

## OPINION

## The Authoritarian Internet Power Grab

By Robert M. McDowell  
And Gordon M. Goldstein

The future of the internet could be at stake at a conference beginning this week in Tunisia, where diplomats from more than 100 countries will debate United Nations jurisdiction over the web. What emerges from the World Telecommunication Standardization Assembly will affect geopolitics and global economic growth, and possibly internet freedom for billions of users.

U.N. members will address cyber-crime, privacy and the potential regulation of internet companies, applications and content. Most important,

**The Internet of Things will be worth trillions by 2025. China wants centralized control.**

diplomats will discuss the emerging Internet of Things, which will soon connect tens of billions of devices and people to the global network.

A new navigational and addressing technology, Digital Object Architecture (DOA), could enable the real-time surveillance and tracking of each device and individual connected to the web. Some governments are advocating that DOA be the singular and mandatory addressing system for the Internet of Things. They also want this system to be centrally controlled by the U.N.'s International

Telecommunication Union, which has contractual rights to the underlying intellectual property.

At the meeting in Tunisia, China is working to join the leadership of the global study group on DOA and the Internet of Things, which the U.N. projects will generate \$6 trillion in global economic value by 2025.

DOA tracking tools could be integrated into industries ranging from aviation to pharmaceuticals. Such a system could also help governments mandate charges for any online financial transaction, such as through bank ATMs, credit-card payments, electronic money transfers or mobile banking. Such transaction taxes could upend the pace of investment and innovation in the internet space and distort global commerce.

The brewing conflict comes at a difficult moment. On Oct. 1, the Obama administration relinquished its legal oversight of the Internet Corporation for Assigned Names and Numbers (Icann), which manages the Domain Name System. The fight over Icann's future ended a decadeslong bipartisan consensus on how to protect an open internet. U.S. policy makers should put the Icann fight behind them and work together to think strategically about the emerging geopolitics of the internet and restore both unity and resolve to a fragmented American tech policy. At risk is the internet's technical architecture and regulatory structure, which scores of nations seek to bring under foreign government and multilateral control.

These latest developments are part of a broader shift in the rela-



all authority for Internet-related public policy issues is the sovereign right of States."

In April Russia's Vladimir Putin and the leaders of China and India issued a joint communiqué proclaiming "the need to internationalize Internet governance" and enhance the role of the U.N. Momentum, energy and numbers are on their side. As is bureaucratic power: A Chinese government diplomat is today the secretary-general of the U.N.'s International Telecommunication Union.

The first iteration of the privatized internet was conceived and controlled by the nongovernmental global technical community, civil society and the private economy, which unleashed the greatest wave of innovation in world history. The internet of the future, in contrast, may be shaped by foreign governments and the U.N. if countries like Russia, Iran, Saudi Arabia and China achieve their strategic objective.

America must quickly move beyond the divisive argument about Icann and regain its internet-policy footing. Many more consequential battles over internet freedom loom—conflicts that will shape the digital future. It is time for the U.S. to unify again behind a bipartisan vision and common strategy to safeguard internet freedom for tomorrow.

*Mr. McDowell, a former Republican commissioner of the Federal Communications Commission, is a senior fellow at the Hudson Institute. Mr. Goldstein, a Democrat, is an adjunct senior fellow at the Council on Foreign Relations.*

tionship between government and the internet. Countries such as Russia, Iran and Saudi Arabia are all pursuing a grand strategy to use international organizations, particularly the U.N., to control the digital future. The Tunisia conference is the latest in a series of efforts to expand the International Telecommunication Union's mandate beyond its historical function of telecommunications coordination.

Today's global fight over internet freedom started more than a decade ago. In 2003, China, Russia and other countries initiated a persistent and patient campaign to bring Icann under the control of the U.N. In 2012 the U.S. led a coalition of 55 countries that refused to sign a global treaty negotiated in Dubai that would have expanded the U.N.'s reach and power to shape how key aspects of the internet operate.

While the U.S. and some of its internet allies rejected the Dubai power grab, 89 other countries voted for more U.N. influence, including an enlarged role in "international Internet governance and for ensuring the stability, security and continuity of the existing Internet and its future development." That particular resolution was rammed through at 1:30 a.m. on the penultimate night of the conference—forcing the U.S. delegation, of which we were both members—to contest the conference's legitimacy and boycott its result.

In 2015 a coalition comprised of China and 134 other countries submitted a manifesto to another U.N. meeting insisting that national governments—rather than NGOs, civil society, consumers or business innovators—should dictate the digital future. The bloc declared that "over-

## Challenging China's Illegal Maritime Baselines

By Lynn Kuok

The U.S. Navy on Friday conducted a freedom of navigation operation (Fonop) near disputed features in the South China Sea, its fourth in the past year. A destroyer, the USS Decatur, sailed "in the vicinity of the Parcel Islands," close to but not within the 12-nautical-mile territorial limits of land features in the Paracels.

In past Fonops, U.S. warships sailed within the 12-nautical-mile zone of land features claimed by China and other countries in the region. Those operations challenged unlawful requirements that a warship seek prior authorization or provide advance notification to exercise innocent passage in territorial waters.

The latest operation was different. It broadened the target of U.S. Fonops in the South China Sea to include China's illegal straight baselines around the Paracels. Straight baselines join the outermost points of an island or a group of islands, and have the effect of enclosing the waters within them as "internal waters."

The USS Decatur's exact path wasn't specified, but a U.S. Defense Department spokesman confirmed in an email exchange that the vessel went through the Paracels, outside

of any 12-nautical-mile territorial sea generated by features. He also confirmed that the purpose of the operation was to challenge China's use of "straight baselines" around the Paracels.

Beijing promulgated geographical coordinates for straight baselines around the Paracels (and for most of the Chinese coastline) in May 1996. Three months later, the U.S. issued a written protest detailing its objections.

Under the 1982 United Nations Convention on the Law of the Sea (Unclos), only archipelagic states such as Indonesia and the Philippines can draw straight baselines joining the outermost points of the outermost islands in their archipelagos. Continental states such as China aren't permitted to employ straight baselines around midocean archipelagos. So even if China establishes sovereignty over the Paracels, which are also claimed by Taiwan and Vietnam, straight baselines cannot be drawn in this area.

Illegal straight baselines have real implications for the international community, since they adversely affect rights to use the ocean and airspace. Waters landward of a straight baseline are internal waters that may only be entered with a coastal

state's permission, except in situations of distress.

Beijing roundly condemned the latest U.S. operation, as it did the three preceding it. It accused the U.S. of sending a ship into Chinese "territorial waters" without permission. Beijing also sent vessels to shadow the USS Decatur.

**Signs suggest Beijing may be getting ready to claim more 'territorial waters' in the South China Sea.**

Sound and fury notwithstanding, interactions reportedly took place without incident. This allows cautious optimism that China won't allow responses to Fonops to spiral out of control.

In a report I published in June on the U.S. Freedom of Navigation Program, I argued that the U.S. should continue to regularly assert maritime rights in the South China Sea, including by conducting operations through the Paracels, to underscore the illegitimacy of China's straight baselines. The latest U.S. Fonop checks this box.

In future the U.S. and other countries with an interest in maintaining international law should also seek to exercise maritime rights through the Spratlys, a group of features located in the southern part of the South China Sea. China has thus far refrained from declaring straight baselines around the Spratlys, though Chinese diplomats in the past confirmed that Beijing was contemplating such a course.

Recent statements issued by China's Ministry of Foreign Affairs referred for the first time to "internal waters...based on Nanhai Zhudao," the South China Sea Islands. Though vague, this could suggest that China is preparing to announce straight baselines around the Spratly Island group.

A tribunal set up in accordance with Unclos in a case brought by the Philippines against China explicitly rejected the lawfulness of treating the Spratlys as a unit over which straight baselines can be drawn. If states exercise maritime freedoms through the Spratlys, it will demonstrate to Beijing that the international community won't countenance attempts to convert these waters into internal waters.

States should also assert maritime rights in respect to features that

were the subject of the tribunal's award. This means exercising the right of innocent passage within the territorial seas of features in the Spratlys identified as rocks by the tribunal, and high-seas freedoms around features identified as low-tide elevations or submerged features. This will give the award teeth and render it more difficult for China to ignore the ruling.

Some critics of U.S. Fonops complain that they haven't stopped China's island-building and construction activities on features it occupies in the South China Sea. This is akin to blaming a screwdriver for not being any good at driving a nail through a wall.

Fonops demonstrate the U.S. understanding of its maritime rights under international law so that these aren't lost over time. They won't stop Chinese activities, nor were they ever designed to do so. But such operations can help limit China's illegitimate attempts to control the waters of and air above the South China Sea. This will contribute to greater stability in the region.

*Ms. Kuok is a nonresident fellow at the Brookings Institution and a visiting fellow at Harvard Law School.*

## ObamaCare Comes Back to Haunt Evan Bayh in Indiana

By Allysia Finley

Indianapolis

Thomas Wolfe once wrote that you can't go home again, but Evan Bayh—a former two-term Democratic governor and U.S. senator from Indiana—is trying. After casting the deciding 60th vote for ObamaCare, Mr. Bayh retired in 2011 and cashed in as a fixer on Washington's K Street. Now he's running against Republican Rep. Todd Young—and his own liberal voting record—to reclaim the seat.

On Friday, the trim 60-year-old dropped by King Ribs Bar-B-Q in west Indianapolis for a retail campaign stop. After chatting with some customers (who admitted to being Democratic operatives after praising Mr. Bayh), the candidate spoke with a small gaggle of reporters. Within half an hour of arriving, he left with his

lunch packed to go. The Potemkin stop almost seems to be a metaphor for his campaign.

Like many former members of Congress, Mr. Bayh made a lucrative second career out of lobbying. Since January 2015, he has been paid \$4 million by the lobbying firm McGuireWoods and private-equity company Apollo Global Management. For the record: Mr. Bayh denies that he was a lobbyist. His post-Senate work "assisted a great number of Hoosiers," he told me.

Not least of which himself. Financial disclosure forms show that his family's assets have soared since he left office. He now owns two multimillion-dollar homes in D.C. as well as a beachfront penthouse condo in Key Biscayne, Fla. He has maintained a small crash pad in Indianapolis. Home is where the heart is, and this race will hinge on whether

voters believe Mr. Bayh is still a Hoosier at heart.

When New York Sen. Chuck Schumer, who hopes to become the next Senate majority leader, lobbied Mr. Bayh to run for the seat being vacated by Republican Dan Coats, it was an ingenious play: Mr. Bayh already had \$10 million in campaign cash left from his years in office.

Mr. Bayh also comes with what they call high favorables. His family has deep state roots—his father, Birch, was a U.S. senator from 1963 to 1981—and he is often accorded the sort of fawning press coverage paid to royalty. In 1995, local TV stations aired live updates on the birth of his twin sons, who were raised in D.C. and now attend Harvard.

After Mr. Bayh joined the Democratic ticket in July, a GOP lock became a likely Democratic pickup. One poll by a Democratic-leaning pollster showed Mr. Bayh leading by 21 points.

But polls have tightened markedly as Mr. Young has reminded voters of Mr. Bayh's second career in Washington and his vote for ObamaCare. As Mr. Young noted at a debate last week, health-insurance premiums have skyrocketed and insurers are begging to be bailed out.

Mr. Bayh counterpunched that his Republican opponent wanted to return to the days when health insurers could charge women more, deny coverage to people with pre-existing conditions and strip benefits from 370,000 low-income Hoosiers. He also claimed that Mr. Young wanted to "privatize Social Security" and increase annual Medicare premiums by \$6,000.

These are the standard assault weapons that Democrats use to distort the positions of Republicans who support entitlement reforms. For instance, Mr. Young in 2013 supported

Paul Ryan's budget that would convert Medicaid into a block grant and Medicare into a premium support system. But it's ironic that the self-described "fiscal conservative" is attacking Mr. Young for being one.

Two decades ago, Mr. Bayh governed as a moderate Democrat in the mold of Bill Clinton. In 1996, he assailed Washington for requiring states to spend more on programs like Medicaid and for shifting acid-rain cleanup costs to state-utility consumers. Mr. Bayh is now touting the tax cuts, welfare reform and a middle-class scholarship program (which Gov. Mike Pence renamed in his honor) that he signed while governor.

Yet as the Democratic Party lurched left, so did Mr. Bayh. During his last years in office, Mr. Bayh voted for every significant piece of liberal legislation, including the stimulus, ObamaCare, Dodd-Frank and the Lilly Ledbetter Fair Pay Act (a sop to trial lawyers).

Thus he's now trying to persuade voters that his values and politics haven't changed. One ad shows the Democrat—with the tagline "fiscal conservative-Hoosier values"—playing hoops in his backyard with his Harvard-enrolled sons, who are wearing Indiana Pacers and Indiana State Sycamores T-shirts.

His Republican opponent, a former U.S. Marine, has earned a reputation in Congress as a straight shooter by meeting with and advocating for Hoosier businesses. On Friday morning, Mr. Young received a "Friends of Farm Bureau" award at a small radish farm in Bloomington, where he marveled at an unusual green tubular variety.

The rustic Republican wasn't being honored for his support of ag subsidies—Mr. Bayh has whacked him for wanting to abolish the etha-

nol mandate. Instead, the farmers praised Rep. Young for backing a repeal of the federal estate tax and the Waters of the U.S. regulation, which gives the Environmental Protection Agency jurisdiction over puddles, ditches and prairie potholes.

Mr. Young's biggest liability may be that, like the radish, he's green and rough around the edges. While articulate, he isn't as practiced as Mr. Bayh. In last week's debate, he left many of Mr. Bayh's spurious attacks unanswered.

Most recent polls show Mr. Bayh with a narrow lead. A new one by WISH-TV has both Donald Trump and Mr. Bayh ahead by six. Hoosiers are known for splitting tickets. Mr. Bayh won re-election by 25 percentage points in 2004 even as George W. Bush swept the state in a 20-point landslide. The Democrat needs Trump voters to cast their ballots for him. Hence, the National Education Association is airing ads accusing Mr. Young of voting to protect tax breaks for companies that ship jobs overseas.

It's also notable that Mr. Bayh has been reluctant to criticize Mr. Trump even as his campaign has tried to bait Mr. Young into doing the same. When I asked what he thinks about the Republican nominee, Mr. Bayh replied that "I am not focused on the presidential race" and it's "unfortunate that all of these political races have gotten so negative."

While Mr. Young may be down in the polls, the past could be a portent: In 1980, a strong turnout among white, working-class voters for Ronald Reagan helped the fresh-faced Republican Congressman Dan Quayle defeat Mr. Bayh's incumbent father to claim his Senate seat.

*Ms. Finley is an editorial writer for the Journal.*

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