Thinking about Internet Regulation

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Who can you regulate?

- You cannot regulate the Internet
- The following actors can regulate and be regulated.
  - Government - Law
  - Private Sector - Market
  - Technical Community - Architecture & standards
  - Citizens [and Civil Society] - Public pressure
Models of regulation

- Classic regulation
- Self-regulation
- Co-regulation
- International regulation
  - Multilateral: Hard law ex. WIPO
  - Multistakeholder: Soft law ex. ICANN
Key Principles

• Harmonization of substantive law
  - For ex. EU data protection directive

• Harmonization of procedural law
  - For ex. handling of cyber evidence

• Equivalence: what is illegal offline is also illegal online

• Enforceability
  - MLAT
  - LR

• Proportionality: calculation of harm | relief and punishment similar to offline offenses.
Regulatory domains

- Speech regulation – defamation, hate speech, obscenity, public order, national security etc.
- Privacy, data protection, interception and surveillance
- Crime – spam, phishing, identity fraud, authorized access, voyeurism, child pornography
- Digital signatures and certificates
- IPR and A2K – trademark, copyright, patent, FOSS, OS, OC, OA and OER
- Names and numbers
- Security
- Competition
- Taxation
- Banking and finance
- Accessibility
Unintended Consequences

- Adoption of anonymizers and VPNs by Americans.
- Adoption of whatsapp by Indians.
- Streisand effect
- Overblocking by ISPs
- Risk aversive behaviour by intermediaries.
Case Study: Cyber Cafe Regulation

- ID card
  - Increase in identity fraud
- Photograph
- Surveillance Camera
- Log retention for 1 year
  - Increase in cyber crime
  - No impact on fight against terror
- Partition height
Thanks for your patience!

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