CHAPTER 5

GLOBAL INTERNET GOVERNANCE AND ITS IMPLICATIONS FOR SOCIAL MEDIA

5.1 INTRODUCTION

Governance of internet has always been a debated issue around the world. Different approaches, models and principles of governance have contributed in making its governance more complex. There have been tremendous policy dialogues, conferences, agendas & working draft to make a consensus on governance structure but that has been of little success. United States direct or indirect control over the governance structure has also been a contentious issue. In the wake of mass surveillance and snooping of the internet, many countries across the globe underlined the need of free internet. China, Iran and various other countries have introduced their own models of controlling the internet. With the proposal by India at the UNGA to form a Committee for Internet-Related Policies, there has emerged the widespread fear of “UN over take of the internet,” and internet governance has become a major focus for internet users in the third world. These issues along with other technical, social and political issues were highlighted in various Internet Governance Forum meetings.

Given the virtual nature of its existence, the most important legal discussion about the internet focused on its natural resistance to governance. Despite this resistance, various national laws have been erected throughout the world with the aim and effect of subjecting the internet to real regulation. Considering the global character of the internet, however, International Law could be a more suitable tool for governance in most of the internet related issues. This chapter, therefore, studies the existing models of internet governance at global level and is analyzes how the changing discourses of internet


governance at global level really matter to social media websites. After a short debate of the practicability of internet governance the chapter focuses on the bodies which are involved in the governance. This exercise allows identifying the main difference in their functioning and it makes it easier to find the main international bodies whose functioning can directly affect social media behavior across the globe. Then this chapter considers the different models and approaches of internet governance. The national regulation by countries is the other factor that has been discussed because national regulations have always been suppressive to the dissent voices and most dangerous for citizen’s journalism. In the last the chapter discusses the critical issues of internet governance and social media. It focuses on the universal access, net neutrality, privacy, data protection, right to be forgotten and impact of these issues on social media.

5.2 MAJOR INTERNATIONAL BODIES GOVERNING THE INTERNET

“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.”

As such there is no single body at the international level to control and govern the internet communications. Internet governance is done by a decentralized and international multi stakeholder network of interconnected autonomous groups which includes governments, civil society, the private sector, the academic and research communities etc. There are central control points on different levels. For example, an ISP can exercise some control over its subscribers, the operator of a BBS can exercise some control over their service and individual governments can exercise some control over their citizen’s internet behaviour. They work cooperatively from their respective roles to create shared policies and standards that maintain the Internet's global interoperability for the public good. The lack of central control only exists on the highest international level.

International institutions ranging from the International Telecommunication Union to the U.N. General Assembly are becoming increasingly involved in regulating the Internet. A brief detail of these organizations are as follows:

5.2.1 **International Telecommunications Union (ITU):**

ITU, based in Geneva, Switzerland, is a member of the United Nations Development Group. ITU has been an intergovernmental public-private partnership organization since its inception. Its membership includes 193 Member States and around 700 public and private sector companies as well as international and regional telecommunication entities, known as sector members and associates, which undertake most of the work of each Sector.\(^{282}\) It is a specialized agency for information and communication technologies (ICTs) which allocate global radio spectrum and satellite orbits, develop the technical standards that ensure networks and technologies seamlessly interconnect, and strive to improve access to ICTs to underserved communities worldwide. The ITU is active in areas including broadband Internet, latest-generation wireless technologies, aeronautical and maritime navigation, radio astronomy, satellite-based meteorology, convergence in fixed-mobile phone, Internet access, data, voice, TV broadcasting, and next-generation networks.

**A. Working Procedure of ITU**

ITU mostly works through the resolutions adopted by it at plenipotentiary conference. The Plenipotentiary Conference is the top policy-making body of the ITU which is held every four years. The Plenipotentiary Conference is the key event at which ITU Member States decide on the future role of the organization, thereby determining the organization's ability to influence and affect the development of information and communication technologies (ICTs) worldwide. ITU Plenipotentiary Conferences consider inputs and documents from a range of sources including regional groups, ITU Member States and the ITU Council. Regional organizations meet in the months ahead of

the main event in order to align regional positions and find common ground ahead of the treaty negotiation.

ITU has three main areas of activity organized in ‘Sectors’ which work through conferences and meetings.

ITU-R

The ITU Radio communication Sector (ITU-R) is one of the three sectors (divisions or units) of the ITU and is responsible for radio communication. Its role is to manage the international radio-frequency spectrum and satellite orbit resources and to develop standards for radio communication systems with the objective of ensuring the effective use of the spectrum.

ITU-T

ITU’s Telecommunication Standardization Sector (ITU-T) coordinates standards for telecommunications. ITU standards (called Recommendations) are fundamental to the operation of today’s ICT networks. Without ITU standards it is impossible to make a telephone call or surf the Internet. For Internet access, transport protocols, voice and video compression, home networking, and myriad other aspects of ICTs, hundreds of ITU standards allow systems to work – locally and globally. For instance, the Emmy award-winning standard ITU-T H.264 is now one of the most popular standards for video compression.

ITU-D

The Telecommunication Development Sector (ITU-D) fosters international cooperation and solidarity in the delivery of technical assistance and in the creation, development and improvement of telecommunication and ICT equipment and networks in developing countries. ITU-D is required to discharge the Union's dual responsibility as a United Nations specialized agency and executing agency for implementing projects under the United Nations development system or other funding arrangements, so as to facilitate and enhance telecommunication/ICT development by offering, organizing and coordinating technical cooperation and assistance activities.
B. Major Initiatives by ITU Vis A Vis ICTs-

In its resolution no. 102 at Plenipotentiary Conference in 2014 titled ‘ITU’s role with regard to international public policy issues pertaining to the Internet and the management of Internet resources, including domain names and addresses’ need to preserve and promote multilingualism on the Internet as well as public private and regional initiatives role in expansion and development of the Internet was considered. It has also noted the importance of openness and transparency in the development of international Internet public policy issues and the need for all stakeholders to be consulted. In the same event, resolution number 130 titled ‘Strengthening the role of the ITU in building confidence and security in the use of information and communications technologies’ emphasized on assisting Developing countries in the use of ICTs and the establishment of Computer Emergency Response Teams (CERTs) for government-to-government coordination consistent with the ITU’s role as lead facilitator of WSIS Action Line C5 (Building confidence and security in the use of ICTs).

In the resolution no. 174 titled ‘ITU's role with regard to international public policy issues relating to the risk of illicit use of information and communication technologies’ it was recognized that sharing information at the global level on relevant security measures and practices are important to Developing countries in mitigating the effects of illicit use of ICTs. ITU resolved and instructed the secretary general to take necessary measures in order to:

- raise the awareness of Member States regarding the adverse impact that may result from the illicit use of information and communication resources;
- maintain the role of ITU to cooperate within its mandate with other United Nations bodies in combating the illicit use of ICTs;

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283 ITU, ‘ITU’s role with regard to international public policy issues pertaining to the Internet and the management of Internet resources, including domain names and addresses’ (Resolution, 01 Feb. 2015) <http://www.itu.int/en/action/internet/Documents/Resolution_102_pp14.pdf> accessed on 01 Feb. 2015
inform the Secretary-General of the United Nations about the activities undertaken by ITU in implementing this resolution and relevant ITU recommendations in this regard;

continue to raise awareness, within the mandate of ITU, of the need to mitigate the risks and related threats posed by illicit use of ICTs, and continue to promote cooperation among appropriate international and regional organizations.

C. Telecommunications and Social Media Regulation

Even though Social media is not strictly telecom, most social networking services frequently incorporate telecom functionality into their services. For example, Facebook in agreement with Skype allows its users to have video discussion with friends on their Facebook network. Similarly, Google+ builds in the Google Voice product so that connected users can easily conduct voice or video chats from within the social network environment.

There are various instances where telecom regulators have established guidelines for the use of social media. For example, the Bahrain Telecommunications Regulatory Authority has established guidelines for social media use. Users are to refrain from posting, forwarding or re-Tweeting messages that are untrue, or of an extreme nature, violent or pornographic. The authority’s motivation behind the policy is to incorporate standards typically found within the journalism profession to social media. It notes that reputable journalism operates under a code of ethics (verification of content, protects viewers from images of extreme nature) but this is not the case with social media broadcasting.284

Apart from issuing guidelines/advisories many telecommunication regulators have taken steps to block access to social media sites in response to domestic developments or concerns with activities on the social network. These blocking measures have been

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temporary, serving as a response to particular incident or piece of content. Example of temporary blocking of social media websites by telecom authorities around the world are as follows:

- The Pakistan Telecommunication Authority (PTA) on May 19, 2010, blocked Facebook in accordance with a Pakistani high court order. The block lasted two weeks. The block was ordered in response to “Draw Mohammed Day”, a contest initiated by a group on Facebook. Facebook responded by making the page inaccessible in certain countries including Pakistan, and the court ordered the PTA to restore access to Facebook.\(^{285}\)

- The Bangladesh Telecommunication Regulatory Commission (BTRC) in May 2010 announced that it would temporarily block access to Facebook due to “obnoxious images”, including depictions of Mohammed and several of the country's political officials, and pornographic links. The block was similarly initiated as a response to “Draw Mohammed Day”.\(^{286}\)

- In 2008, the UAE Telecommunications Regulatory Authority (TRA) established rules restricting sections of social networking sites Facebook and Myspace that encourage dating. Other sections remained accessible.\(^{287}\)

- The Uganda Communications Commission directed ISPs to temporarily block communication on social networking sites including Facebook and Twitter in April, 2011 in response to growing unrest.\(^{288}\)

- In March 2011, Twitter was blocked in Cameroon in an effort to prevent the opposition from engaging in Twitter activism.\(^{289}\)


\(^{286}\) Rebekah Heacock, ‘Pakistan Lifts Facebook Ban; Bangladesh Cracks Down’ (OpenNet Initiative, 1 June 2010) <opennet.net/blog/2010/06/pakistan-lifts-facebook-ban-bangladesh-cracks-down> accessed 5 January 2015


Twitter was blocked in January 2011 in Egypt in an effort to stop protesters from using the site to organize and to get information out to the public."^{290}

5.2.2 International Internet Society (ISOC)

The Internet Society (ISOC) is a nonprofit organization founded in 1992 to provide leadership in Internet related standards, education, and policy. It is a global cause-driven organization governed by a diverse Board of Trustees that is dedicated to ensuring that the Internet stays open, transparent and defined by users. It operates collaboratively and inclusively, working with governments, national and international organizations, Civil Society, the private sector and other parties to reach decisions about the Internet.

The internet society promotes net neutrality, open access, internet resilience and stability, freedom of expression, privacy and identity of the users. Through multidimensional approaches to keep the internet healthy and to secure a bright future, it has been involved in various policy decisions impacting the functioning of internet. Major initiatives of internet society in protecting the privacy and identity of users have far reaching implications for social media and other information technology users.

A. Major initiatives by ISOC

- Initiative for privacy protection

The Internet Society works at the intersection of technology and policy supporting privacy standards (legal and technical) that are openly developed, transparent, globally-interoperable and user-centric. The internet society through Internet Technical Advisory

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^{290}Joshua Keating, ‘Cameroon Bans Mobile Twitter Service’ (Foreign Policy, 9 March 2011) <blog.foreignpolicy.com/posts/2011/03/09/cameroon_bans_mobile_twitter_service> accessed 7 January 2015

Committee (ITAC) has contributed to the OECD work on the privacy and data protection. The Internet Society has developed a series of papers providing an overview of online identity, focused on user-managed identity. The papers include discussions of privacy and some general guidelines on protecting your identity online.291

The Internet Society participates in Asia-Pacific Economic Cooperation (APEC) and promotes the work on privacy in the APEC ESCG Data Privacy Sub-Group (DPS) as an invited guest. In 2011, APEC leaders approved the APEC CBPR System. This system was designed to facilitate and ensure privacy in trans-border data flows among participating APEC economies. The system applies the standards of the APEC Privacy Framework to cross-border data flows. In 2012, the US became the first APEC member economy to participate in the APEC CBPR system.

Apart from this Internet Society staff regularly participates in Internet Architecture Board (IAB) privacy programmes and World Wide Web Consortium (W3C) privacy interest group programmes.

- Initiatives in open internet standards

The Internet which is fundamentally based on the existence of open, non-proprietary standards are key to allowing devices, services, and applications to work together across a wide and dispersed network of networks. Some of the core groups behind the development of the standards are:

- The Internet Engineering Task Force (IETF);
- The Internet Research Task Force (IRTF) and;
- The Internet Architecture Board (IAB).

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These organizations are all open, transparent, and rely on a bottom-up consensus-building process to develop standards. They help make sure open standards have freely accessible specifications, are unencumbered, have open development and are continuously evolving.

The Internet Engineering Task Force (IETF) is an organized activity of the Internet Society which work to facilitate the smooth operation of and growing participation in Internet standards through the IETF.

### 5.2.3 Internet Architecture Board (IAB)

The IAB is the body which oversight of the Internet Engineering Task Force (IETF) and acts as an advisory body of the ISOC. The body which eventually became the IAB was created originally by the United States Department of Defense's Defense Advanced Research Projects Agency with the name Internet Configuration Control Board during 1979; it eventually became the Internet Advisory Board during September, 1984, and then the Internet Activities Board during May, 1986. It finally became the Internet Architecture Board, under ISOC, during January, 1992, as part of the Internet's transition from a U.S.-government entity to an international, public entity.

#### A. Responsibilities of the IAB

- **IESG Confirmation**: The IAB confirms the IETF Chair and IESG Area Directors, from nominations provided by the IETF Nominating Committee.
- **Architectural Oversight**: The IAB provides oversight of, and occasional commentary on, aspects of the architecture for the protocols and procedures used by the Internet.
- **Standards Process Oversight and Appeal**: The IAB provides oversight of the process used to create Internet Standards. The IAB serves as an appeal
board for complaints of improper execution of the standards process through acting as an appeal body in respect of an IESG standards decision.

- RFC Series and IANA: The IAB is responsible for editorial management and publication of the Request for Comments (RFC) document series, and for administration of the assignment of IETF Protocol parameter values by the IETF Internet Assigned Numbers Authority (IANA).
- External Liaison: The IAB acts as representative of the interests of the IETF in liaison relationships with other organizations concerned with standards and other technical and organizational issues relevant to the world-wide Internet.
- Advice to ISOC: The IAB acts as a source of advice and guidance to the Board of Trustees and Officers of the Internet Society concerning technical, architectural, procedural, and (where appropriate) policy matters pertaining to the Internet and its enabling technologies.
- IRTF Chair: The IAB selects a chair of the Internet Research Task Force (IRTF) for a renewable two year term.

An important role of the IAB is to manage and assist with coordination activities among the IETF, IAB, and various other organizations involved in the development of Internet-related technologies. The IETF has a number of formal liaison relationships with other organizations. These liaison relationships are established by the IAB when it feels that conditions warrant appointing a specific person to manage the inter-organization coordination.²⁹²

### 5.2.4 Internet Engineering Task Force (IETF)

The Internet Engineering Task Force (IETF) is a large open international community of network designers, operators, vendors, and researchers concerned with the evolution of the Internet architecture and the smooth operation of the Internet. It is tasked for

producing high quality, relevant technical documents that influence the way people design, use, and manage the Internet.

A. Functioning of IETF

The actual technical work of the IETF is done in its working groups, which are organized by topic into several areas (e.g., routing, transport, security, etc.). Each working group has an appointed chairperson (or sometimes several co-chairs), along with a charter that describes its focus and what and when it is expected to produce. Much of the work is handled via mailing lists. The IETF holds meetings three times per year.

The IETF working groups are grouped into areas, and managed by Area Directors (ADs). The ADs are members of the Internet Engineering Steering Group (IESG) providing architectural oversight is the Internet Architecture Board, (IAB). The IAB also adjudicates appeals when someone complains that the IESG has failed. The IAB and IESG are chartered by the Internet Society (ISOC) for these purposes. The General Area Director also serves as the chair of the IESG and of the IETF, and is an ex-officio member of the IAB. The IETF cooperates with the W3C, ISO/IEC, ITU, and other standards bodies.

5.2.5 Institute of Electrical and Electronic Engineering (IEEE)

The IEEE (Institute of Electrical and Electronics Engineers) describes itself as "the world's largest technical professional society -- promoting the development and application of electro technology and allied sciences for the benefit of humanity, the advancement of the profession, and the well-being of our members." The IEEE fosters the development of standards that often become national and international standards. The organization publishes a number of journals, has many local chapters, and several large societies in special areas, such as the IEEE Computer Society.

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A. Organizational Structure of IEEE

IEEE has a dual complementary regional and technical structure with organizational units based on geography and technical focus. It manages a separate organizational unit (IEEE-USA) which recommends policies and implements programs specifically intended to benefit the members, the profession, and the public in the United States.

IEEE is organized into:

- 333 local sections in ten geographic regions;
- more than 2,230 chapters comprised of local members with similar technical interests;
- 39 societies and ten technical councils that compose ten technical divisions;
- more than 2500 student branches at colleges and universities in 80 countries;
- 790 student branch chapters;
- more than 430 Affinity groups

The voting membership of IEEE elects a new president each year, who serves for three years - first as President-elect, then as President and CEO, and finally as Past President. IEEE presidents also serve on the two top-tier IEEE governing bodies.294

B. Major Works by IEEE

The IEEE has played a large and important role in the ongoing realm of internet governance. The group is responsible for such standards as the 802.3 Ethernet and the 802.11 wireless networking standards. Both of these standards are heavily used access standards for the Internet and can be considered among the IEEE’s most important standards today. The IEEE continues to push development and innovation standards in

the power and energy, information technology, and telecommunications fields with over 1300 standards in development. (IEEE) One of IEEE’s new developments is the ratification of the 802.11n wireless networking standard which brings increased range and data rates for wireless data transmission.

5.2.6 World Wide Web Consortium (W3C)

The World Wide Web Consortium (W3C) is an international community where Member organizations and the civil society work together to develop Web standards. All the stakeholders involved do have an opportunity to make voice in the development of W3C standards. W3C also engages in education and outreach, develops software and serves as an open forum for discussion about the Web.

A. Functioning of W3C

The Consortium is jointly administered by the MIT Computer Science and Artificial Intelligence Laboratory (CSAIL), the European Research Consortium for Informatics and Mathematics (ERCIM), Keio University and Beihang University. The W3C also has World Offices in sixteen regions around the world. The W3C Offices work with their regional Web communities to promote W3C technologies in local languages, broaden W3C's geographical base, and encourage international participation in W3C Activities. Recommendations published by W3C are considered web standards after the thorough and extensive review and testing. However, it is voluntary for manufacturers to follow the recommendations of W3C. If a product would like to be labeled W3C-compliant, it must meet the defined level of conformance set by the W3C. Before W3C was created there were different versions of HTML put out on the market by various vendors. Many of these different versions were not compatible with each other. The consortium allowed the vendors to get together and agree on core principles which everyone would use. Some web standards that W3C is responsible for are: CSS, XHTML, HTML, XML, P3P, and OWL. W3C also is working on device independence. Device independence would allow the web to be accessible by any device under any circumstance.
5.2.7 Internet Assigned Numbers Authority (IANA)

The Internet Assigned Numbers Authority (IANA) is a department of ICANN responsible for coordinating some of the key elements that keep the Internet running smoothly. Whilst the Internet is renowned for being a worldwide network free from central coordination, there is a technical need for some key parts of the Internet to be globally coordinated, and this coordination role is undertaken by IANA. Specifically, IANA allocates and maintains unique codes and numbering systems that are used in the technical standards (‘protocols’) that drive the Internet.295

A. Functions of IANA

IANA’s various activities can be broadly grouped in to three categories:

- Domain Names: IANA manages the DNS Root, the .int and .arpa domains, and an IDN practices resource.
- Number Resources: IANA coordinates the global pool of IP and AS numbers, providing them to Regional Internet Registries.
- Protocol Assignments: Internet protocols’ numbering systems are managed by IANA in conjunction with standards bodies.

B. IANA Policies

IANA aims not to directly set policies by which it operates, instead implementing agreed policies and principles in a neutral and responsible manner. Using the policy setting forums provided by ICANN, policy development for domain name operations and IP addressing is arrived at by many different stakeholders. ICANN has a structure of supporting organizations that contribute to deciding how ICANN runs, and in turn how IANA develops. The development of Internet Protocols, which often dictate how protocol

assignments should be managed, are arrived at within the Internet Engineering Task Force, the Internet Engineering Steering Group, and the Internet Architecture Board.

To improve its operations, IANA is actively involved in outreach too. As well as in ICANN forums, IANA participates in meetings and discussions with TLD operators, Regional Internet Registries, and other relevant communities. The Authority provides a manned helpdesk at IETF meetings to allow one-to-one interaction with its largest community of users – protocol developers.296

5.2.8 Internet Corporation for Assigned Names & Numbers (ICANN)

Internet Corporation for Assigned Names and Numbers (ICANN) is an internationally organized, nonprofit corporation that has responsibility for Internet Protocol (IP) address space allocation, protocol identifier assignment, generic (gTLD) and country code (ccTLD) top level domain name system management and root server system management functions. ICANN also distributes ranges of IP addresses to regional registries who in turn distribute them to network providers. ICANN’s role in internet governance is to provide “universal resolvability.” Universal resolvability allows receiving the same results despite the different internet access location.

ICANN has no control over the content and doesn’t deal with access to the internet. ICANN helps to co-coordinate the supply and assignment of IP addresses to help stop duplicate IP address problems. ICANN was responsible for creating the registrar market (together with an accreditation system). This helped create greater competition on the internet and the price of domains has fallen 80 percent. The rapidly changing domain name market has caused ICANN to reform its accreditation process. ICANN has also help implement a low-cost way to resolve ownership disputes of domain names. The Uniform Domain Name Dispute Resolution Policy (UDRP) helps disputes turn into costly court battles. Approval of “generic top level domains” is also introduced by the ICANN. This helps provide enough space online as more and more people take advantage of the internet. Originally, the Internet Assigned Numbers Authority (IANA)

296 ibid
and other entities performed these services under Department of Commerce (DOC), U.S. Government contract but on September 30, 2009 ICANN and the DOC signed an Affirmation agreement which fundamentally changed this relationship. The agreement calls for ICANN to become a global entity, with multiple stakeholders in its governance process.\textsuperscript{297} Rather than the United States being the only voice at the table in terms of internet management decisions, it will now be one of many.

Under the agreement, ICANN will be evaluated at least every three years by a committee which includes the Department of Commerce to ensure its accountability to the internet community. Further, it will produce annual reports of its decision-making in an attempt to increase transparency. The changes in ICANN have drawn criticism as well.\textsuperscript{298} Main apprehension that has been felt is about the creation of an unlimited number of gTLDs such as .food, .football, or .travel, for example.

This means that companies that have already spent a great deal of money securing their domains in .com will have to buy large numbers of new domain names to protect their trademarks, at the cost of millions or even billions of dollars. Cybersquatters, who register valuable online names and then sell them to the highest bidder, would likely profit from the gTLD expansion. The concerns over gTLDs were more exemplified when the Coalition against Domain Name Abuse (CADNA) called for a full U.S. audit of ICANN, claiming that the organization had not done a cost-benefit analysis or a risk assessment of the changes the expansion of gTLDs would bring.

\section*{A. ICANN Policies & Its Impact on Social Media}

What impact the launch of new gTLDs will have on social media is uncertain. Social media websites are not taking it casually and not paying much attention.\textsuperscript{299} But as

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\item \textsuperscript{297} Grant Gross, ‘ICANN Freed From US Gov't Oversight’ (IDG News Service, 30 September 2009) \<www.pcworld.com/article/172896/article.html?null> accessed 10 January 2015
\item \textsuperscript{299} As 1400 new gTLDs launch in 2014, big digital companies such as Google, Amazon and Microsoft applied numerous applications but social media titans like Facebook, twitter etc. did not apply.
\end{itemize}
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forecasted by Jennifer Wolfe time will ultimately tell the new gTLDs impressions on social media.\(^\text{300}\) Few questions which arises in this regard are-

- Can new social media companies emerge in .moms or .families, .horses, .tennis, or .style? Within these categories, could social networks emerge totally focused on what matters to people in those social networks?

- Could American Express build a social network of entrepreneurs within .open? Likewise, will Amazon seek to build social networks within its portfolio of .book, .author, .pin, .video, .tunes, .smile, .kids, .joy, and .like, to name a few. Or, will Google do the same in .lol, .fyi, .rsvp, .family, .film, .VIP, .kid, .team, and .wow? What about .republican, .democrat, .motorcycles, .run, .shopping, or .wedding?

While these same opportunities exist in .com, much of the primary Internet real estate in .com is taken. Each of these big categories of gTLDs represent niches of potential social networks just waiting for the next entrepreneur to explore in the next generation of the web.

The case of *Pinterest vs. Amazon*\(^\text{301}\) is the best example to highlight the problems that can be caused by new gTLDs to social media. In this case the WIPO Arbitration and Mediation Center issued a panel opinion on an objection brought by Pinterest, Inc. (“Pinterest”), the San Francisco-based creator of the social media platform Pinterest, under the New gTLD Dispute Resolution Procedure.

In this matter, Pinterest objected to registration of the gTLD `<.pin>` by Amazon EU (“Amazon”), asserting that it had trademark registrations for the mark PINTEREST, pending applications to register the mark PIN in several countries around the world, and common law rights to the marks PIN IT, PINTEREST, and a stylized “P.” Use of `<.pin>`


in a domain name by Amazon, Pinterest alleged, would: (i) create a likelihood of confusion with PIN and other “PIN family marks”; (ii) take unfair advantage of the character and reputation of these marks; and (iii) unjustifiably impair the distinctive character and reputation of these marks.

Amazon, which had applied for numerous other gTLDs for common dictionary words, defended its application for the <.pin> gTLD, asserting that it had legitimate, non-infringing business objectives to use <.pin> to operate a single-entity domain name registry. Amazon moreover asserted that Pinterest’s trademark applications for PIN did not bestow rights to exclusive use of the descriptive term “pin,” and that there was no likelihood of confusion between the <.pin> gTLD and Pinterest’s PIN IT, PINTEREST, or P marks.

Rejecting the objection of PINTEREST, the panel concluded that the potential use of <.pin> as a gTLD by Amazon:

“(i) does not create an impermissible likelihood of confusion between the applied-for gTLD and Pinterest’s P (stylised/logo), PINTEREST (word) or PIN IT (figurative) marks; and

(ii) does not take unfair advantage of the distinctive character and reputation of any of those marks; and

(iii) does not unjustifiably impair the distinctive character and reputation of any of those marks.”

Given the recent nature of ICANN’s new gTLDs and the rules governing them, companies seeking to apply for registration of, or object to an application for, a new gTLD should make sure they have legitimate, enforceable trademark rights to the domain in question before taking action.302

Multiple numbers of gTLDs has made another interesting case. In June 2014, Shurat HaDin (ISRAEL LAW CENTRE) took the unprecedented legal step of asking a court to attach Iran’s internet domains as assets. The hope is that the United State District Court will decide that the .ir domain name, along with Iran’s IP addresses — without which Iranian websites cannot be included in the World Wide Web — are assets that can be seized to satisfy judgments against the Islamic state of more than a billion dollars, owed by Iran to Israeli and US victims of terror perpetrated by the Hamas and Hezbollah organizations. If the court rules in Shurat HaDin’s favor, the decision could have far reaching effects on the way terror regimes use and abuse the Internet.  

5.2.9 Internet Governance Forum

The Internet Governance Forum (IGF) serves to bring people together from various stakeholder groups as equals, in discussions on public policy issues relating to the Internet. While there is no negotiated outcome, the IGF informs and inspires those with policy-making power in both the public and private sectors. At their annual meeting delegates discuss, exchange information and share good practices with each other. The IGF facilitates a common understanding of how to maximize Internet opportunities and address risks and challenges that arise. The Internet Governance Forum is an open forum which has no members. It was established by the World Summit on the Information Society in 2006. Since then, it has become the leading global multi-stakeholder forum on public policy issues related to Internet governance.

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303 Israel Law Center, ‘Shurat HaDin’s ICANN case may impact Iran’s use of social media’ (Israel Law Center, 7 August 2014) <ilcblog.org/2014/08/07/shurat-hadins-icann-case-may-impact-irans-use-of-social-media> accessed 12 January 2015

A. IGF Initiatives and Its Impact on Social Media

At the IGF 4 meeting in Egypt, it has been discussed and decided to set up a ‘Dynamic Coalition on Social Media and Legal Issues’ in a bid to generate discussions, debates, analysis and awareness about the various legal issues surrounding the use of social media. The coalition’s objectives were:

- To help identify existing legal challenges and issues pertaining to social media.
- To identify existing and potential legal responses to complicated legalities of social media.
- To help provide a global platform for discussion and debate on the nuances and technicalities of legalities surrounding social media.
- To provide a fertile ground for providing debate discussion and analysis of legalities surrounding social media for the relevant stakeholders of social media.

During the Fifth Internet Governance Forum (IGF) meeting in Vilnius, Lithuania, on 15 September 2010 UNESCO workshop on Privacy and Social Networking was held. The workshop focused on:

- How to find applicable standards and legislation, and share good practices on privacy protection?
- The democratic governance of Internet should aim at protecting users’ right to inform, to leave and to control their personal data. How do we provide a reasonable privacy and security in a computing continuum?
- How do we promote in this global environment freedom of expression?

In the same meeting panelists pointed out that social networking has set up new relationships in the exchange of personal data between users. Richard Allan, from Facebook, said: “Internet is not tidy. It is complex. Everyone is both a data subject and a data controller. Commercial and personal interests are blinded.” The challenges are
critical: for governments to enforce the law, and when there is no law, to have the principles translated into legislation; for Internet companies to protect privacy and develop policies and standards in an online environment; for users, and especially for young people, to know how to protect their privacy and free speech.\(^{305}\)

At the IGF 2012, the Youth IGF Project’s workshop, explored the relationship between social media, young people and freedom of expression. This workshop was held to consider the meanings of freedom of expression to young people. It also considered the limitations youths find under, be it from the rules/community guidelines set by the service providers, social norms or the rules of schools where many young people access the internet.

The IGF has introduced many innovations that have enlarged the participation of government, private sector, and civil society participants as well as international organizations and technical communities. Its UN mandate gives it convening power and the authority to serve as a neutral space for all actors on an equal footing. These innovations include first putting the issue of internet governance under the purview of the United Nations, under the Secretariat, enabling a means to expand the social and political implications of Internet governance from merely technical issues towards public policy issues, allowing equal status to all stakeholders, and enabling a new international regime to take shape.

Secondly, innovation, the creation of Dynamic Coalitions, that together, could put into motion a process for formulating and enacting the “Principles, norms and values of an emergent international regime to govern the information society in general and the internet specifically”.

5.3 MULTIPLE APPROACHES OF INTERNET GOVERNANCE AND ITS IMPACT ON SOCIAL MEDIA

There are mainly two models of Internet governance. The first one is multi stakeholder approach in which a global consortium is working together to manage, develop and organize the internet for the greater good of the many. Secondly there is Regional Control: Each regional stakeholder will organize their own methods and mechanism for governance.

Given the internet’s complexity, diversity, and transnational nature the question arises that how the Internet should be governed? Some assert that a multi stakeholder model of governance is appropriate, where all stakeholders (both public and private sectors) arrive at consensus through a transparent bottom-up process. Others argue that a greater role for national governments is necessary, either through increased influence through the multi stakeholder model, or under the auspices of an international body exerting intergovernmental control.

To date, ICANN and the governance of the domain name system has been the focal point of this debate. While ICANN’s mandate is to manage portions of the technical infrastructure of the Internet (domain names and IP addresses), many of the decisions ICANN makes affect other aspects of Internet policy, including areas such as intellectual property, privacy, and cyber security. These are areas which many national governments have addressed for their own citizens and constituencies through domestic legislation, as well as through international treaties.

As part of the debate over an appropriate model of Internet governance, criticisms of ICANN have arisen on two fronts. One criticism reflects the tension between national governments and the current performance and governance processes of ICANN, whereby governments feel they lack adequate influence over ICANN decisions that affect a range of Internet policy issues. The other criticism is fueled by concerns of many nations that
the U.S. government holds undue legacy influence and control over ICANN and the domain name system.\textsuperscript{306}

\section*{5.4 PROPOSED MODELS OF INTERNET GOVERNANCE}

ICANN is a working example of a multi stakeholder model of Internet governance, whereby a bottom-up collaborative process is used to provide Internet stakeholders with access to the policymaking process. Support for the multi stakeholder model of Internet governance is reflected in international organizations such as the Organization for Economic Cooperation and Development (OECD) and the Group of Eight (G8). For example, the OECD’s Principles for Internet Policy Making cites multi stakeholderism as a central tenet of Internet governance:

“In particular, continued support is needed for the multi-stakeholder environment, which has underpinned the process of Internet governance and the management of critical Internet resources (such as naming and numbering resources) and these various stakeholders should continue to fully play a role in this framework. Governments should also work in multi stakeholder environments to achieve international public policy goals and strengthen international cooperation in Internet governance.”\textsuperscript{307}

Similarly, at the G8 Summit of Deauville on May 26-27, 2011, the G8 issued a declaration on its renewed commitment for freedom and democracy that contained a new section on the Internet. Support for a multi stakeholder model for Internet governance with a significant national government role was made explicit:


“As we support the multi-stakeholder model of Internet governance, we call upon all stakeholders to contribute to enhanced cooperation within and between all international fora dealing with the governance of the Internet. In this regard, flexibility and transparency have to be maintained in order to adapt to the fast pace of technological and business developments and uses. Governments have a key role to play in this model.”

The European Union has reiterated its support for a free and open Internet and the multistakeholder approach to governance. The European Council passed a resolution on Internet governance on October 17, to further guide the organisation’s Internet policy. The text of the resolution indicates support for the concept of a Global Internet Policy Observatory (GIPO), which would act as a central information hub to link the various layers of Internet governance.

5.5 CRITICAL ISSUES OF INTERNET GOVERNANCE & SOCIAL MEDIA

5.5.1 Net Neutrality

Net neutrality is, at its core, the concept that every piece of information on the public Internet should be as accessible as any other. The internet’s success in fostering innovation, access to knowledge and freedom of speech is in large part due to the principle of net neutrality — the idea that internet service providers give their customers equal access to all lawful websites and services on the internet, without giving priority to any website over another.

A. Necessity of Net Neutrality

Net neutrality is necessary for a free and open internet and a level playing field for companies large and small. This is the only key to the growth and success of the Internet and to the emergence of new businesses including social media webs, or any other startup

308 G8 Declaration, Renewed Commitment for Freedom and Democracy, G8 Summit of Deauville, May 26-27, 2011
that relies on Internet traffic. It has implications for the future of the Internet and the economies that rely on the Internet. For example, in 2004, MySpace was the dominant social networking site. If Net Neutrality did not exist in 2004, users who liked MySpace would pay for faster access to that site. As a result, Facebook would have suffered comparatively slower speeds. Since the initial Facebook experience (like many start-ups) was subpar, it likely would not have become the economic giant. In this scenario (without the existence of Net Neutrality), the launch of Google+ in 2011 could also have transpired very differently. Since it is backed by a billion-dollar corporation able to pay for faster access, Google+ could have rapidly dominated the social media market. The current practice of Net Neutrality has allowed a free and fair competition in the digital marketplace.\(^{309}\)

**B. Net neutrality Debate in India**

As of April 2015, there were no laws governing net neutrality in India, which would require that all Internet users be treated equally, without discriminating or charging differentially by user, content, site, platform, application, type of attached equipment, or mode of communication.\(^{310}\) However there have been certain violations of net neutrality principle in India.\(^{311}\)

- The debate regarding net neutrality has received heavy public attention when airtel has decided to levy additional charges for making voice calls (VoIP) from its network using apps like viber, whatsapp & skype.


On 10 February 2015, Facebook launched Internet.org in India with Reliance Communications. It aims to provide free access to 38 websites through an app. Only Bing was made available as the search engine.

In March 2015, Telecom Regulatory Authority of India (TRAI) released a formal consultation paper on Regulatory Framework for Over-the-top (OTT) services, seeking comments from the public. It says that OTTS rely on broadband and mobile service providers’ infrastructure to reach users, and compete not only with local online services, but brick-and-mortar businesses too. As in other countries, the debate is about how these services should be regulated, whether internet service providers should be allowed to prioritize traffic and charge for various kinds of content. The paper invited citizens to voice their opinions on 20 questions based on the licensing of internet services in the country.\footnote{Yuthika Bhargava, ‘TRAI seeks views on net-neutrality’ (The Hindu, 27 March 2015) \(<\text{http://www.thehindu.com/business/Industry/trai-seeks-views-to-regulate-netbased-calling-messaging-apps/article7039815.ece}>\text{accessed on 30 March 2015}\)} In pursuance of the TRAI consultation paper, over a million emails have been sent by the citizens. Many high profile politicians have come up in the support of net neutrality.\footnote{IANS, ‘Odisha CM bats for net neutrality’ (Business Standard, 16 April 2015) \(<\text{http://www.business-standard.com/article/news-ians/odisha-cm-bats-for-net-neutrality-115041601396_1.html}>\text{accessed on 17 April 2015};\ See also, Arindam Mukherjee, ‘Rahul Gandhi bats for Net neutrality without being on social media’ (India Today, 22 April 2015) \(<\text{http://indiatoday.intoday.in/story/rahul-gandhi-net-neutrality-social-media-twitter-facebook/1/431563.html?google_editors_picks=true}>\text{accessed on 23 April 2015};\ & TNN, ‘BJP MP Tarun Vijay supports Net Neutrality in Rajya Sabha’ (TOI, 29 April 2015) \(<\text{http://timesofindia.indiatimes.com/tech/tech-news/BJP-MP-Tarun-Vijay-supports-Net-Neutrality-in-Rajya-Sabha/articleshow/47090596.cms}>\text{accessed on 12 May 2015}\)}

A YouTube comedy channel All India Bakchod uploaded a video titled "Save The Internet" which urged people to email TRAI demanding net neutrality. The video was re-shared on Twitter by numerous times, including by some Indian actors.\footnote{Anonymous, "Shah Rukh Khan, Sonakshi Sinha, Alia Bhatt support AIB’s ‘save the internet’ initiative". (IBNLive, 12 April 2015) \(<\text{http://www.ibnlive.com/news/movies/shah-rukh-khan-sonakshi-sinha-alia-bhatt-support-aibs-save-the-internet-initiative-981485.html}>\text{accessed on 13 April 2015}\)} Cleartrip.com, the Times Group, NewsHunt and NDTV pulled out of the Facebook initiated Internet.org expressing their support for net neutrality.
At the bone of contention the main issue is of revenue. Most of the internet service providing companies are of the view that services like YouTube should pay an interconnect charge to the network operators. They argue that they are building highways for data then there should be a tax on highway. In July 2012, Bharti Airtel's Director of Network Services, Jagbir Singh suggested that large Internet companies like Facebook and Google should share revenues with telecom companies. According to him, Internet companies were making big profits from small investments, whereas the telecom companies were actually investing in building networks. He also suggested that the telecom regulator should establish interconnection charges for data services, similar to those applied to voice calls. 315

Arguments have been made in support of telecom companies that in order to make a level playing field for all the websites there should be net neutrality but they very conveniently forget that telecom companies spent billions of dollars in setting up infrastructure and bringing themselves under regulatory scrutiny. After it, telecom companies can’t bear the fact that numerous applications ride on their networks for free. Some of the apps have millions of subscribers and command valuations of billions of dollars. Some like Skype and WhatsApp compete head on with the voice and messaging offerings of the telcos. But this is a disingenuous argument. Telecom companies make money by charging individuals and businesses monthly fees for access to the network. If that revenue was inadequate to cover the cost of running networks, telecom companies would raise prices or they would become insolvent. More app usage means more data consumed and more money inflow. Whether telcos are really aggrieved or not is always debatable.

In any case, allowing telcos to violate net neutrality principle would be disastrous way of delivering justice. For, the licence to violate net neutrality will mean telcos could now be in a position to ensure some sites are served faster than others. It could also mean it becomes costlier to use certain applications. Most importantly, it could endanger the very

feature of the Internet that has over the years made it possible for countless start-ups, right from the Googles to the watsapp.

5.5.2 Right to be Forgotten and Social Media

The right to be forgotten is a concept that has been discussed and put into practice in the European Union (EU) and in Argentina since 2006. There has been considerable controversy about the practicality of establishing a right to be forgotten to the status of an international human right in respect to access to information, due in part to the vagueness of current rulings attempting to implement such a right.316 There are concerns about its impact on the right to freedom of expression, its interaction with the right to privacy, and whether creating a right to be forgotten would decrease the quality of the Internet through censorship and a rewriting of history. With the increasing globalisation of data flows, and the growth of cloud computing, there is a risk of people losing control of their online data.

The European Commission has proposed a strengthened right to be forgotten so that if a social media user no longer want his personal data to be processed, and there is no legitimate reason for an organization to keep it, it must be removed from their system. The new rules will put people in control of their personal data, and will foster trust both in social media and communication in general. According to new rule Data controllers must prove that they need to keep the data rather than user to prove that collecting his data is not necessary. Providers must take account of the principle of ‘privacy by default’, which means that the default settings should be those that provide the most privacy. Companies will be obliged to inform the user as clearly, understandably and transparently as possible about how his personal data will be used, so that he would in the best position.

316 Fleischer, Peter, ‘Foggy thinking about the Right to Oblivion’ (Peter Fleischer: Blogspot, 03 September 2011) <peterfleischer.blogspot.co.nz/> accessed on 16 January 2015
to decide what data he share.\textsuperscript{317} Online users’ profile through Facebook, Twitter, LinkedIn and other social media, data security breach notifications, smart phone applications (through Google) containing personal information including whereabouts (known as “location data”) are some of the aspects that are likely to be affected by the forthcoming changes under the Data Protection Regulation.

In the case of \textit{Google Inc. v Agencia Española de Protección de Datos}\textsuperscript{318} the court of justice of EU has ruled that an internet search engine operator is responsible for the processing that it carries out of personal data which appear on web pages published by third parties.

In Para 93 of the Judgment Court held that “Individuals have the right - under certain conditions - to ask search engines to remove links with personal information about them. This applies where the information is inaccurate, inadequate, irrelevant or excessive for the purposes of the data processing.

In Para 85 the court found that in this particular case the interference with a person’s right to data protection could not be justified merely by the economic interest of the search engine. At the same time, the court explicitly clarified that the right to be forgotten is not absolute but will always need to be balanced against other fundamental rights, such as, the freedom of the expression and of the media. The court also said that case by case assessment is required considering the type of information in question, its sensitivity for the individual’s private life and the interest of the public in having access to that information.

Google has received 12000 requests from people seeking to be ‘forgotten’ after it offered the service in pursuance of the above ruling.\textsuperscript{319}


\textsuperscript{318} ECLI:EU:C:2014:317

\textsuperscript{319} Anonymous, “Google gets 12,000 ‘forget me’ requests” (The Hindu, 01 June 2014) <http://www.thehindu.com/todays-paper/tp-national/google-gets-12000-forget-me-requests/article6071035.ece> accessed on 03 June 2015
How practical these guidelines would be is not yet clear, but social networking sites and other organisations that collect data will have to pay attention to forthcoming changes. Furthermore, data security lapses by organisations (if implemented under the proposed EU Data Protection Regulation) will have to be notified to the UK ICO within 24 hours. Breach of data security is likely to result in a fine of up to 2% of the annual worldwide turnover.

5.6 CONCLUSIONS

Among the authorities, organizations, institutions in the area of internet governance the significant contributors and players in the governance structure are the following bodies:

- International Internet Society (ISOC)
- Internet Governance Forum (IGF)
- International Telecommunications Union (ITU)
- Internet Corporation for Name & Numbers (ICANN)

The governance structure and processes introduced by IGF provide opportunities to integrate social media ways that enhance both remote and local participation in the yearly forums and throughout the year. IGF and Dynamic coalitions through comparative analysis of social media identify the best practices of how to use social media. The success of IGF as a participatory platform and process could be vital for future iterations of the body. Though, the IGF has no power that makes binding and enforceable policy decisions, it has the power of recognition – the power to identify key issues. It has political effects in creating the principles, norms and values that can guide policy going forward. The critical role IGF plays, then, is encouraging dynamic, meaningful and equitable participation from the multiple sectors among developed and developing countries. The role of ISOC is equally important in protecting free speech, net neutrality and privacy. The functioning of this multi stakeholder body is doing really well in setting the internet standards, policies and education. The legal and technical standards by ISOC
have been helpful in bringing uniform and uninterrupted services to the internet. ITU as an international body has been instrumental in developing information and communication technologies throughout the world. The initiatives taken by ITU in developing international public policies and the managing internet resources are also very helpful in the development of various communication technologies. ICANN functioning is managing internet protocol, gTLD and ccTLD is also very impressive. Now when ICANN has turned into an international body and free from USA interferences, it would be beneficial for the international community. ICANN now delivers into real terms.

It can be said that all these bodies has been really very impressive in their respective functioning. They are the prime reason behind the status achieved by internet and communication technologies today. The lesser players in the governance structure are also doing very well but these bodies must synchronize and update the time. The time has come when they must start delivering in real terms. If the lesser players are suffering from any power or authority gap because of which they are not as effective as they ought to be should be addressed by an international measure.

Why social media users should be worry of various approaches of internet governance is that social media by its architecture and design provides complete freedom to the users and any move which will curtail the freedom on the internet will impliedly affect social media. The nature of the Internet, with its decentralized architecture and structure, makes the practice of governing a complex proposition. First, the Internet is inherently international and cannot in its totality be governed by national governments whose authority ends at national borders. Second, the Internet’s successful functioning depends on the willing cooperation and participation by mostly private sector stakeholders around the world. These stakeholders include owners and operators of servers and networks around the world, domain name registrars and registries, regional IP address allocation organizations, standards organizations, Internet service providers and Internet users, adopting an appropriate strategy to regulate the changing behaviors’ persisting in information and communication technology, which has posed more challenges with the rise of social media applications on mobile apps, is increasingly complex for regulators in today’s converged environment. As regulators consider these various difficult issues, they
need to be mindful of the international context within which they operate. The rise of the mobile sector has forced a search for new spectrum—a search that begins with international allocations and is realized in the development of regional band plans that guide spectrum use. On the fixed network side, policymakers and regulators are grappling with how to improve access to the Internet’s resources—to increase transnational connections to services and reduce costs; and how to ensure that traffic is managed in a fair and effective way that balances needs of consumers, network operators and content/service providers.