National Governments in IG:

Fragmentation and the future of global Internet compatibility

Governments: not just another “stakeholder”

States are an **alternative governance model** that often **competes** or **conflicts** with the so-called **multistakeholder model**

What is the state?

- A monopoly…
- …on the legitimate use of force…
- …in a given territory

Sovereignty:
territorial fragmentation
international anarchy

How do states cooperate?

- International law
- International treaties
- International organizations

➢ Applicable only to states

➢ Negotiated and binding only on states

➢ Members and funders are states

National governments as gatekeepers

- Regulate ISPs located in their territory
- Regulate content and hosting providers in their jurisdiction
- Regulate users in their jurisdiction
- Regulate control cross-border flows
  - Data
  - Equipment

Competing Internet governance models

Global

- Transnational perspective
- Multi-stakeholder
- Led by nonstate actors
- Commerce and innovation
- Market forces primary

National

- Territorial perspective
- Multilateral
- Led by state actors
- Security
- Political forces primary

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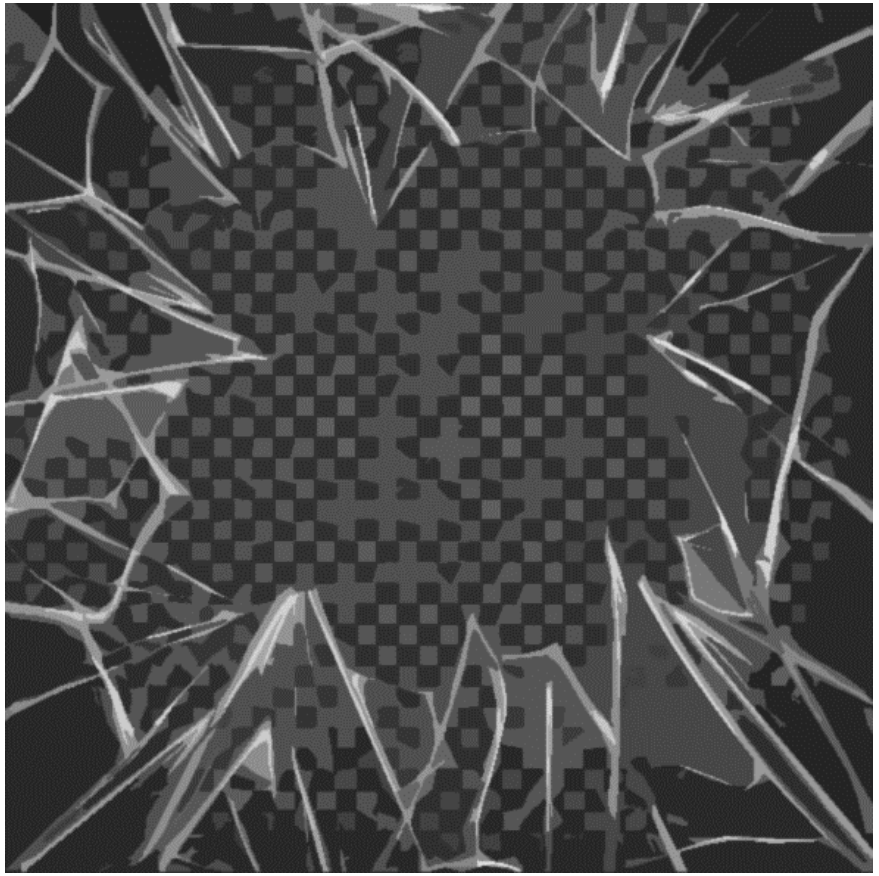
Will the internet fragment?



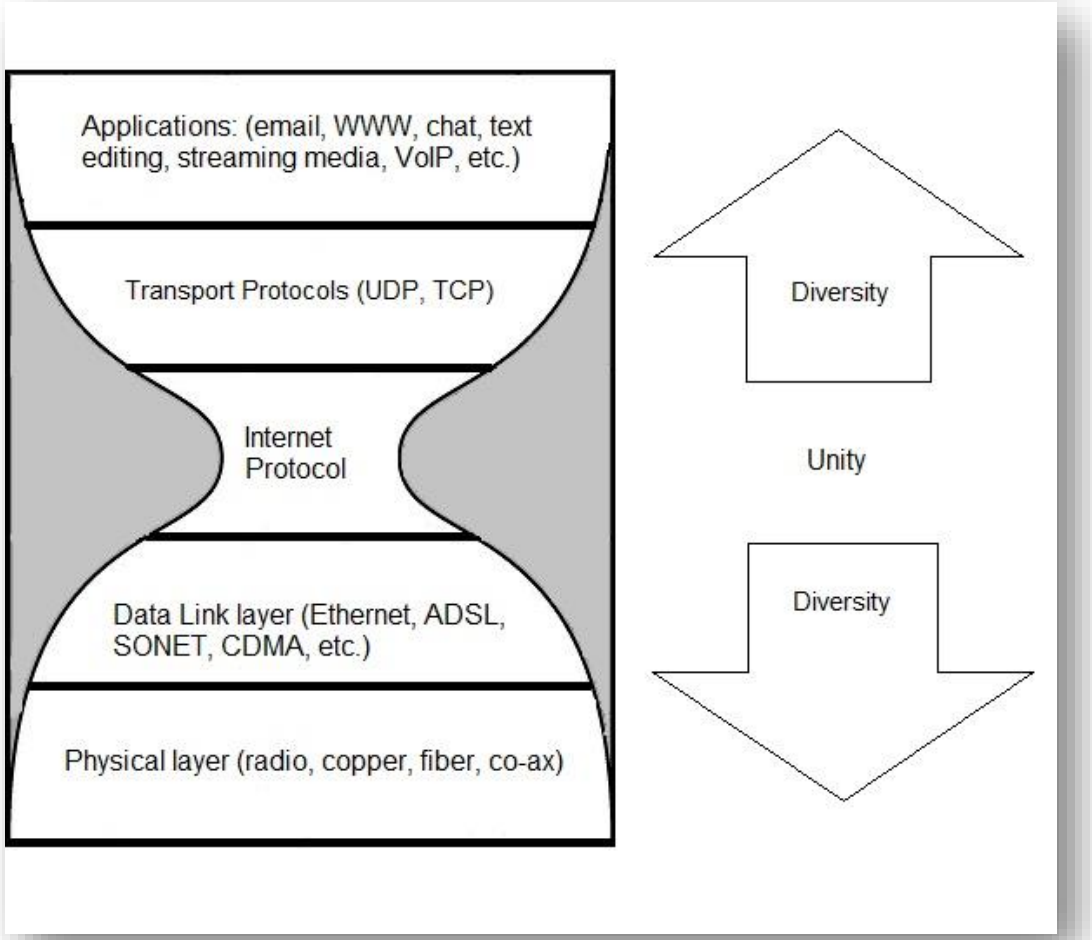
What is fragmentation?

How to define it?

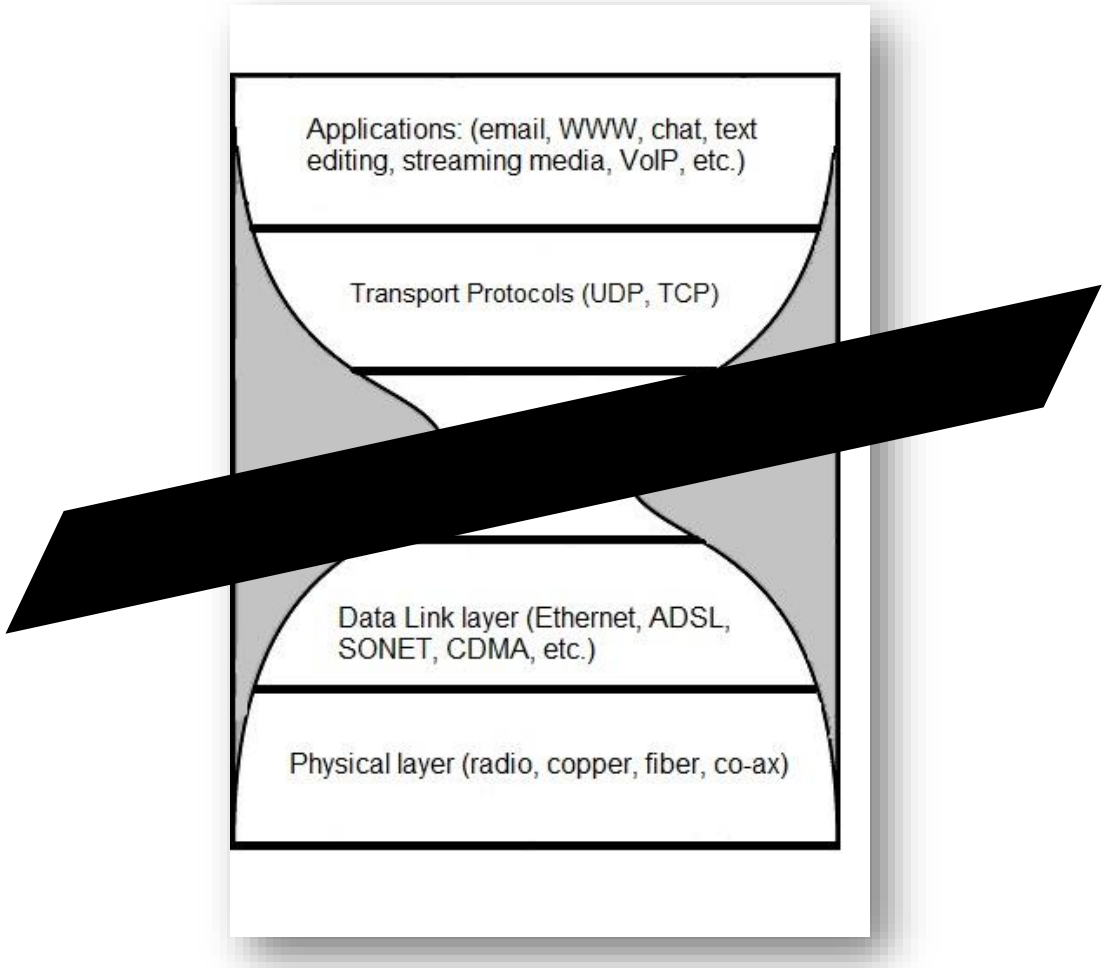
How would we know it when we see it?

Layer 3 compatibility

The glue that holds the internet together



Fragmentation Defined



Fragmentation

Alignment

Sovereignty

Supreme authority

Territory

Domains without territorial sovereignty

- Outer space
- The high seas
- Cyberspace

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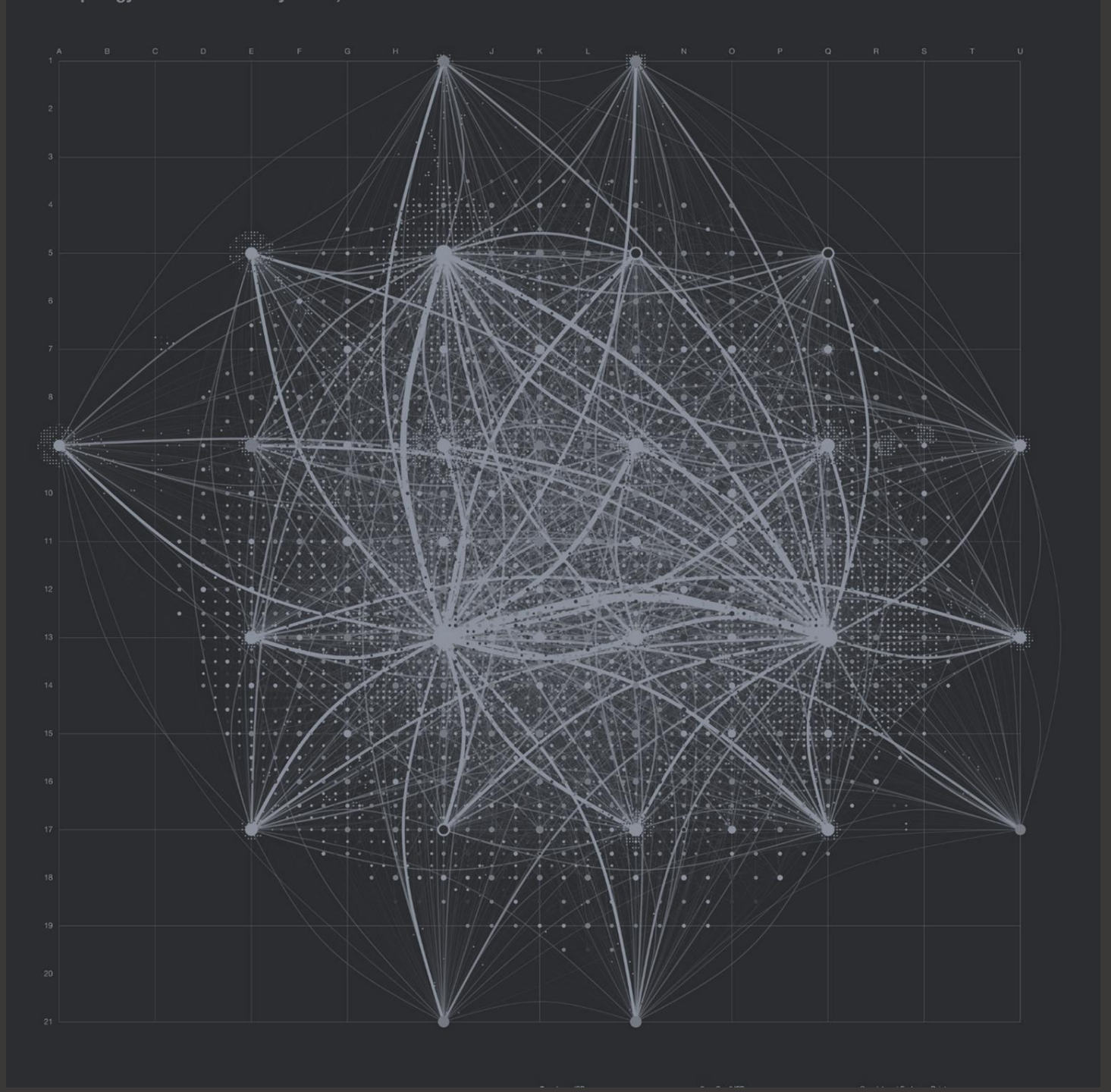
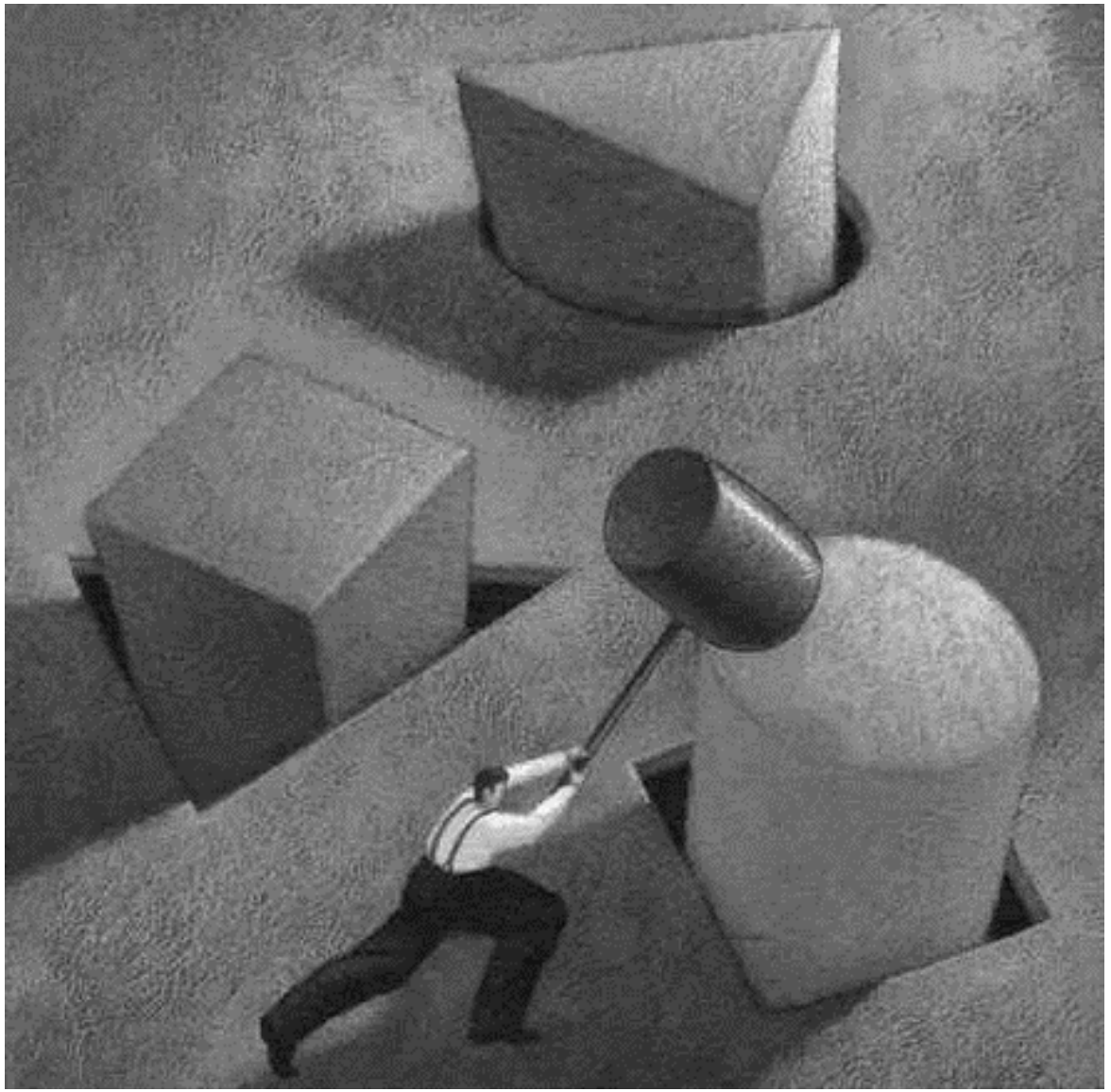
‘Territory’ in cyberspace

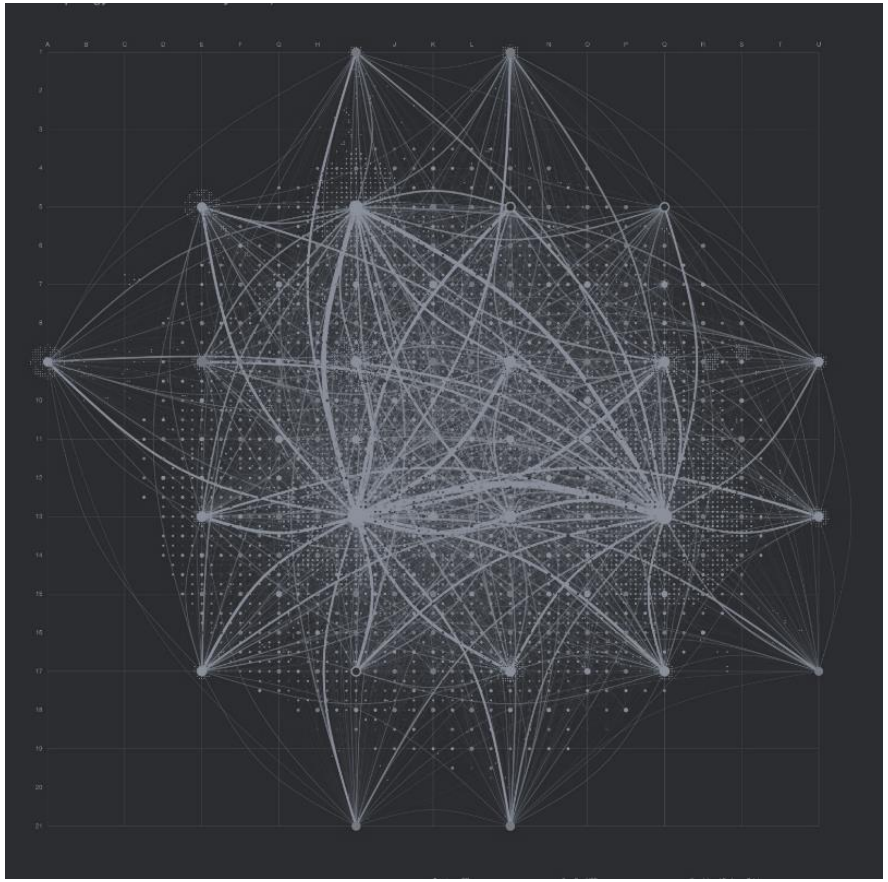
- Dots: large and small ISPs (AS), organization AS, NICs
- Hollow circle: IXPs





Alignment

One global cyber-sovereign



Digital islands

Recent challenges to global internet

1. Europe and data governance (GDPR)
2. U.S. – China digital fracture
3. Other developments

1. GDPR and extra-territoriality

“the [GDPR] has had such a massive impact on data management practices globally that it has become the de facto global standard for privacy.”

To comply with GDPR, ICANN reforms Whois

- “Emergency” Temporary Specification (May 2018)
  - Redacts sensitive data from open publication
- Expedited Policy Development Process
  - Make Whois (RDDS) compliant with GDPR, privacy principles
- Standardized System of Access/Disclosure (SSAD)
  - Reveal redacted data to requestors following law
- Dissent with threats to bypass ICANN and rely on legislation
  - US intellectual property interests
  - European Commission/Law enforcement interests

2. The U.S. – China Conflict

US building the wall

- Sanctions:
  - Entity list (Operating system forks)
  - Chip export controls (blockade)
- Denials of market access
  - CFIUS blocking investment
  - WeChat and TikTok blockages
  - FCC withdrawal of Sec 214 licenses for China Telecom and China Mobile
- Export controls
  - Cannot sell chips, software to China
- Industrial policy
  - Subsidies for 5G providers?
  - Subsidies for chips

China building the wall

- Great Firewall of China (intensified since 2014)
- 2017 Cybersecurity Law
  - Data localization
  - Restrictions on outgoing data flows
- Hong Kong National Security Law
  - Arrest of dissident newspapers
  - Online expression deemed illegal

3. Other developments

- Russian “Sovereign Internet” efforts
- Indian blocking of dozens of Chinese apps
- Senegal “data sovereignty”

Takeaways

- There is a mismatch between territorial governance and global internet governance
- The IG problems caused by this mismatch take place at the application layer, not the network layer
- Multistakeholderism is a way of overcoming the mismatch
- There is no sovereignty in cyberspace