Who Controls the Internet? A Review

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In *Who Controls the Internet? Illusions of a Borderless World*[1], Jack Goldsmith and Tim Wu argue that contemporary theories of globalization and Internet scholarship underestimate and misunderstand the importance of territorial government. They claim that government coercion is "the most important thing missing from most predictions of where globalization will lead, and the most significant gap in predictions about the future shape of the Internet."[2]

At the beginning of the book, Goldsmith and Wu outline three themes that emerge throughout their narrative: (1) even for the most revolutionary global communication technologies, geography and governmental coercion retain fundamental importance; (2) the Internet is splitting apart and becoming bordered; and (3) the geographically bordered Internet has many underappreciated values.[3]

While advocating their themes, Goldsmith and Wu expose the reader to general Internet history and case studies. In a mere 185 pages of written text, this piece is a surprisingly concise, yet complete, overview of Internet development. The style allows casual readers to easily absorb the gist of the many historical references and milestones. As entertaining as the book is, each proposition and anecdote is accompanied by numerous footnotes providing an excellent resource for the seasoned scholar.

The introduction begins with the description of Yahoo's evolving relationships with foreign government control.[4] First, the authors discuss the lawsuit brought against Yahoo by Mark Knobel in the French Courts for alleged trafficking of Nazi goods in France. The book describes

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1. JACK GOLDSMITH & TIM WU, WHO CONTROLS THE INTERNET? ILLUSIONS OF A BORDERLESS WORLD (Oxford University Press 2006).

2. *Id*. at 180.

3. *Id*. at viii.

4. *Id*. at 10.

Yahoo's resistance and then eventual surrender to the French demands, pulling all Nazi materials off its Web sites. The authors then go on to describe Yahoo's relationship with China, promising to inspect and monitor information on Web sites and to refuse access to Web sites that contain an adverse influence of information. "The Yahoo story encapsulates the Internet's transformation from a technology that resists territorial law to one that facilitates its enforcement."[5] The Yahoo illustration primes the reader for theoretical discussions in the greater portion of the book.

In the first part of the book, Goldsmith and Wu lay the foundation for their argument via a historical overview of the Internet. The book chronicles the "founding fathers" of the Internet and discusses the struggles between individuals, independent engineering groups, and the United States government. The authors characterize key individuals while discussing their personal operational and management theories for the Internet, making this section entertaining and easy to read as well as educational. In tandem with the historical overview of the Internet's creation and development, the book discusses the power struggle for the Internet's root file and the root authority. Goldsmith and Wu end up claiming that the Internet only began as a technology promising an "electronic frontier", with control ultimately resting in the hands of the United States government.

The book's second part concentrates on the authors' premise that government control is an integral part of the growth of the Internet. The authors explain the influence of geography and how borders mark the differences in "culture, currency, climate, consumer norms, and much more"[6] The book continues to discuss governments' responses to a borderless medium and does so at a level at which an everyday Internet surfer can relate. The authors select the "'choose a country' link" to exemplify how geographical divisions are necessary for the survival of e-commerce and the efficiency of the Internet.[7] There is also a discussion about government attacks on Internet intermediaries including ISPs, the physical networks, and financial intermediaries/credit cards.[8]

The authors fittingly dedicate an entire chapter to the Chinese approach to Internet regulation. The Chinese, with the assistance of American technology companies, exercise absolute information control of the Internet. The authors claim, "China is not only an extreme example of control; it is also an extreme example of how and why the Internet is

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5. *Id.*

6. *Id*. at 51.

7. GOLDSMITH & WU, *supra* note 1, at 51.

8. *Id*. at 70.

becoming bordered by geography."[9] The authors clearly describe how the information barrier works and provide illustration of China's information barrier system.[10]

The final chapter in the second section is dedicated to "The Filesharing Movement," portraying the importance of law and government over "a technology designed to be impossible to control."[11] The discussion in this section is supported by a review of American case law starting with the *Sony Betamax*[12] case and ending with *Grokster*.[13] The discussion is well written so that a nonlawyer can follow the case law and the influence that the judicial system has had on today's technology. The authors discuss the trials and tribulations of Napster and Kazaa, as well as the success of iTunes—evidence of how American copyright law has shaped the Internet and changed the recording industry.

The third part of the book explores the vices and virtues of government control. The authors explain that "[p]rivate companies like eBay and its customers need government to keep their community from being overrun by villains."[14] Justly, the authors also acknowledge that there is a "flip side."[15] They argue that "the success of the Internet and its companies depends on the stability of the country beneath it."[16] The authors analyze the operations of eBay in the United States and India to properly illustrate their arguments. Furthermore, the authors apply the *Gutnick*[17] case in Australia to their discussion of the consequences of borders.

The book continues by clearly describing three reasons why the Internet is evolving from a global network to a collection of nation-states: (1) people in different nations speak different languages and have different cultural needs; (2) technological developments in each country; and (3) the enforcement of national laws. The final chapter in the third section provides a useful discussion of global laws, including international treaties and conventions. Organizations such as ICANN, WTO and the EU, and their influence over the Internet, are all appropriately touched upon.

The conclusion of *Who Controls the Internet?* addresses globalization meeting governmental coercion. The authors correctly state that "[t]he

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9. *Id*. at 90.
10. *Id*. at 93.
11. *Id*. at 105.
12. Sony Corp. of Amercia v. Universal City Studios, 464 U.S. 417 (1984).
13. MGM Studios, Inc. v. Grokster, Ltd., 380 F.3d 1154 (9th Cir. 2004).
14. GOLDSMITH & WU, *supra* note 1, at 140.
15. *Id*. at 142.
16. *Id*.
17. Dow Jones & Co. v. Gutnik (2002) 210 C.L.R. 575 (Austl.).

Internet has widely been viewed as the essential catalyst of contemporary globalization, and it has been central to debates about what globalization means and where it will lead."[18] The authors reference the globalization theories presented in Thomas Friedman's book *The World is Flat*[19] and contrast Friedman's theories with their own. The authors agree that "Friedman and others are right to emphasize the Internet's transformative potential."[20] However, the authors point out that the major focus of most globalization writing is "that governments are of diminishing relevance compared to other forms of human organization and nonstate actors."[21] Goldsmith and Wu distinguish themselves from this tenant by responding that such sources of rules and governance cannot function apart from an underlying system of territorial government and physical coercion.[22]

Goldsmith and Wu continue their argument and state that "Friedman's flat world metaphor is built on the notion that globalization is smoothing out the rough edges and frictions of different nations."[23] They argue that there is a critical element missing from this theory: "the power of nations and regions protecting the way they are or the way they want to be."[24] The authors summarize what this book in its entirety presents: "This is the other side of globalism: the determined perseverance of difference, the deliberate resistance to homogenizing influence."[25]

The authors sharpen their point by stating: "It's not just that nations have the power to shape the Internet's architecture in different ways. It is that the Untied States, China, and Europe are using their coercive powers to establish different versions of what the Internet might be."[26] The book goes so far as to suggest that the result of this is "the beginning of a technological version of the cold war, with each side pushing its own vision of the Internet's future."[27]

The conclusion of *Who Controls the Internet?* is powerful. Goldsmith and Wu boldly contribute to the globalization discussion by presenting the alternative viewpoint that geographical borders, individuals whose preferences differ sharply by geography, and government coercion have been significant in the development and survival of the Internet. The authors believe that the failure to recognize and understand territorial

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18. GOLDSMITH & WU, *supra* note 1, at 179.

19. THOMAS FRIEDMAN, THE WORLD IS FLAT (Farrar, Straus, and Giroux 2005).

20. GOLDSMITH & WU, *supra* note 1, at 179.

21. *Id*. at 181 (citation omitted).

22. *Id*.

23. *Id*. at 183.

24. *Id*.

25. *Id*.

26. GOLDSMITH & WU, *supra* note 1, at 184.

27. *Id.*

government coercion is "fatal to globalization theory as understood today, and central to understanding the future of the Internet." The last line of the book leaves the reader with an the application of this "counter" theory: "In the coming decades, these factors, and the consequent struggles between nations and their national network ideologies, will do much to determine how life on the bordered Internet is lived."[28]

Who controls the Internet? This is the question posed by the authors in the title and, as I experienced as a reader, a question often revisited while reading the book. The authors argue that the Internet frontier was designed to operate without government and borders, but without government and borders, the Internet we know today would not be able to thrive. According to Goldsmith and Wu, "[t]erritorial government is a persistent fact of human history that accommodates humanity in its diversity and allows it to flourish. Behind the myths and magic of the Internet lies an older and stronger order whose relevance remains inescapable."[29] *Who controls the Internet?* successfully conveys the elements of this theory while both entertaining and educating the reader.

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28. *Id.*
29. *Id.* at ix.