

Network Sovereignty: Theory and Practice

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Throughout the history of world civilization, the meaning of state sovereignty has changed from time to time. Mankind has experienced agricultural revolution, industrial revolution, and information revolution. Every industrial technology revolution has brought tremendous and profound influence to the connotation and extension of national sovereignty. In the agricultural era, the space for human activities was mainly concentrated on land, and the focus of national sovereignty was to defend territorial integrity. In the industrial age, the space for human activities has expanded from land to sea, sky, and space, and the scope of national sovereignty has also expanded. Entering the information age, cyberspace is highly integrated with the real space of human activities, becoming a new domain of modern countries and a new field of global governance.

Sovereign countries are the key actors in carrying out cyberspace activities and maintaining the order of cyberspace. The principle of sovereign equality established by the Charter of the United Nations is the basic norm of contemporary international relations. It covers all fields of state-to-state exchanges, and its principles and spirit also apply to cyberspace. In practice, all countries extend the application of national sovereignty to cyberspace, but there are still different understandings of the concept and specific practices of exercising sovereignty in cyberspace. In order to promote global Internet governance in a more just and rational direction and build a community of cyberspace destiny, the international community should adhere to the common welfare of mankind as the foundation, safeguard the international system with the UN as its core, uphold the concept of cyber sovereignty, negotiate on an equal footing, seek common ground while reserving differences, Active practice.

First, the concept of network sovereignty

Cyber sovereignty is a natural extension of national sovereignty in cyberspace. It is the supreme power and external independence of a country based on its national sovereignty over its own network entities, network behavior, network facilities, network information, and network governance. Specifically, it mainly includes the following rights:

(1) The right to independence

Sovereign countries have the right to independently choose the network development road, network management model, and formulate network public policies without any external interference.

(2) The right to equality

In accordance with the principle of sovereign equality of the UN Charter, sovereign states have the right to participate in the international governance of cyberspace on an equal footing and jointly formulate international rules.

(3) Jurisdiction

1. Establish legal rights. In order to protect national security and social public interests and protect the legitimate rights and interests of citizens, legal persons and other organizations, sovereign states have the right to make laws and regulations on their own network facilities, network entities, network behaviors, and network information.

2. Administrative power. In order to maintain a good order of cyberspace, sovereign states have the right to manage their own network facilities, network entities, network behaviors, and network information in accordance with the law.

3. Jurisdiction. Sovereign states have the right to jurisdiction over their network facilities, network entities, network behavior, and network information in accordance with the law.

When necessary, sovereign states may seek judicial assistance from relevant countries and regions for cyber acts that occur outside the country but constitute a serious or significant threat to their legitimate rights and interests.

(4) Defense rights

Sovereign states have the right to take legitimate and reasonable measures under the framework of the UN Charter to safeguard their legitimate rights and interests in cyberspace from external aggression.

Second, the basic principles of exercising cyber sovereignty

(1) The principle of equality

The principle of sovereign equality set forth in the Charter of the United Nations is the first principle that all countries should follow when exercising cyber sovereignty. Sovereign countries, whether large or small, strong or weak, rich or poor, are legally equal and have the right to participate in the international affairs of cyberspace on an equal footing. They also have the right to be treated equally by other countries and are more obliged to treat other countries equally.

(2) Principle of justice

All countries should adhere to the fairness and justice of cyberspace, promote the development of the Internet governance system in a fair and reasonable direction, and

reflect the wishes and interests of most countries in the world, especially to safeguard the legitimate rights and interests of developing countries and ensure the development of cyberspace. It is jointly controlled by the people of all countries.

(3) Principles of cooperation

The cyberspace is global, and it is difficult for any country to achieve effective governance of cyberspace on its own. Based on the principle of "good faith cooperation" advocated by the UN Charter, all countries should respect the status of the main body of international law, adhere to the concept of mutual cooperation, co-construction and sharing, adhere to multilateral participation and multi-participation, and create multi-domain, multi-level and all-round. The governance system is committed to maintaining the security and development of cyberspace.

(4) Principles of peace

网络空间互联互通，各国利益深度交融。各国应遵守《联合国宪章》的宗旨与原则，和平利用互联网，以和平方式解决网络争端。各国应采取有效措施，防范利用信息技术从事破坏和平的行动，防止网络空间军备竞赛，预防并打击网络恐怖主义，维护网络空间的和平与安全。

(五) 法治原则

各国应不断完善国内立法，推进网络空间国际治理法治化，共同维护国际法的权威性，反对双重标准。各国依法行使网络主权，对内保护本国公民、法人和其他组织在网络空间的合法权利，对外尊重他国网络主权，遵守国际法，不得利用网络干涉他国内政，不得从事、纵容或支持危害他国国家安全的网络活动。

三、网络主权的实践进程

当前，网络空间的发展对传统政治、经济和社会治理结构带来巨大挑战，网络空间国际法和各国相关法律法规尚不完备。网络主权原则的提出，进一步明确了各类主体的权益，有助于规范政府、国际组织、私营部门、研究团体、社会组织、公民个人等的网络空间行为，促进国家在主权平等、互不侵犯的基础上开展有效的国际合作，为有效应对各类网络安全挑战、建立和维护网络空间良好秩序发挥重要作用。

近年来，许多重要的国际文件已经确认了国家主权原则适用于网络空间。例如，联合国信息社会世界峰会在《日内瓦原则宣言》中提出“互联网公共政策的决策权是各国的主权”；联合国信息安全政府专家组在2013年报告（A/68/98）、2015年报告（A/70/174）中指出“国家主权和在主权基础上衍生的国际规范及原则适用于国家进行的信息通信技术活动”，“国家主权原则是增强国家运用信息技术安全性的根基”。

世界各国也在纷纷通过立法、行政、司法等实践活动行使网络主权，探索互联网发展道路和网络管理模式，保护本国网络免受威胁、干扰、攻击和破坏，保障本国公民在网络空间的合法权益。与此同时，网络空间互联互通的独特属性，加之各国在互联网发展水平、法律体系、文化背景等方面存在显著差异，使各国在网络空间行使主权的实践仍存在诸多现实挑战。网络主权的清晰界定、有效维护与准确行使成为国际社会共同面对的新命题，需要不断丰富发展、探索实践。

中国是网络主权原则的坚定倡导者和积极实践者。2015年，中国国家主席习近平在第二届世界互联网大会上提出，尊重网络主权是推进全球互联网治理体系变革的一项重要原则。坚持

尊重网络主权原则，是构建网络空间命运共同体的前提和基础，充分体现了中国坚持以维护世界和平、促进共同发展为宗旨推动构建人类命运共同体，坚持以国家核心利益为底线维护国家主权、安全、发展利益，坚持以公平正义为理念引领全球治理体系变革的一贯立场和主张。

倡导与实践网络主权，绝不意味着封闭或割裂网络空间，而是要在国家主权基础上构建公正合理的网络空间国际秩序，共同构建网络空间命运共同体。希望各国在联合国框架下，本着平等协商、求同存异、互利共赢的基本原则，加强沟通，协调立场，在维护国家网络主权的基础上，制定普遍接受的网络空间国际规则和国家行为准则，凝聚广泛共识，贡献智慧力量，共同构建和平、安全、开放、合作、有序的网络空间。

Sovereignty in Cyberspace:

Theory and Practice

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Throughout the history of world civilization, the meaning of national sovereignty has changed and been enriched over time. Humanity has successively undergone agricultural, industrial, and information revolutions, which have had an enormous and profound impact on the meaning and implications of national sovereignty. In the agricultural age, human activity was mainly confined to land, so the focus of national sovereignty was on protecting territorial integrity. In the industrial age, human activity extended from land to the sea, sky, and outer space and the scope of national sovereignty expanded accordingly. In the information age, cyberspace is becoming highly integrated with the physical space of human activity to form a new territory of the modern state and a new realm of global governance. It is from this that sovereignty in cyberspace has emerged.

Sovereign states are key actors in carrying out activities and maintaining order in cyberspace. The principle of sovereign equality enshrined in the Charter of the United Nations is a basic norm of contemporary international relations. Covering all aspects of state-to-state relations, its principle and spirit also apply to cyberspace. In practice, all countries have extended national sovereignty to cyberspace, but different understandings exist around the ideas and practices for exercising it. To facilitate more just and equitable global Internet governance and build a community with a shared future in cyberspace, the international community should, with the common well-being of humanity in mind, uphold the international system with the UN as its core, follow and practice the notion of sovereignty in cyberspace in line with the principles of equal consultation and seeking common ground while setting aside differences.

The Concept of Sovereignty in Cyberspace

Sovereignty in cyberspace is the extension of national sovereignty to cyberspace. It is the supremacy and independence that a state enjoys, on the basis of its national sovereignty, regarding cyber entities, behavior, infrastructure, information, and governance in its territory. Specifically speaking, it primarily includes the following rights.

Independence. A sovereign state has the right to independently choose its own path of cyber development, model of cyber regulation, and formulate Internet public policies, free from any external interference.

Equality. In line with the principle of sovereign equality enshrined in the UN Charter, a sovereign state has the right to participate in global governance in cyberspace on an equal footing and jointly formulate international rules.

Jurisdiction

Legislation. A sovereign state has the right to enact legislation to regulate its Internet infrastructure, entities, behavior, and information in its territory, in order to protect its national security, public interests, and the legal rights and interests of its citizens, legal persons, and other organizations.

Administration. A sovereign state has the right to administer Internet infrastructure, entities, behavior, and information in its territory according to law, so as to maintain good order in cyberspace.

Judicial jurisdiction. A sovereign state has the right to exercise judicial jurisdiction over Internet infrastructure, entities, behavior, and information in its territory according to law.

When necessary, a sovereign state may seek judicial assistance from the countries or regions concerned to deal with cyber activities that occur within said countries or regions and seriously harm or threaten its legal rights and interests.

Self-defense. A sovereign state has the right to take legal and proper measures under the framework of the UN Charter to protect its legitimate rights and interests in cyberspace from external infringement.

Fundamental Principles of Sovereignty in Cyberspace

Equality. The principle of sovereign equality set forth in the UN Charter is the primary principle states should follow in the exercise of sovereignty in cyberspace. All sovereign states, regardless of size, wealth, or strength, are equal before the law and have the right to participate on an equal footing in international cyberspace affairs. Each state should be treated equally, and each state is also obligated to treat others as equals.

Fairness. All states should uphold fairness and justice in cyberspace and facilitate a more just and equitable global Internet governance system that reflects the wishes and interests of the majority of countries, protects the legitimate rights and interests of developing countries, and ensures the people of all countries get to decide on the development of cyberspace.

Cooperation. Cyberspace is global in nature. It is difficult for any nation to achieve effective governance in cyberspace solely through its own efforts. In line with the principle of cooperation in good faith advocated in the UN Charter, one state should respect the other as an actor of international law, follow the principle of extensive consultation, joint contribution and shared benefits, support multilateral and multi-party participation, and build a holistic governance system across multiple fields and levels to ensure the security and development of cyberspace.

Peace. In interconnected cyberspace, the interests of all countries are deeply intertwined. All countries should act in conformity with the purposes and principles enshrined in the UN Charter, use the Internet for peaceful purposes, and settle cyber disputes by peaceful means. We should take effective measures to guard against the use of information and communications technology (ICT) to engage in activities that undermine peace, prevent an arms race in cyberspace, and prevent and fight cyberterrorism to maintain peace and security in cyberspace.

Rule of law. All states should make steady progress in domestic legislation and advance the rule of law in global governance in cyberspace, uphold the authority of international law, and oppose double standards. In the exercise of sovereignty in cyberspace domestically, states should protect the legal rights of their citizens, legal persons, and other organizations in cyberspace, and internationally, states should respect the sovereignty of others in cyberspace, and observe the international law; states shall not use the Internet to interfere in the internal affairs of other countries or engage in, encourage, or support cyber activities that endanger the national security of other countries.

Sovereignty in Cyberspace in Practice

At present, the development of cyberspace is posing serious challenges to traditional political, economic, and social governance structures. Cyberspace-related international laws and national laws and regulations are still inadequate. The principle of sovereignty in cyberspace further clarifies the rights and interests of various entities and is conducive to regulating the conduct of governments, international organizations, the private sector, research institutes, social organizations, and individual citizens in cyberspace. This principle enables countries to carry out effective cooperation on the basis of sovereign equality and mutual non-aggression. It plays a crucial role in effectively responding to cybersecurity challenges and establishing and maintaining a sound order in cyberspace.

In recent years, many important international documents have confirmed that the principle of national sovereignty applies to cyberspace. For example, it is stated in the Geneva Declaration of Principles of the UN World Summit on the Information Society (WSIS) that "Policy authority for Internet-related public policy issues is the sovereign right of States." The United Nations Governmental Groups of Experts (UNGGE) concluded in its 2013 report (A/68/98) that "State sovereignty and international norms and principles that flow from sovereignty apply to State conduct of ICT-related activities." UNGGE also emphasized in its 2015 report (A/70/174) the importance of "the principle of sovereignty as the basis for increased security in the use of ICTs by States."

States around the world are using legislative, administrative, and judicial means to exercise sovereignty in cyberspace, and are exploring path of Internet development and model of cyber regulation, to protect their networks against threat, interruption, attack, and disruption and to safeguard the legal rights and interests of their citizens in cyberspace. At the same time, the interconnected nature of cyberspace and differences between states in terms of Internet development level, legal system and cultural background are posing many practical challenges for states in exercising sovereignty in cyberspace. How to clearly define, effectively safeguard, and properly exercise sovereignty in cyberspace, are new issues that need to be addressed through continuous explorations and relentless efforts.

China is a staunch advocator and an active practitioner of the principle of upholding sovereignty in cyberspace. At the second World Internet Conference in 2015, Chinese President Xi Jinping stated that respecting sovereignty in cyberspace is an important principle

in the reform of the global Internet governance system. The principle constitutes the precondition and basis of building a community with a shared future in cyberspace. It fully reflects China's consistent position and proposition: to build a community with a shared future for mankind for the purpose of safeguarding world peace and promoting common development, to safeguard national sovereignty, security, and development interests with protecting core national interests as the bottom line, and to lead the reform of the global governance system in the principle of justice and fairness.

Advocating and practicing sovereignty in cyberspace does not mean isolation or breaking cyberspace into segments, but means facilitating a just and equitable international cyberspace order on the basis of national sovereignty and building a community with a shared future in cyberspace. States should work within the UN framework and uphold the principles of engaging in discussions as equals, seeking common ground while shelving differences, and pursuing mutual benefits. States should strengthen communication, harmonize positions, and on the basis of upholding sovereignty in cyberspace, formulate universally acceptable international rules and codes of conduct for cyberspace. States should join efforts in consolidating broad consensus and contributing wisdom and strength, so as to build a peaceful, secure, open, cooperative, and orderly cyberspace.

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