The Internet, Soft War, Sovereignty, and China
A reflection on the 2012 Milton Wolf Seminar by Rogier Creemers

Conflicting approaches are emerging in the basic concept of internet regulation. On the one hand, the approach of openness, reflected in recent US policy statements, aims for an internationally open internet with minimal state interference. On the other hand, the internet sovereignty-approach championed by China advocates for a geographical approach to internet management, subject to localized control by states. This conflict can be considered as one manifestation of the historical tension between substantive international norms and the acceptance of regional limitations or sovereignty, further explored in this post.

In the autumn of 1648, delegations of nearly all rulers of the European continent came together in the German city of Münster to bring an end to two simultaneous wars that had ravaged the continent for decades. The treaties they negotiated became collectively known as the Peace of Westphalia, a watershed in the political organization of Europe. To bring an end to religious war, they postulated the notion of sovereignty, which emphasized the right of the ruler to decide the religion of their territories (cuius regio, eius religio), the notion of State supremacy over the church, and the inviolability of territorial borders. In confirming the principle of non-intervention, the Peace of Westphalia, can in fact be considered an agreement to disagree. In other words, the objective of sovereignty was to enable sovereign rulers to pursue their own domestic politics without fear of foreign interference or invasion.

Over the next centuries, conflicts over ideology slowly supplanted religious conflicts as the dominant cause of international strife, culminating in the horrors of the Second World War. The post-war peace process, in turn, stimulated the further internationalization of norms surrounding the natural rights of man, which had gradually been gaining popularity since the 1789 French Revolution. This led to the drafting of the Universal Declaration of Human Rights (UDHR) in 1948 by jurists from different legal traditions from all over the world. The norms contained in this document claim to be universally applicable. Prima facie, it would seem that this universalism conflicts with the notion of sovereignty, which had largely kept normative claims outside of the realm of international law. To a certain extent, this criticism can be mitigated by the fact that the broad drafting of the UDHR permits certain latitudes in interpreting the content of the rights without derogating from their basic premise. Both in the United States and the European Union, for example, the right to freedom of expression is recognized as a cornerstone of the liberal-democratic structure of the state. These jurisdictions, however, differ considerably in their interpretation of the scope of that right, its relationship to other civil and political rights, and the methodology through which the defense of those rights is tested in courts.

In the internet era, we observe a similar tension between conceptions of sovereignty and international norms related to the natural rights of man. Internet and mobile technology
has connected the world in ways that were hitherto impossible. It has sped up flows of commerce and personal interactions, but also of ideas and culture, both within and between countries. At the same time, regimes all over the world have become concerned about the way that the internet may facilitate challenges to state legitimacy and authority. While authoritarian regimes, such as China, Iran or Cuba are more closely associated with strict internet controls, recent legal proceedings in the United States and the United Kingdom have also proposed stricter controls over internet communication. While some interventions in the online sphere may be justified as means of safeguarding the lawful rights and interests of citizens, the global nature of the internet, often mentioned in one breath with the idea of international norms of governance, conflicts with the notion of national sovereignty and its implied concept of self-determination.

In effect, we are faced with a similar question to the one that the delegations tackled in Münster. As the virtual world increasingly overlaps with the real world, how are we to structure its governance? To date, the codes of openness and resistance to government intervention that exist among the computer-savvy communities that launched the internet in the nineties have heavily influenced internet regulation. Complex questions of governance have come to the fore, however, as the number of internet users has grown; speed, storage and complexity have increased; and the potential damage that can be inflicted through the network has expanded into the domains of terrorism, risk to state secrets, technological espionage, and so on.

The fundamental question is how to reconcile normative standards, based in human rights concepts, with the procedural safeguards that are present in the concept of sovereignty, which may also protect certain normative standards. In other words: if one were tasked with writing the World Internet Treaty, how would you reconcile demands for state control over the internet with principles such as the right to free speech and to receive and impart information? This task becomes further complicated when we recognize that authoritarian regimes such as the Chinese Party-State use exactly the same terminology. But going even further, if internet governance is to be based on traditional intergovernmental treaty methods and notions of state sovereignty, how should we deal with internet-based conflicts? In other words, when does a state action become an act of war, if committed electronically? While few would disagree that a Chinese bombing of the Pentagon would constitute a *casus belli*, how would an electronic attack on the Pentagon communications system or an attempted break-in to its secure information systems be considered? What sort of retaliatory action would be legitimate? Should we equate hostile acts in the virtual realm with those in the real world?

In the Chinese context, these questions are less arcane than they may seem at first sight. Chinese foreign policy is steeped in the Realist tradition. During the last century and a half, China was humiliated by wars with and invasions by Western powers and Japan. Its Communist alliance with the Soviet Union broke apart ten years after the establishment of the People’s Republic; and China’s accession to international organizations such as the UN and the WTO were protracted and difficult affairs. As a result, China’s international agenda is squarely centered on the concomitant goals of strengthening national economic development and its political autonomy. China’s official doctrine of peaceful development
states that it will not seek regional or global hegemony but rather aim to be a responsible member of the global system. This doctrine, however, is based on classical notions of sovereignty. The Chinese government wants to pursue its own domestic agenda without interference from foreign parties. International cooperation and activity is to be managed by the government, as opposed to private parties, and many parts of international politics are considered to be zero-sum games.

Culture and media (including the internet) are areas in which China’s overarching belief in the primacy of national sovereignty is particularly clear. Since the mid-2000s, Chinese policy documents have increasingly utilized the term “national cultural security” (guojia wenhua anquan 国家文化安全). While this term, like many other Chinese policy terms, is generally not explained in great detail, its use illustrates China’s position vis-à-vis foreign cultural influences. Among the first central party and government documents to utilize the term, were those regarding: combatting the import of obscene and pornographic works, cleaning up the internet gaming environment, foreign capital investment in the cultural sector, and attacking illegally imported foreign audio-visual products. In the aftermath of the fall of Communist regimes in Eastern Europe and the dissolution of the USSR, Chinese leadership became increasingly suspicious of foreign cultural influence. They posited that these regimes fell, at least in part, due to Western support of dissidents and cultural products aimed at destabilizing state power. A recent remark by President Hu illustrates that these concerns are alive and well today:

Hostile foreign powers are intensifying strategies and plots to Westernize and divide our country; the ideological and cultural sphere is the focus sphere in which they conduct long-term infiltration. We must deeply recognize the gravity and complexity of struggle in the ideological domain, ring the alarm bell, be on a long-term guard, adopt forceful measures to be on guard and react.

A policy document on strengthening cultural reform, released in February, similarly stated that,

Facing the new situation of the accelerated development of modern information technology and dissemination methods, the task of accelerating the construction of cultural innovation systems and moving cultural innovation forward has become even more pressing. Facing the new situation of the exchange, blending and confrontation of all sorts of ideology and culture at the global level becoming even more clear, and the fight having become more acute and complex, the task of strengthening our country’s comprehensive cultural strength and international influence, resisting the force of international hostile forces’ cultural infiltration and safeguarding national cultural security has become even more pressing.
As a response, a steady stream of Chinese policy documents have advocated for the creation of a strong Chinese media and communications industry, with the aim of strengthening China’s soft power. However, the increasing militarized tone of many of these policy statements seems to indicate that another useful concept might be that of “soft war,” as elaborated at the first session of the Milton Wolf Seminar. Soft war is a useful concept for study and research for two reasons. First, as a framework for analysis, soft power focuses on occasions when states rely on attraction and persuasion as opposed to hard power methods in order to achieve international relations goals. Soft war, as opposed to soft power, may be useful for theorizing an environment in which relationships are primarily antagonistic, but largely divorced from hard power conflict. Second, as a political tactic, political actors’ active pursuit of soft war strategies can be analyzed in Clausewitzian ways: is soft war a continuation of public diplomacy by other means?

From the Chinese perspective, soft war on the internet increasingly seems to consist of a broad spectrum of measures, including the creation of a nationalist narrative and the monopolization of public information, but also cyber-attacks against foreign enterprises and institutions. Through these efforts, the Chinese government defends Chinese national interests, and thereby, its sovereignty. While it is much to early to start using terms such as a “soft arms race,” escalating soft war efforts may frustrate relationships in other fields or escalate political tensions. At the same time, the current mode of internet governance (or any other form of media governance, for that matter) does not address the tensions between universal internet rights and national sovereignty. It would therefore seem that measures aimed at defusing some of these tensions need to mitigate China’s concerns about national cultural security. Recognizing the value of sovereignty in the internet sphere, China launched the concept of internet sovereignty. This would inevitably mean that the universalist claims of international norms of internet and media freedom would be limited. The sobering conclusion may be that perhaps the most that is possible for now is, like the Peace of Westphalia, to come to a gentlemen’s agreement; to disagree on content or substance, but to agree about forms and procedures of cooperation, and to do so peacefully.

About the Author

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Rogier Creemers was selected as an Emerging Scholar Delegate to the 2012 Milton Wolf Seminar. He is a post-doctoral research officer at the Programme for Comparative Media Law and Policy. On the basis of his background in Chinese Studies and International Relations, he wrote a PhD thesis on the relationship between media piracy in China, intellectual property law and media regulation, and globalization. His main research
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His personal research site, which includes a database of translated Chinese media law, regulation and policy documents, is [http://chinacopyrightandmedia.wordpress.com](http://chinacopyrightandmedia.wordpress.com)

### About the 2012 Milton Wolf Seminar

Launched in 2001, the Milton Wolf Seminar Series aims to deal with developing issues in diplomacy and journalism – both broadly defined. Using case studies such as Hungary, Iran, Syria, Egypt, and Tunisia, the 2012 Milton Wolf Seminar, Transitions Transformed: Ideas of Information and Democracy Post-2011 explored the evolving relationship between media and democratic transition in light of rapid technological change and the shifting structure and dynamics of the international communication system. The seminar was jointly organized by the Center for Global Communication Studies (CGCS) at the University of Pennsylvania’s Annenberg School for Communication, The American Austrian Foundation (AAF), and the Diplomatic Academy of Vienna (DA). More information about this and previous seminars is available on the Milton Wolf Seminar [website](http://global.asc.upenn.edu) and our [Facebook Page](https://www.facebook.com/MiltonWolfSeminar).