



ISC 互联网安全大会



360互联网安全中心

FUTURE OF CYBERSPACE GOVERNANCE: THE ROLE OF INTERNATIONAL LAW

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ISC 互联网安全大会 中国·北京
Internet Security Conference 2018 Beijing·China

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Please follow the instructions:

1. Send \$300 worth of Bitcoin to following address:

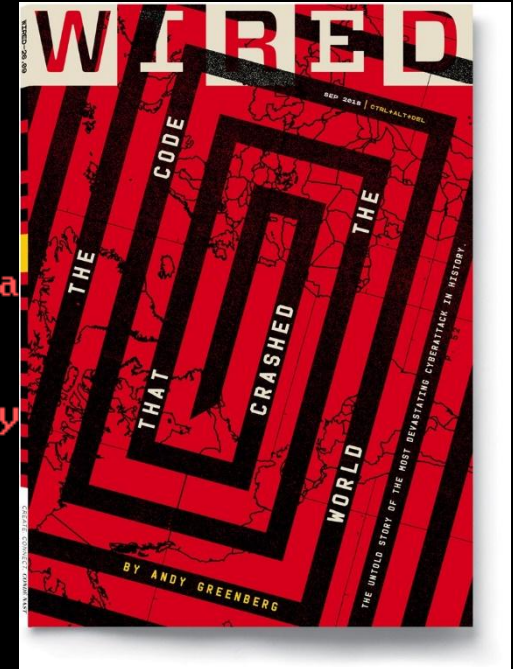
1Mz7153HMuxXTuR2R1t78mGSdzaAtNbBWx

2. Send your Bitcoin wallet ID and personal installation key to e-mail: wowsmith123456@posteo.net. Your personal installation key:

X86GcZ-7PRNBE-3MNFMp-z88UnG-uF5nhF-4wzxwZ-XdNrr6-FYG89D-xk4rNz-9y

If you already purchased your key, please enter it below.

Key: _





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ZERO TRUST SECURITY

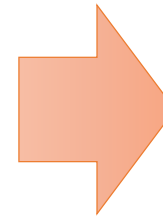
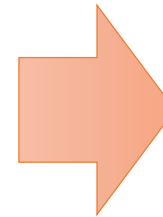
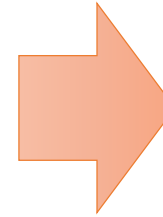
WEB INTERNET
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TERMINAL AGE
PERSONAL PRIVACY
IDENTITY SECURITY
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INTERNATIONAL LAW AND CYBERSPACE: PRE-HISTORY

Early fantasies of cyberspace as a *terra nullius*, a sovereignty-free zone

Deep and persistent lack of understanding of cyber security by decision-makers

Slow awakening to the fact of applicability of international law in cyberspace



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INTERNATIONAL CYBER LAW: CURRENT LEGAL LANDSCAPE



Existing generally applicable rules

- ICJ's *Nuclear Weapons* Advisory Opinion
- General consensus of States that IL applies
- UN GGE process

Sectoral and regional treaties

- 2001 CoE's Convention on Cybercrime
- 2009 SCO's Information Security Agreement
- 2014 African Union's Cyber Security Convention

Non-State initiatives

- 2013 and 2017 Tallinn Manuals 1.0 and 2.0
- 2014-18 Microsoft's proposals
- 2018 Bratislava Norm
- ...and others

LAW AND POWER: COMPETING APPROACHES

Maintaining
legal
uncertainty

Constructing legal
certainty



1957

1967



2018

?

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CYBERSPACE GOVERNANCE: COMPETING APPROACHES*



Western position: “multistakeholderism”

- A model that gives “all appropriate stakeholders in the Internet the ability to participate in its evolution” (United States, 2013)
- Stakeholders include gov’ts, int’l organizations, NGOs, industry, academia, individuals...
- Stakeholders meet in a wide variety of fora, including ICANN, IGF, GCCS, GCSC...

Chinese position: “multilateralism”

- Aim to establish “a multilateral, democratic and transparent international Internet governance system” (China, Five-Year Plan for 2016–2020)
- Multilateral model is top-down, State-centric, and co-ordinated
- The primary forum for the multilateral model is the United Nations

Signs of convergence

- Verbal affirmations from both sides that the two models are not mutually exclusive
- Confirmation of the role of the private sector and civil society in the UN GGE process
- Coexistence of different conceptions of cyber governance

*) Huang and Mačák (2017)

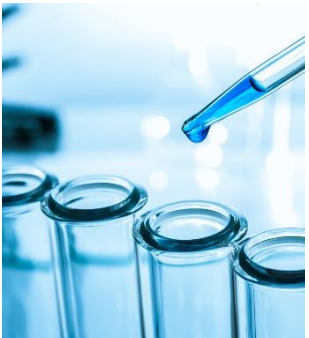
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NORM-MAKING LABORATORIES



“ONLY STATES MAKE INTERNATIONAL LAW”
(E.G. SCHMITT 2010)...

...BUT EVEN STATES CAN “GET BY WITH
A LITTLE HELP FROM [THEIR] FRIENDS”
(LENNON & MCCARTNEY 1967)...



...SO, NON-STATE INITIATIVES MAY SERVE AS **NORM-MAKING LABORATORIES** (MAČÁK 2017):

- INTERMEDIATE STAGE
- PROCESS INCLUSIVITY
- DEPEND ON STATE REACTION

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THE ROAD AHEAD

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Short term:
*Cyber opinio
juris*

Medium term:
“Soft” multi-
lateral
processes

Long term:
Comprehen-
sive global
convention

WEB INTERNET
INFORMATION LEAK
TERMINAL AGE TECHNOLOGY
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