Nov 04, 2016 by Tori Horton

Good Governance in the Age of Internet Freedom: A Summary [1]

There continues to be an ongoing debate about how to regulate the Internet. This conundrum arises from two questions. Is the Internet a platform for old ideas to be transformed in a new medium, or rather a medium for all-together new paradigms of thought?

Where it is simply another platform, citizens and their governments should already have the tools necessary to make decisions about what is right and fair based on previous methods of practice. However, when the Internet is a space that offers something new, it is necessary to likewise develop new means of governance for the space.

The Internet is rapidly becoming ubiquitous both in global scope as well as in socio-economic availability. Nearly a third of the world's population has access to the Internet and that number continues to grow. As it does, every form of government will be forced to determine how it will govern this technology and decide which traditional and which new rules will be applied. Two things are certain: First, every government must address these technological issues. Second, no government policy will be able to foresee all the possible ramifications or loopholes in such a policy.

As an ongoing and evolving attempt to address these issues, Secretary of State Hillary Clinton recently gave her second address on Internet Freedom. (I previously wrote on the first one here ⬛.) This follow up speech reframed "freedom to connect" in response to events surrounding the WikiLeaks which discredited previous comments from the administration's commitment to open and transparent communication. In this speech as before, Clinton maintains, "On the spectrum of internet freedom, we place ourselves on the side of openness." To that end, Clinton cited three areas where a balance between opposing ideas must be struck: 1) Liberty and security; 2) Transparency and confidentiality; 3) Free expression and tolerance / civility.

This being said, the U. S. has had a number of run-ins with its open policy. Most notable is WikiLeaks where confidential diplomatic documents were publically exposed. And while Clinton claims the documents were stolen, the evidence remains unclear that WikiLeaks was directly responsible. The "extended Berkman community" at Harvard's Berkman Center for Internet and Society weighed in on Clinton's speech. Here Yochai Benkler proposed text that did not appear in the Secretary's speech, but would have given greater merit to the claim that the US places itself on the side of openness. Benkler writes, "Internet freedom is hard, it can be embarrassing and it can be challenging. We learned it on our own skin with Wikileaks, and we overreacted because it can be very unpleasant, and it can seem very threatening. But we spent the last two months digesting the events and we have come to understand that at the end of the day we are all better off in a world where Wikileaks can leak and we get to argue back, but not shut it down."

However more than just WikiLeaks has challenged the current U.S. policies. In Foreign Policy, Rebecca MacKinnon commented, "Over the past year, Google has stopped censoring its search results in China. WikiLeaks published the Afghan War Logs and U.S. diplomatic cables stolen from a classified network by an Army private. Autocrats have been toppled in Egypt and Tunisia, and activists in the Middle East have set their sights on several more regimes."

MacKinnon further notes:

> The U.S. government's approach to the Internet remains full of problems and contradictions. In the same week that Clinton delivered this Internet freedom speech, the FBI was advocating for expanded government surveillance powers over social networking services and encrypted online communications tools like Skype. The Senate considered legislation giving the Department of Justice greater power to take down the domain names of 'rogue' websites. Meanwhile, the Department of Homeland Security mistakenly shut down 84,000 websites in a badly executed effort to seize the domain names of 10 child pornography websites -- prompting concerns about lack of due process and 'collateral damage' for free speech inflicted by the administration's law enforcement tactics.

Clearly it is heartening to hear Clinton maintain her commitment to the "right to connect" however government policies as well as U.S. corporations and regulations around these businesses must reflect this commitment. As David Weinberger states, "When it comes to how to apply that policy, we seem to be running into a clash of cultures on several issues. For example, US policy increasingly favors strict enforcement of so-called intellectual property rights, including harsher punishments, while many on the Internet (including many young people) are building a culture based on sharing and remixing that assumes a looser interpretation of those rights."

In the Huffington Post, Timothy Karr weighed in heavily, stating his frustrations at the "administration's unwillingness to face down corporations that block our connections," and citing the FCC's recent ruling on Net Neutrality.

So while the idea of every individual's right to connect and the U.S. State Department's commitment to open and transparent Internet platforms continue to be laudable goals, there remains an unquestionable gap in practice among all sectors of U.S. government. And in these cases, the old methods for governing should be critically questioned as policy makers attempt to make them relevant in a new medium where new rules of conduct are currently being adopted among individuals who use it most. Secretary Clinton has set a course to lead other countries in this endeavor, yet before the U.S. spends what is close to 45 million dollars in grants to support activists throughout the world, it should also be willing to deal with the consequences, or similar actions from other governments in the United States. It is just as critical to move quickly in this Internet era to reach out and provide platforms for dialogue, as it is to think judiciously about policies and laws that will govern our right to connect.