



**THE NATURE AND CHARACTERISTICS OF INTERNET GOVERNANCE IN CHINA: A CONTENT ANALYSIS OF 430 CHINESE LAWS AND REGULATIONS**

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**Abstract**

By content analyzing 430 existing Chinese laws and regulations on internet, some salient features of Chinese internet governance are identified. First, multiple administrative departments are involved resulting in severe overlapping of functions and inefficiency. Second due to the dynamic nature of internet whereas many issues of focal concern have shifted throughout the years, content regulations have remained a priority, and political and ideological correctness have overridden issues of other importance. For instance, while online children protection topped the agenda in many other countries, it doesn't get enough attention in China. Third, although Chinese internet governance was initially controlled by administrative authorities, and the regulations issued were dominantly restrictive in nature, supportive and protective measures have become more and more visible since 2000. Finally, China's internet governance is marked by an incidence-based approach, and most of the regulatory measures are provisional and fragmental, often biased toward the particular functions and thus special interests of different regulators. Chinese authorities have yet to recognize the complexity of the Internet as a new technology, new media and new industry, which needs an integrated, systematic and strategic approach in drawing and adopting regulations.

**Keywords:** China, laws and regulations, Internet Governance,

**Introduction**

Chinese internet governance can be generally divided into 3 stages: free growth (1987-1995); unique governmental regulating (1995-2000) and governance of stakeholders with governmental dominance (2001-now) since China Internet Society's establishment in 2001.

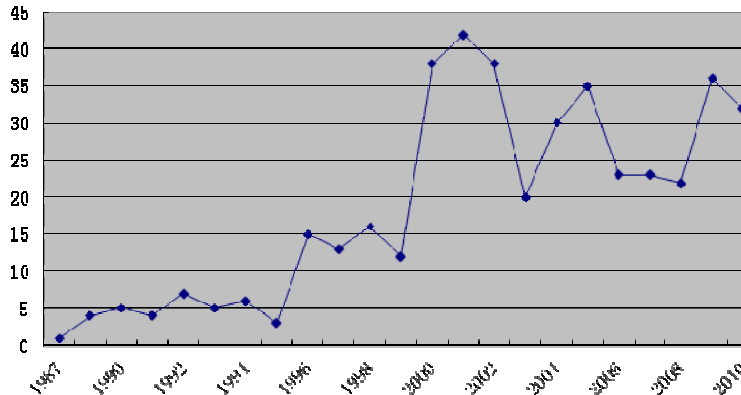


Table 1 numbers of Chinese internet laws and rules

With cluster sampling, we collected 430 Chinese internet laws and rules in total, including laws adopted by the National People's Congress, national administrative regulations promulgated by the State Council, judicial interpretations by the Supreme Court, and Departmental Rules and Regulations promulgated by the various ministries of the country since 1987 to 2010. With content analysis of these 430 laws and regulations, some salient features of Chinese internet governance are identified as follows.

**1. The Rule-making Bodies**

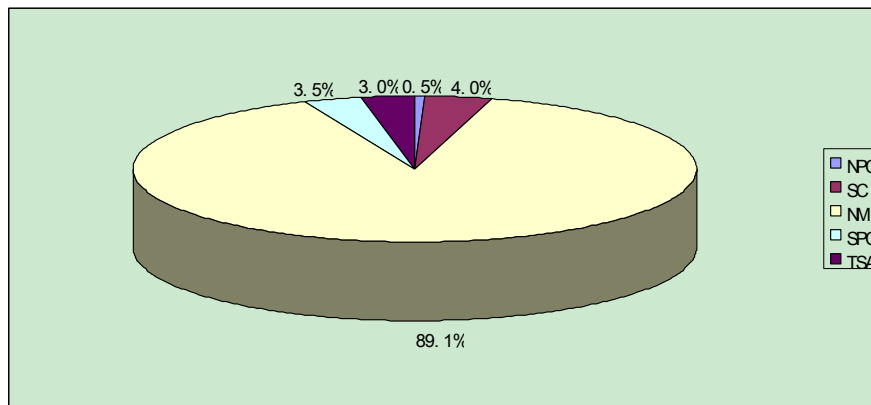


Figure 1 bodies of internet rule-making



How many rule-making bodies of Chinese internet governance? The answer is 85, including 74 ministries and 6 “the third party” which refer to NGO(GNGO in fact) service agents, such as China Youth Association for Network, Internet Society of China, the China Copyright Protection Center, the China Next Generation Working Committee, the National Youth Federation, and the National Student Federation, etc.

Among those 430 laws and regulations, 383(89.1%) were promulgated by national ministries, 17(4%)were promulgated by State Council, 15(3.5%) by Supreme Court, 13(3%) by the third parties, and 2 by NPC(National People’s Congress) and its standing committee, which are the only two highest level laws till now.

Since China Internet Information Office (CIIO) was established in May 2011, the problem of functional overlapping with decentralized management may be solved by centralized and integrated management at all.

## 2 Priorities of Chinese Internet Governance

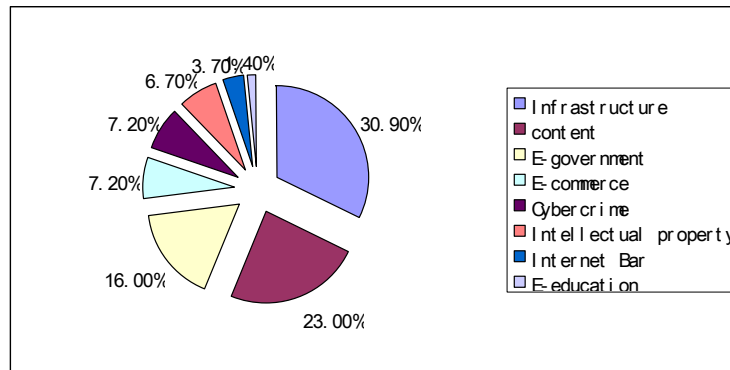


Figure 2: 8 aspects of internet laws and rules

We divided all those laws and regulations into 8 aspects. Among them, infrastructure (30.9%), content regulation (23.0%) and E-government (16.0%) are the top 3 dominant aspects. Since internet was first of all a kind of technology, laws and regulations on infrastructure are by nature increased much more than others, especially at the very beginning.

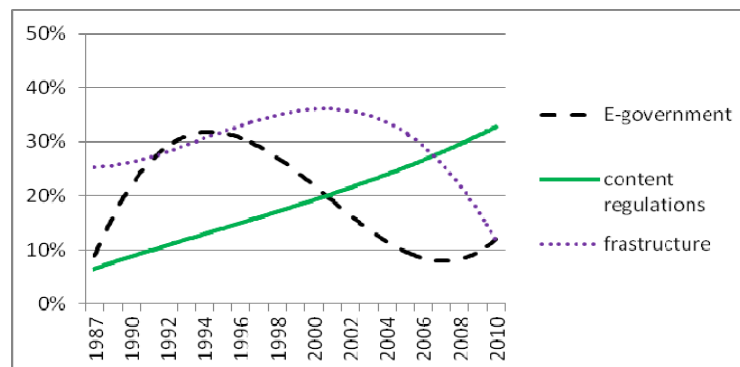


Figure 3: trends of laws on infrastructure, content and E-government

The above figure can tell us the trends of laws and regulations on infrastructure, content issue and E-government. The number of infrastructure laws reached to the peak in 2001 and then declined sharply because all the construction were almost completed in 2004. Content regulations and policies keep growing. E-government has been a major focus of concern since 1990. The project of government online was officially launched and 60% of authorities at all levels established their website in 1999. In 2005, since construction of websites for E-government were almost finished, the number of related laws and regulations decreased naturally.

Although the number of content regulations is second to that of infrastructure in total, it is in fact the most attention and has kept rapid growth. Since it is hard for China to learn from other countries in this aspect, many laws and regulations were made according to the then situation. As to China’s special political and social situation, content regulation will become the biggest problem for China.

## 3. Weakness of Chinese Internet Laws and Rules

Among the above mentioned 8 aspects, E-commerce rules need to be improved. Since 1995 the first rule on E-commerce by Chinese national bank, 31 related laws and regulations have been promulgated. But most of them focus on specific areas such as network lottery sales, virtual currency, online publishing, network commodity trading and electronic signature. What we need is a package of laws systematically covering the general principles of electronic commerce, online taxation, electronic payment systems, privacy, security, and technical standards, etc.

Compared with other countries, Chinese legal protection for minors has been taken very lightly. Among those 430 laws and regulations, there are only 7 related to protection for minors, which mainly on education and technical means to prevent minors from cyber harm. We really need high-level legislations to guide parents of minors and to regulate directly ICPs and ISPs related to the minor protection.



#### 4. Obligations & Rights of the Governed

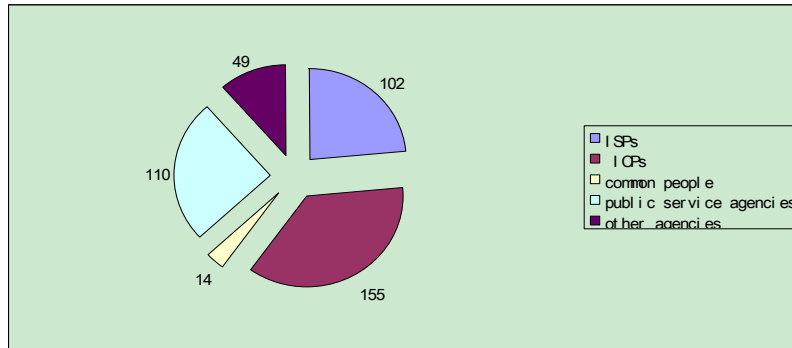


Figure 4: 5 categories of the governed

From figure 4 we can find that ICPs are imposed the most restrictions, then the ISPs and the public service sectors. There are very few laws related to civil rights protection. That's the result of administrative-oriented specification of Chinese internet governance which facilitates governmental management and control while with the lack of support and promotion of industrial development.

#### 5. Goals & Measures of Internet Governance

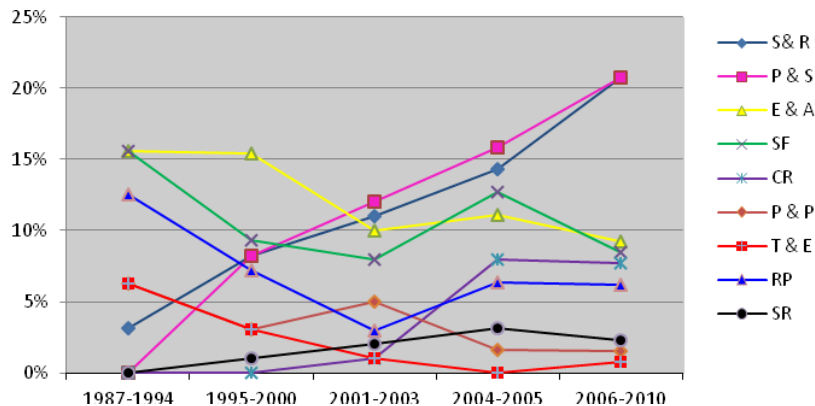


Figure 5: goals & measures of internet governance

All those 430 laws and rules were timely made with various goals and measures which can be categorized into nine in this research. From the above figure we can find that both S & R (support & reward) and P & S (punishment & sections) are practiced the most. CR (content regulation) and SR (self regulation) keep rising while other five measure gradually decline. It shows that the function of Chinese government has been changed from control to guidance and service step by step.

#### Conclusion

How to define internet? Technology? Media? Industry? Or public goods? What kind of laws and rules we really need? Technical laws? Media laws and policies? Industrial laws? Or Public laws? We need to define nature of Internet because different definitions may lead to different laws and rules.

In my opinion, contrast to the physical living space, internet is another living space, a digital living space. We need internet governance but it cannot be controlled only by the government. Governance refers to a process of interaction, cooperation and partnership between public and private. Besides laws and rules, we also need alternative choices, such as market competition and self-regulation.

In 2005, WSIS (the World Summit on the Information Society) adopted the following working definition of Internet Governance: Internet governance is the development and application by Governments, the private sector, and civil society, in their respective roles, of shared principles, norms, rules, decision-making procedures, and programs that shape the evolution and use of the Internet.<sup>11</sup> In China, there is a long way to go.

#### References

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