The Folly of Internet Freedom

The Mistake of Talking About the Internet as a Human Right

In the past two years, protesters against authoritarian regimes have begun to heavily use social-networking and media services, including Twitter, Facebook, YouTube, and cell phones, to organize, plan events, propagandize, and spread information outside the channels censored by their national governments. Those governments, grappling with this new threat to their holds on power, have responded by trying to unplug cyberspace.

Some examples: In April 2009, angry young Moldovans stormed government and Communist Party offices protesting what they suspected was a rigged election; authorities discontinued Internet service in the capital. In Iran, the regime cracked down on protesters objecting to fraudulent election outcomes in June 2009 by denying domestic access to servers and links, and by slowing down Internet service generally—although protesters and their supporters found ways around those restrictions. In Tunisia, when protests against President Zine el Abidine ben Ali escalated in December 2010, his government sought to deny Twitter services in the country and hacked the Facebook accounts of some Tunisian users in order to acquire their passwords. In Egypt, amid mass protests in Cairo and several other cities in January 2011, Hosni Mubarak's government attempted to disconnect the Internet. But there, too, protesters found limited workarounds until the doomed regime eventually restored some services.

Authoritarians may have reason to fear cyberspace. It is widely believed that the proliferation of Internet access and other communications technologies empowers individuals and promotes democracy and the spread of liberty, usually at the expense of centralized authority. As Walter Wriston optimistically put it in his 1992 book *The Twilight of Sovereignty*: "As information technology brings the news of how others live and work, the pressures on any repressive government for freedom and human rights will soon grow intolerable because the world spotlight will be turned on abuses and citizens will demand their freedoms."

Two decades later, the hope that cyberspace will promote international peace and cooperation shines brighter than ever. To this end, the Obama administration has undertaken a project to promote its vision of cyberspace around the world. It was launched with the 2009 announcement in Morocco of the "Civil Society 2.0 Initiative," a collection of efforts to help grassroots organizations use cyberspace to advance their goals. As the president explained at a 2009 forum in Shanghai, responding to a question about Internet censorship, "The more open we are, the more we can communicate. And it also helps to draw the world together."

Secretary of State Hillary Clinton echoed this sentiment in a 2010 speech at the Newseum in Washington, D.C., arguing that the Internet can help bridge differences between religious groups and create "one global community, and a common body of knowledge that benefits and unites us all." In addition, she noted, there are the practical economic benefits of connectivity: cyberspace has become a critical ingredient for economic growth—"an on-ramp to modernity"—often by enabling producers to specialize and open new markets, and by generally improving productivity. Secretary Clinton further declared her intent to place Internet freedom on the agenda of the United Nations Human Rights Council; launch a program to use cyberspace to "empower citizens and leverage our traditional diplomacy" in cooperation with industry, academia,

and nongovernmental organizations; and strengthen the Global Internet Freedom Task Force formed during the Bush administration.

Since then, the Obama administration has promoted cooperation with the private firms that own and operate the Internet's infrastructure in hopes of establishing standards to promote freedom in cyberspace; it has protested diplomatically when foreign states impinge on their citizens' free use of the Internet; and it has resisted foreign attempts to transfer Internet governance from technical organizations to political organizations, most notably to the United Nations. Meanwhile, the State Department's Bureau of Democracy, Human Rights, and Labor issued $5 million in grants to private organizations developing technologies to enable unrestricted access to the Internet and secure communications over mobile devices. The department hopes to issue $30 million more.

Secretary Clinton's Newseum speech, and a follow-up address she delivered in early 2011 at George Washington University, are important not only because of the initiatives they launched, but also because they articulate the administration's perception of cyberspace's role in international relations. Central to this view is

> the freedom to connect—the idea that governments should not prevent people from connecting to the Internet, to websites, or to each other. The freedom to connect is like the freedom of assembly, only

in cyberspace. It allows individuals to get online, come together, and hopefully cooperate.

Indeed, Clinton equated the "freedom to connect" with the freedom of expression and association as codified in the First Amendment to the U.S. Constitution and in Article 19 of the Universal Declaration of Human Rights.

While well-intentioned, the administration's efforts to advance the cause of "Internet freedom" as a human right should raise some concerns. First, despite the admirable desire to apply the nation's enduring principles to the rapidly evolving realm of high technology, framing "Internet freedom" as a human right risks weakening the very concept of human rights. Further, by lending its prestige and credibility to the international cause of Internet freedom, the U.S. government may actually make it more likely that tyrannical regimes will crack down on the Internet.

Consider first the administration's desire to tie Internet freedom to human rights. A simple interpretation of the "freedom to connect" might be as a negative right: freedom *from* government interference in one's access to and activities on the Internet—just as the right to free speech protects the individual from censorship but does not guarantee a means of publication. The administration's way of framing the issue, however, opens the door to something else: a positive right to the use of a technology. That is to say, the right's existence is predicated on the

existence of the technology rather than on our intrinsic humanity. Cyberspace is, after all, a created medium. Someone designed, built, owns, and operates this infrastructure of servers, software, and network operating centers. A "right" to use it is a claim of entitlement to a particular technology and thus is based on the nature of the technology, not on the nature of the claimant.

Indeed, in the case of cyberspace, the administration's interest in the nature of the technology and its social impact is what led it to assert access as a right. Clinton argues that the Internet differs from other technologies, and is therefore special as it relates to human rights: "the Internet is a network that magnifies the power and potential of all others. And that's why we believe it's critical that its users are assured certain basic freedoms." This is a fair point, but simply in terms of human rights, it is beside the point: tying human rights to the state of technology, however powerful, is an intellectual rabbit hole, at the bottom of which human rights are deprived of the very thing that makes them unique—the fact that we possess them because we are human.

The problem here lies in the larger agenda the administration is promoting wrapped in the cause of rights. Secretary Clinton's vision for cyberspace is of "a single Internet where all humanity has equal access to knowledge and ideas." Ultimately, she said, "this issue isn't just about information freedom; it is about what kind of world we want and what kind of world we will inhabit. It's about whether we

live on a planet with one Internet, one global community, and a common body of knowledge that benefits and unites us all, or a fragmented planet in which access to information and opportunity is dependent on where you live and the whims of censors."

This government-sanctioned vision of what constitutes "community," "common knowledge," and "opportunity" for all not only goes beyond the question of protecting basic rights, but in some ways may well be incompatible with the nature of the Internet itself, if not the immense diversity of religious faiths, political beliefs, and moral perspectives by which people live their lives.

Consider, for example, the notion of a "single Internet" building a global community and a common body of knowledge. In some important respects, cyberspace has had the reverse effect, enabling users to customize the information they receive and retreat into like-minded communities. This customization is not entirely bad—arguably, it helps to empower the individual and promote economic productivity, even as it fractures our shared cultural and political life. Of course, in terms of promoting Internet freedom in unfree countries, this is precisely the point—to subvert a central, unchallenged source of information. But its ability to do so is double-edged: as Clinton notes, the Internet can just as readily be used for malicious purposes as for noble ones. Indeed, al Qaeda regularly uses cyberspace to organize, plan, and propagandize its activities.

In this and other ways, the administration's commitment to promoting Internet freedom may yet lead to effects exactly opposite from those intended. For example, in her Newseum speech, Clinton proposed creating a mobile-phone application that would enable people to rate government ministries for their responsiveness, efficiency, and corruption with an eye toward adjusting U.S. foreign aid based on the results. On its face, such an application might be desirable, but such software might also be used for other purposes. It would not be difficult for bad actors to exploit the application to discredit a competitor's ethics or effectiveness for political purposes having nothing to do with how effective they actually were in employing U.S. assistance.

Evgeny Morozov describes, in his 2011 book *The Net Delusion*, his experience working with a Western non-governmental organization to promote democracy in former Soviet states by means of social media, blogs, and the like. He was alarmed and disillusioned to realize that the governments were learning to make much more effective use of the technology than were the activists, spreading propaganda and conducting surveillance. "How hard is it to imagine," he writes, "a site like Facebook inadvertently disclosing the private information of activists in Iran or China, tipping off governments to secret connections between the activists and their Western funders?"

Another example of a government "Internet freedom" effort that backfired is the censorship-circumvention soft-

ware Haystack. Intended to help individuals evade Iranian censorship controls, Haystack was approved for export in 2009 with the moral imprimatur of the U.S. government. Unfortunately, a design flaw allowed government authorities to precisely track users. Meanwhile, Haystack or similar software that the government circulates to enable democracy activists to avoid discovery by authoritarian governments might be used to help terrorists or cyber attackers evade the reach of U.S. justice.

As mentioned, another risk in the Obama administration's initiative is the likelihood of increasing the state's role as a mediator between the individual and cyberspace. In taking the issue of Internet freedom to the U.N. Human Rights Council, the administration is making it a legitimate subject for international discussion and mediation. This implies negotiations—and their required give and take—in order to reach agreement among governments with decidedly different views about individual rights and how they relate to cyberspace.

For example, Russia and China are leading international efforts to shift decisions about the technical workings of the Internet away from the Internet Corporation for Assigned Names and Numbers (ICANN) to the United Nations, where those countries have more political muscle. The Obama administration is rightly resisting this, but nonetheless is pressing ICANN to take foreign interests into greater consideration when making decisions about the functioning of the Internet. In other words, the administration is willing to compromise on principle—hardly an auspicious start when one is simultaneously launching a campaign for Internet freedom.

Quite simply, governments have their own interests in how individuals use cyberspace, which may not match those of individuals, particularly in countries that already repress their citizens' rights. In making Internet freedom a subject for discussion among governments, the administration is opening up the possibility of compromising between its version of Internet freedom, based on American political values, and versions embraced by other countries, based in some cases on their authoritarian interests.

Even in the United States, the government's interest in using cyberspace to identify terrorists, criminals, and the like is controversial. Policymakers have floated proposals to require social media firms to keep records of individuals using their services and to establish "back doors" that would enable the government to better conduct some kinds of surveillance. One 2009 Senate proposal reportedly authorized the creation of an Internet "kill switch" that the president could use in times of crisis to stop a cyber attack on critical American infrastructure. Public outcry essentially put an end to the idea, but the fact that such proposals are credibly discussed in the United States makes it more difficult to argue that other countries—including those that repress their citizens—should not possess or use such capabilities.

There is a similar irony in the fact that the Obama administration found itself pushing for greater transparency overseas at the same time that it was hinting strongly at prosecuting Wikileaks for publishing vast amounts of classified records from the U.S. government. In many ways, this is an inappropriate comparison, as Secretary Clinton argued, but it still invited accusations of hypocrisy from foreign governments. A high-profile Internet freedom campaign would certainly highlight these contradictions in American interests and aspirations.

On its face, Internet freedom is a cause around which all Americans would naturally rally. It is consistent with our commitment to an open and free society. As Clinton notes, technological change makes new demands on American diplomacy, and the administration should be applauded for its attempt to carry American values into new technological realms.

That said, even a cursory examination suggests that the concept of Internet freedom may be as troublesome as it is seductive. At best, freedom to use the Internet, or a right to access cyberspace, is a subset of the broader freedoms that Americans value. The cause of Internet freedom surely ought to be part of a broader campaign to promote those freedoms globally. Such a campaign would address many of the concerns that Secretary Clinton properly expressed about tyrannical regimes and the Internet. Therein may lie the ultimate shortcoming in the administration's campaign for Internet freedom as a component of twenty-first-century diplomacy: freedom and democracy must be actively promoted abroad as a *precondition* for promoting Internet freedom. As Morozov pointedly observes, if unabashedly championing freedom and democracy themselves seems too backwards and Bush-like to policymakers today, the "nearly magical qualities" of the Internet from their perspective leave it as "the only ray of light in an otherwise dark intellectual tunnel of democracy promotion."

But the heart of the matter is that Internet freedom is unlikely to persist in an unfree society, no matter how high a diplomatic priority the United States makes it. Just as with earlier telecommunications innovations, terrorists, criminals, and authoritarian states have kept pace with the forces of good in learning how to use cyberspace for their own ends. It is not at all clear that the Internet over the last two decades has, on balance, been a boon to democracy and freedom.

Translating our rights and values into cyberspace is a noble goal and one that should ultimately be pursued. But the only way such aims might truly be realized is in the context of societies that recognize and foster individual rights. An American diplomacy that concerns itself first with encouraging these rights will ensure that freedom secures its proper place in cyberspace.

—*Eric R. Sterner is a fellow at the George C. Marshall Institute.*