps that need to be undertaken. However, the position taken by India will only take global IG out of the frying pan into the fire, from the “influence” of one country to the control of global governments who, consistent with the U.N. Charter, will make all decisions behind closed doors, with hardly any voice for other stakeholders or participation in active, meaningful dialogue, leave alone decision-making.

While the U.N. does excellent work in peacekeeping and developing friendly relations among nations, it has severe limitations of expertise, speed, and above all, transparency, when it comes to decisions related to Internet policy.

#### Key reasons for a review

Here are a few key reasons why India’s position needs to be reviewed.

First, the Internet belongs to all, connects 2.7 billion people, and is a premier source of information, knowledge and communication. Therefore, all decisions regarding the Internet must involve multistakeholder groups, representing government, industry, academia, technical community, civil society, media and the youth, on an equal footing. Every stakeholder contributes to the growth of the Internet. No serious stakeholder should be denied access to either dialogue or decision-making. This is an impossibility under a U.N. body, whose Charter prohibits membership beyond “member states” (governments only). Even reaching Geneva or New York for a U.N. hosted meeting would require government approval before issuance of a visa. Since a vast majority of governments are flawed democracies, authoritarian and dictatorships, access for multistakeholders under a U.N. body is all but blocked.

Second, the U.N. body makes policies and laws which take the form of treaties and conventions. Following this, national laws such as the Indian Telegraph Act, the TRAI Act and the IT Act need to be amended and future legislation will need to ensure compliance. This supersedes the rights and duties of our MPs and Parliament, who, as elected representatives, have the primary responsibility to make national laws which govern Indian citizens. Any such proposal that sits atop Parliament’s lawmaking privilege should have its approval. This doesn’t.

The Internet today is also the world’s largest media — bigger than any newspaper or television channel. Any decision or treaty by a U.N. body which has the memberships of authoritarian regimes and dictatorships on an “equal footing,” can easily ensure excessive powers to the State on censorship, takedowns and blockings. This goes against the heart of free speech and human rights — another reason why a U.N. body with government bureaucrats alone should not make such decisions without the presence of civil society, media and free speech activists.

Next, an intergovernmental body, from within or outside the U.N., is not obliged to engage any stakeholder. While India’s position relegates them to an “advisory” role, the U.N. body, when formed, will make its own rules. Who participates, when and with whose approval — even in an “advisory” capacity — would be subject to the decision of

governments who alone can be members of such a body.

One of the most spectacular values of the Internet is permissionless innovation. Technical and commercial decisions are made in “Internet time,” which ensures that the web meets and exceeds user expectations. A government body — that too following U.N. processes, notwithstanding its good intentions — will be farthest from swift decision-making, multistakeholder collaboration or innovation. Even with high-level policy decisions, such a body could unintentionally harm the Internet, through delays and conventional thinking.

Then, there is the issue of expertise. Unintended but bad policies related to IG can adversely impact its day-to-day functioning. Expertise from multiple sources is key to the Internet’s growth. What forms a broad policy mandate for a bureaucrat is everyday work for an Internet techie or a free speech activist. Internet policy decisions therefore need to include the view of: the private sector, which invests thousands of crores each year, in telecom, Internet social media infrastructure, technology, mobile devices and spectrum, etc.; a stable environment from a policy perspective which reflects the domestic ethos and which is a prerequisite for fuelling innovation and growth of and through the Internet for India; civil society which protects free speech, privacy and human rights; the technical community which ensures that the web works like clockwork every time; and academia and the media, who are not only one of the biggest users of the Internet, only second to the youth, but in fact provide valuable inputs in keeping it democratic, free and effective. These stakeholders, especially those who represent a developing country’s perspective — and who possess the expertise — need to be at the table and not kept waiting to be called, as “advisers.”

Finally, there is the issue of recourse against badly drafted laws, a case in point being the draconian Section 66A of the Information Technology Act. In India, a domestic law such as the IT Act and Rules can be appealed, and courts will take cognisance and even jump to protect the individual rights of citizens, free speech and privacy. However, if an international treaty allows for example “blocking of content based on cultural sensitivity,” then the bureaucracy can interpret it broadly as it wishes without any recourse for Indian citizens under the Indian legal system.

There is admittedly a need for intergovernmental dialogue and decisions in areas of cyber security, child pornography, jurisdiction disputes and a few orphan issues, where gaps exist. It is not that multistakeholders must sit and weigh in on all these meetings. But these form a small part of the overall IG space. They need to be addressed, but not at the cost of destroying an inclusive, transparent, multistakeholder decision-making process which upholds the core Internet values of a universal, equitable Internet for common good, empowerment and justice for all.

In this regard, broad global IG principles which lead to a democratic, collaborative, transparent and inclusive decision-making process are perhaps a good place to start with. Brazil and the EU have taken the lead. India, as the world’s largest democracy, must review its stance and claim its rightful position in the world as a leader which gave the world new ideas of resilience, non-violence and truth. It is time for change; to put the public back in public policy and IG with the least amount of government control for an unfettered, spirited and vibrant Internet of the future — of the people, places and things that India dreams of, and to facilitate access and celebrate diversity, cherish pluralism and the multiplicity of opinion and voices.

*(Subi Chaturvedi is a member of the multistakeholder advisory group of the U.N.-IGF and co-chair of the Brazil Meeting on the Future of the Internet, April 2014.)*

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