Internet Governance in the Global South: History, Theory, and Contemporary Debates

Oppermann, Daniel (Ed.)

Veröffentlichungsversion / Published Version
Sammelwerk / collection

INTERNET GOVERNANCE IN THE GLOBAL SOUTH

HISTORY, THEORY, AND CONTEMPORARY DEBATES

Edited by
DANIEL OPPERMANN

Internet Governance in the Global South

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Núcleo de Pesquisa em Relações Internacionais (NUPRI)
Universidade de São Paulo (USP)
São Paulo, Brasil

Published in 2018 by
International Relations Research Center
Núcleo de Pesquisa em Relações Internacionais (NUPRI)
University of São Paulo
Brazil

Núcleo de Pesquisa em Relações Internacionais (NUPRI)
Rua do Anfiteatro 181
Colméia Favo 7
Cidade Universitária
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www.nupri.com.br
www.usp.br/nupri/

Cover photography: Muhammad Taha Ibrahim

ISBN 978-3-00-061624-2

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Content

Preface

Internet Governance research embraces an increasing number of aspects, academic disciplines, and theoretical approaches. The quantity of global and local events, publications, and debates surrounding Internet Governance has grown after the WSIS process in 2003-2005. Since then, political, economic and social disparities of the world have also left their marks on the debates surrounding the Internet. Analyzing Internet Governance could, on the one hand, be a technical process of applying research methods to a defined question which at first sight might not be bound to geographical specifications. However, it is also part of a social reality and the environment in which research, analysis, and policy development are taking place. There are tremendous differences mostly defined by political and economic structures of the respective countries and also by structural and social differences within countries and regions. The disposability of financial resources and infrastructure does not only impact research environments, it also contributes to local, regional and global agenda settings.

A very common and also broad approach to characterize the differentiation among certain parts of the world is the categorization into South and North of the planet in which South embraces mostly what was formerly understood as “developing countries” not to mention more degrading terms like “third” or “fourth” world. But why degrading, one might ask, if looking at the origin and original meaning of the terms. A question that will be discussed in the beginning of this publication, a historical and conceptual debate on the meaning of the Global South.

When we discuss the Global South, there is always the challenge how to include the vast variety of countries and cultures of mostly three continents into a single concept, which comprises remarkable internal differences itself. The Global South as a region is the geographical and political focus of this publication to discuss Internet Governance from and about geographically specific but also diversified points of view. The different chapters are approaching debates on Internet Governance in the Global South and also topics that are specific to many countries in the region like challenges of political and

economic participation, impacts of colonialism, access to information, cultural diversity, infrastructural difficulties, security discourses and more.

The Global South, despite being a largely diversified region, has certain characteristics in common. The heritage of colonization and/or recent authoritarian forms of government in many of its countries have left a mark on the political, economic and social development that are challenging countries and their populations until today. While some countries have shown tremendous economic success, others are still struggling with basic infrastructure and further daily necessities. Independently of their individual situation, all countries are somehow connected to the Internet, and many are interested in participating in local and global debates on Internet Governance. Some are approaching Internet Governance research within institutional frameworks, others are still lacking the necessary structures or resources that allow them to act in the same way. To improve the access and debates on Internet Governance in different parts of the world, this publication includes contributions in three different languages, being Portuguese, Spanish and English. While this step was taken to enhance multilingualism in line with our own possibilities, a critical reflection leads to the awareness, that even more needs to be done to reach contributors from a wider number of countries in the South to participate in future publications on the topic.

The publication is divided into two parts. The first part concentrates on a number of historical and theoretical or conceptual approaches to Internet Governance. The second part has a strong focus on contemporary debates concerning selected issues of the field.

The historical and theoretical contributions are initiated by a discussion regarding the Global South as a region, its historical formation in the context of decolonization, the debates on the New International Economic Order (NIEO), the New International Information and Communication Order (NIICO), and the political turn to a neoliberal agenda in which Internet Governance was developed (Oppermann). The challenges of Southern countries to participate politically and economically in this environment are then addressed and contextualized through different theoretical frameworks including International Political Economy and global International Relations, combined with a discussion on strategies and ambitions of countries in the Global South to advance their own insertion in Internet Governance (Chenou, Rojas Fuerte). Internet Governance itself as a concept from a historical perspective, including processes of institutionalization, is then addressed by Canabarro, together with a discussion of the NetMundial meeting in

Brazil as a consequence of the Snowden revelations and the NSA affair. The extensive global surveillance of Internet users including governments and other organizations by the USA and some of their allies in other parts of the world increased the debates on online privacy and also on topics including power, influence and global constellations that brought questions about new forms of colonialism on the agenda. Colonization in the digital age is a topic of growing importance, especially but not only in the South, and so is the discussion on decolonization. Emanating from the debate on decolonial computing, Ali is addressing Internet Governance and the need for its decolonization. He does so by critically analyzing the North-centric discourse of Internet Governance, thus bringing a new perspective to the debates. He is then followed by Gonzales, who develops a theoretical debate on ideology, the information revolution and its impacts on and correlations with a number of manifestations that occurred in several countries in the year 2011, including Egypt, Tunisia, and others.

The debates on historical and theoretical approaches are then followed by contributions on contemporary Internet Governance issues in the Global South. This part is initiated by two chapters discussing economic and political challenges related to the Domain Name System in Southern countries. While White is discussing generic top level domains and ICANN's new gTLD program in the Global South, Aguerre is focussing on the ccTLD environment in the South, in particular in Latin America. They are followed by a chapter on South Africa's policy framework on ICT and Internet Governance, mostly represented by the 2016 ICT White Paper, which in combination with the 2015 draft cybersecurity bill forms the current foundation for many Internet Governance debates in the country. In this context, the three authors (Darch, Adams, Yu) also reflect on the questions of governmental control, multilateralism and multistakeholderism as forms of governance and participation. The following chapter picks up the topic of participation in Internet Governance processes, albeit from a different perspective. Lobato addresses the problem of regional inequality within countries, pointing out the situation of less connected rural areas in Amazonia, in the North of Brazil. She discusses central aspects like infrastructure, access costs, and digital illiteracy and also presents possible solutions for regional integration like access programs and major national events in the regions like the Brazilian Internet Forum which took place in the North of the country in 2013. How lower national access rates are no obstacle for putting the Internet on the national political and security agenda is then clarified by Workneh and the case of Ethiopia. With

a national Internet access rate of about 15% and confronted with infrastructural challenges to increase this number, the country is currently following an Internet securitization debate in the context of a dispute over political opposition that often falls under the label of "terrorism". In this chapter, Workneh discusses how the Northern discourse on a so-called "global war on terrorism" impacts the right to freedom of speech online in Ethiopia and how it increases concerns over online participation and privacy rights. Privacy and participation are also addressed in the concluding chapter of this publication developed by Kemer. She discusses privacy rights in the context of International Law and the Universal Declaration of Human Rights, followed by an analysis of the standpoints of the Brazilian government under Dilma Rousseff on privacy and online participation after the NSA surveillance activities were revealed.

Finally, I would like to thank everyone who has contributed to this publication which are particularly all the authors who have not just written and reviewed but also taken the time to critically discuss their chapters. And a very special thanks goes to NUPRI director Professor Dr. Rafael Antonio Duarte Villa for his enduring support which made this publication possible. ¡Muchas gracias!

Daniel Oppermann

PART I

History and Theory

From Bandung to the DNS

Daniel Oppermann

In April 1955, the heads of states of 29 African and Asian countries met in the Indonesian city of Bandung for the Bandung Conference, the first African-Asian intercontinental conference, officially called Asian-African Conference (AAC), also known as "the first intercontinental conference of coloured peoples in the history of mankind", as Indonesia's head of state and host of the meeting, President Sukarno, pointed out in his welcome speech. From 18 to 24 April that year, the Indonesian government together with the heads of states from Burma, Ceylon, India and Pakistan (also called the sponsoring countries of Bandung) received leaders including Presidents, Kings and Prime Ministers from another 24 Asian and African countries to initiate new forms of cooperation among newly independent states[1] (ASSIE-LUMUMBA, 2015; DIRLIK, 2015; PHILLIPS, 2016; SHIMAZU, 2014). For centuries, the countries participating in Bandung were held under European colonial rule which blocked their economic, cultural and political development and created a global imbalance benefitting development in basically all sectors of European societies or the West as a whole, meaning the European continent (mostly its Western countries) and parts of North America. While Latin America and the Caribbean (the LAC region) were not present at Bandung these countries later joined the movements and organizations of what today is known as the Global South and which will be discussed throughout this chapter. The objective of the chapter is to draw a historical line from the processes of decolonization in the Global South to the discourses and the ecosystem of Internet Governance. The following pages will provide a discussion of the Global South as a historical concept and a geographical region and its way through some of the most crucial steps and negotiations in the context of economic and communication disputes of the 20th century. The chapter will conclude with a critical

[1] The list of all 29 participating countries in Bandung is Afghanistan, Burma (Myanmar), Cambodia, China, Ceylon (Sri Lanka), Egypt, Ethiopia, Gold Coast (since 1957: Ghana), India, Indonesia, Iran, Iraq, Japan, Jordan, Laos, Lebanon, Liberia, Libya, Nepal, Pakistan, Philippines, Saudi Arabia, Sudan, Syria, Thailand, Turkey, Vietnam (both the Democratic Republic of Vietnam and the State of Vietnam), Yemen.

reflection on the situation of Southern countries and actors in the current Internet Governance environment.

The Historical Background

Different theoretical approaches are trying to explain the status quo of economic development before 1492 when European rulers initiated the invasion and colonization of first the Americas followed later by the colonization of the African and Asian continents. James M. Blaut (1992) argued that all three regions, Africa, Asia and Europe were on the same level of economic and cultural development when Europeans first took over lands on the American continent. He denied

> "that Europeans had any advantage over Africans and Asians prior to 1492 as regards the evolutionary processes leading toward capitalism and modernity. Medieval Europe was no more advanced or progressive than medieval Africa and medieval Asia, and had no special potentialities - no unique gift of 'rationality' or 'venturesomeness'." (BLAUT, 1992, p.2f)

Blaut justified his argument by indicating the lack of evidence regarding a European singularity of economic and structural changes in pre-capitalist (and pre-colonial) centuries. In other words, while agreeing with the evidence that structural changes were in deed taking place in Europe he questioned if these or similar changes were not also taking place outside of Europe at the same time (Ibid., p.6). He furthermore pointed out, that structural changes in Europe might have been a reaction to similar changes in other parts of the world. Following this notion, the existence of similar or more advanced societies could have impacted economic transformations in Europe long before the 15th century.

Following Blaut's analysis, protocapitalist centers have existed on all three continents as well as trade networks among them:

> "On all three continents there were centers of incipient capitalism, protocapitalism, most of them highly urbanized, and most of them seaports. (...) The mercantile-maritime, protocapitalist centers of the Eastern Hemisphere were connected tightly with one another in networks -

> ultimately a single network - along which flowed material things, people, and ideas (...). The links had been forged over many centuries: some were in place even in the days when China traded with Rome. By 1492, these centers were so closely interlinked that the growth and prosperity of each of them was highly dependent on that of many others; ultimately, on all of them. By 1492, the centers had become, in many ways, little capitalist societies." (Ibid., p.25f)

The reason, European sailors arrived on the American coast before African or Asian ships took the same way was simply a question of geography. Other relevant sea ports in Africa and Asia were therefore more distant from the American continent (Ibid., p.30). Consequently, it was location that gave Europe the advantage to grow from the exploitation of the Americas which in turn was decisive for the later colonization of the African and Asian continents.

> "After 1492, Europeans came to dominate the world, and they did so because 1492 inaugurated a set of world-historical processes which gave to European protocapitalists enough capital and power to dissolve feudalism in their own region and begin the destruction of competing protocapitalist communities everywhere else." (Ibid., p.2)

When a few centuries later the first countries had received back their freedom from European dominance the situation was of a completely different nature. Generations of Western colonial rule had not just created elevated wealth in one part of the world, it had also damaged if not destroyed economic, political and social structures in most of the other parts and created an imbalance that the colonized regions would struggle with for generations to come. A process that until today is widely ignored in the West where the relation between colonization in the past and structural challenges in the present are frequently overlooked if not negated. The foundation of today's global economic inequalities (as well as social and political) which is often referred to in the discourses on "developing countries", "underdevelopment" and also in the context of the South-North debates was set already in the 15th and 17th century. Following Blaut, the "world's landscapes were now uneven. They have remained so ever since." (Ibid., p.2).

Bandung and Eurocentric Academia

The Bandung conference in 1955, as a moment of liberation for large parts of the world population from Western rule, also stands symbolically for a new chapter in both the studies and practice of International Relations. As an academic field of analysis, investigation and theory building, International Relations, just as other social sciences, has always followed basically Western or Eurocentric points of view (and does so until today). The fact that Bandung, as a symbolic moment in history for large parts of Southern countries was not just considered a threat by Western powers but has also received little attention in International Relations and other social science debates over the following decades, underlines the issue of Eurocentrism (or Western-Centrism) in this academic field. “Given the occasion — its scale, prominence and novelty, and the media attention it attracted — it is surprising how little attention Bandung has received in conventional international histories of the twentieth century.” (DEVETAK; DUNNE; NURHAYATI, p.361).

The challenging question of how to handle this situation in academia is partly reflected in the contributions of Amitav Acharya concerning what he calls Global International Relations (global IR), a possible extension of the current Eurocentric (or West-centric) tradition. "Global IR is not a theory or method, but a framework of enquiry and analysis of IR in all its diversity, especially with due recognition of the experiences, voices and agency of non-Western peoples, societies and states that have been marginalised in the discipline of IR." (ACHARYA, 2016, p.343f). In his 2014 article for International Studies Quarterly, Acharya exemplifies this discrepancy by consulting the example of a Kolkata-based college in the early 19th century in which British professors (Sahibs), their ideas and traditions were considered to be of higher relevance than local Indian professors (Munshis).

Following Acharya, many researchers in Non-Western societies tend to consider the history of traditional International Relations to be a replay of the Sahibs and Munshis environment, especially since Western academics, institutions and publications are dominating agenda setting while Non-Western regions or the Global South are considered to be their objects of analysis or markets for Western ideas (ACHARYA, 2014, p.648). This observation meets very well with Connells critical approach to so-called “classical theories” in sociology and knowledge production in Western/Northern vs Non-Western/Southern societies (CONNELL 1997., Ibid. 2014), just as Quijano’s analysis

of Eurocentric knowledge production and proliferation (QUIJANO, 2000, p.549f). Interestingly, also Southern academia has its part in this question by often ignoring their own or analysts from their neighboring countries while Western/Northern voices are frequently considered to be of superior importance.

Bandung, as a crucial - if not *the* crucial - event for the Global South in the 20th century, would therefore receive the suitable attention in a global IR approach. Also, following Acharya, global IR "does not reject mainstream theories, but challenges their parochialism and urges that they be infused and broadened with ideas, experiences and insights from the non-Western world." (ACHARYA, 2016, p.344). This means a stronger inclusion and investigation of non-Western actors within the context of traditional IR debates as well as processes challenging traditional Eurocentric views on history, colonialism and the respective political research within Western traditions or coming from a "temporally dominant Western civilisation" (Ibid., p.344). The idea of a global IR approach is relatively young but is very likely to receive further attention after the upcoming publication of Acharya and Buzan in one of the traditional Western publishing houses in 2019. An interesting question is to what degree Southern academics or societies will accept this attempt to "include" them into a Western academic tradition by making them an extended part of it.

When discussing the Global South we need to take into consideration that also this concept is going back to a Eurocentric or Western-Centric view in Social Science, in Political Science and in International Relations. When scholars of IR and related areas simply speak about "the world" they refer principally to the Western world, mostly Europe and North-America, or political actions going out from that part of the planet. Other parts of the world are considered to be regions to look upon, case studies to investigate. Some countries are simply "countries" (and they are usually located in the North). Other countries are "developing countries", "underdeveloped countries" or even "least developed countries". Some countries are simply cooperating with other countries. Some countries are having South-South cooperations. Whenever Southern countries are involved they get labeled in a certain manner, being the South, developing countries, emerging countries and similar. And it is not exclusively the North that is using such labels. Also in the South, researchers and policy-makers adapted to using the South-terms while in the Northern or Eurocentric discourses more generic expressions like "international" are used (international cooperation, international relations etc), also

when in fact only Northern states or actors are involved. There is no serious discourse on North-North relations, North-North cooperation or similar. A more common term is that of "transatlantic relations" which however is also not referred to as North-North relations. The Global South, today a concept of its own, became widely used in analytical and also political discourses over the years. As a regional definition it comprises more than the Southern hemisphere. As a political definition, it is related to political, economic and social discourses on the so-called "Third World" and on the debates concerning so-called "developing countries" or "underdeveloped countries" whereas development is often measured by Western living standards.

The "Third World"

The concept of the "Third World" that would define a larger number of debates over the decades following Bandung was coined already before the meeting of the AAC when in 1952 the French sociologist Alfred Sauvy mentioned in his article "Trois Mondes, Une Planète" for the French journal L´Observateur the categorization of the three worlds, being a capitalist first, a communist second and an "underdeveloped" third world, as he called it (SAUVY, 1986, p.81). Sauvy's categorization of the different worlds, which he had shortly addressed the year before in a Brazilian publication already (SOLARZ, 2012, p.1561f), was used throughout a wide debate about political and economic standards and developments over the following decades. A debate, that in fact is still going on and which has created countless institutions on the international and national levels, among them development research and policy organizations and programs, academic degree programs, journals and more. Part of this debate is also the frequently recurring question why it was the capitalist world that was put on the first position (First World) while the Southern so-called "underdeveloped" countries were put in the third and last position. A classification that generations of analysts, activists and policy-makers would argue about and which would in fact negatively impact the attitude of millions of people in Southern countries who turned the term "Third World" into a frequently used expression to verbally degrade themselves and Southern countries as the last or worst place on earth to be. By looking at the original writings of Sauvy however, it becomes clear that he was on the one hand, creating the labels as described above, on the other hand though, also putting Southern "underdeveloped" countries in the position of "the

most important" countries, "the first in chronological order" and called them "this third or this first world"[2] (SAUVY, 1986, p.81).

While Sauvy's categorization of the three worlds is considered to be the origin for academic and policy debates on "Third World" politics (at least in terms of conceptualization), Solarz has pointed out that even before Sauvy others have used similar terms in different meanings not related to the debates on the global South (SOLARZ, 2012, p.1562). Following Solarz' historical analysis of the conceptualization of the "Third World" it becomes clear that the idea to present Southern countries as a third political force (partly) besides the capitalist and the communist blocs was successful only in the first years after Bandung while in the 1960s and 1970s the "Third World" was mostly associated with the discourse on economic (under)development (Ibid., p.1563). Solarz therefore defined the "Third World" in 2012 as follows: "The dominant interpretation of the concept 'Third World' at the present time is economic or socioeconomic, focusing on the phenomenon of underdevelopment. Thus in general the Third World is currently taken to mean poor, undeveloped countries with an unsatisfactory quality of life." (Ibid., p.1563).

While the overall approach of this definition can be agreed upon (putting a focus on economic and socioeconomic factors), there are (at least) two things that need to be looked at.

1) It should be questioned if the term "Third World" is actually still appropriate today given the fact that the 1990s have fundamentally changed global constellations removing or replacing certain actors from the global stage (especially the so-called but never seriously termed "Second World"), and then prominently positioned new actors in new places, including some that were considered to be part of the "Third World" before. The historical conceptualization and the end of the "Third World" as a concept was elaborately discussed throughout the years including valuable contributions by Berger (1994), Tomlinson (2003), Randall (2004), Alburquerque Fuschini (2015), and Kalter (2017).

[2] "Nous parlons volontiers des deux mondes en présence, de leur guerre possible, de leur coexistence, etc., oubliant trop souvent qu'il en existe un troisième, le plus important, et en somme, le premier dans la chronologie. (...) Sans ce troisième ou ce premier monde, la coexistence des deux autres ne poserait pas de grand problème."

2) The suggestion that the (now even more heterogeneous) “Third World” would consist of “poor, undeveloped countries with an unsatisfactory quality of life” places the question which countries are considered to be part of this “Third World” concept and how to understand “undeveloped” and “unsatisfactory quality of life”. Which countries in the world could be labeled as “undeveloped”? If there was anything like being “undeveloped” at all, then surely most (if not all) Latin American countries or the LAC region as a whole would not be part of this concept and also many Asian and African countries would not. In the 21st century, there are relatively few countries in the world that would fit somehow into the category of being completely “undeveloped” in the sense of having no structures whatsoever. In several cases, the actual question regarding many “Third World” countries is the distribution of wealth and goods within the countries (besides other factors). Many (if not most) of the so-called “Third World” countries have middle classes that are consuming the same, partly the same or similar products like middle class citizens in the West (although not necessarily in the same size or quantity). This also includes countries from the UNDP LDC list like Angola, Cambodia, Liberia, Rwanda and others. The question is not of being “undeveloped” but largely of distribution of wealth and having strategic public (and also private) investments (besides other factors depending on the individual countries). Also, “unsatisfactory quality of life” is a very vague variable which not only depends on the expectations or consumer habits of the individual but also on the standards that are considered as the status quo. Living in countries with massive problems of urban violence does not automatically result in “unsatisfactory quality of life” for the population as a whole. Countries with high infant mortality rates on the one hand can be regional leaders in information technology access on the other hand. Also here, the question of distribution of resources is of central importance. Without going deeper into the discussion of individual differences among Southern countries it becomes clear that the “Third World” as defined above does not exist (any longer). In fact, an interesting question to investigate could be to what degree the “Third World industry” including organizations, programs and journals, is keeping the term alive.

The Non-Aligned Movement

Another important discourse to understand today's concept of the Global South is about the Non-Aligned Movement (NAM). It is closely related to the concept of categorizing the world into different groups of states which was reflected also in the discourse on the first, second and third world. The objective of defending newly received independence drove a large number of states towards the idea of being independent also from future influence of the main powers of the mid 20th century being the capitalist bloc, led by the United States of America, and the communist bloc, led by the Soviet Union. "Structured by the desire to maintain a careful distance from superpower alliances in the interests of world peace, the movement of unaligned or non-aligned states would first take shape in a series of conferences that began with a meeting (...) in the town of Brioni in July 1956." (ABRAHAM, 2008, p.211). The ambition of not being aligned to any of the existing blocs was present already in Bandung which Worsley also called the meeting of the Afro-Asian Non-aligned movement (WORSLEY, 2008, p.133). At that moment, however, the non-aligned states had not officially created such a movement but which was going to happen over the following years. A key moment in that founding process was the meeting of the three state leaders from Yugoslavia (Josip Broz Tito), Egypt (Gamal Abdel Nasser) and India (Jawaharlal Nehru) in the year after Bandung. Nehru and Tito, who had converged already several times since the 1940s (MIŠKOVIĆ 2009), together with Nasser are considered to be the founding figures of the NAM. The exact date of the foundation, however, is disputed in the literature. While the July 1956 meeting of the three leaders in Yugoslavia and especially the Brioni Declaration of 19 July 1956 are often considered to be the official starting points of the movement, the Brioni gathering was by some also considered simply an informal meeting that was later followed by an official congress being the first Conference of Heads of State or Government of Non-Aligned Countries in Belgrade in September 1961 (ADEBAJO, 2016, p.1192; DA SILVA, SPOHR, DA SILVEIRA, 2016, p.173). Non-alignment as a concept and as an expression was used by India's Prime Minister Nehru already in the late 1940s (LÜTHI, 2016, p.203). It was then also included in Tito's and Nehru's joint statement signed on 22 December 1954. The statement

> "articulated the aspirations of the new and emerging force in the international system — the non-engaged countries. In the statement, the two leaders declared their intention to 'devote their energies . . . toward the

> advancement of peace through negotiations, and reconciliation as the means for the resolution of international conflicts.' Tito and Nehru also clarified that 'the policy of non-alignment with blocs, which they pursue, does not represent *neutrality* or *neutralism*; neither does it represent passivity as is sometimes alleged. It represents the positive, active and constructive policy that, as its goal, has collective peace as the foundation of collective security.'" (RAJAK, 2014, p.167f)

Over the following decades, the original number of 25 member states expanded to over 120. And also the agenda of the movement saw increasing challenges, including initially the positioning of the newly independent states within the international system and the handling of conflicts with the larger powers of the Cold War, anti-colonialism and decolonization and later a stronger focus on economic development (Tomlinson, 2003, p.309f).

The Group of 77

The networks set up in the times of the initial Bandung conference and the movement of non-aligned states also led to the establishment of a respective group within the United Nations system. Three years after the first NAM conference in Belgrade, a larger number of governments, mostly from formerly colonized countries, carried their collective experience into the United Nations where they formed the Group of 77 or G77 (LUMUMBA-KASONGO, 2015, p.11). The experience of colonial rule and oppression forced upon them by European governments over the previous centuries was reflected already in the 1955 Final Communiqué of Bandung which addressed the need for economic development for the newly independent states in the South, besides cultural cooperation and the demand to end colonialism on a global scale. "Within the United Nations, the Group of 77 was formed to pursue nonalignment as a way of consolidating strong ties among the states, which were either formally colonized by the Western powers or those with economic and political characteristics of the Global South." (Ibid., p.11). Over the years, the G77 set up chapters in a number of strategic places including Geneva, Rome, Nairobi and Washington D.C. to directly address specific UN offices in those regions.

The group's 1964 Joint Declaration of the Seventy-Seven Developing Countries[3] picked up and elaborated on the demand for economic development for the community of "developing countries" as was emphasized in the document. The approach used by the G77 was much wider than Bandung and the NAM. It fully included countries from Africa, Asia and South America and came much closer to what is known today as the Global South, remembering that Bandung had a focus on Africa and Asia and the NAM had members from Africa, Asia and Latin America/Caribbean but differentiated between member and observer states. Against this background, the G77 is often used today as an institutional reference of the Global South.

The Joint Declaration was presented at the end of the first United Nations Conference on Trade and Development (UNCTAD) on 15 June 1964 by representatives of the 77 governments. It addressed the need for new trade policies that would consider the situation of the so-called "developing countries" (FREEMAN, 2017, p.74). This included the demand for a new and just world economic order underlining the importance to end "the division of the world into areas of affluence and intolerable poverty." (G77, 1964). A task described in the declaration as an "outstanding challenge of our times" caused by "injustice and neglect of centuries" (Ibid.). Following Freeman, the G77 "sought to unite as a political bloc in order to try to change the international economic system through the then new international organizations of global governance, particularly the United Nations." (FREEMAN, 2017, p.72). One of the principle activities of the G77 countries was to advocate "reform of the laws governing international economic relations that reflected their post-colonial demands for control over economic activity within their own borders; for participation in the governance of the globalizing economy; for fair access to technology, international trade, finance and investment (...)." (SALOMON, 2013, p.36). These efforts included the 1974 Declaration on the Establishment of a New International Economic Order (NIEO) which was discussed in-depth by Golub (2013), Salomon (2013), Toye (2014) and others.

As stated before, the G77 often serves as a principal reference in international politics when academics, analysts and policy-makers are discussing interests and concerns of

[3] Interestingly to note is the difference of seventy-five vs seventy-seven countries in the text of the 1964 G77 Joint Declaration which goes back to an earlier version of the document from 1963 when the number of "developing" countries at the UN was still 75. Since then, the membership of the G77 has increased to over 130 but continues to convene under the same name. The latest membership list can be accessed at G77.org.

the Global South. At the same time, however, the Global South needs to be understood as a wider concept, more than a geographical region or a group of states based on membership declarations. The geographical term of the Global South being an equivalent of the Southern hemisphere is not applicable. Or to be more precise: it is completely wrong. Taking the equator as a separating line between the Northern and the Southern hemisphere, most countries that are today part of G77 and/or what is considered the Global South are located in the Northern hemisphere. This includes India, Egypt and (former) Yugoslavia, the three founding actors of the NAM. And while Bandung is indeed located in the Southern hemisphere, the majority of the 25 participating countries in the AAC were not. Also, one of the largest countries in the Southern hemisphere (in terms of square meters) is Australia which is not considered to be part of the Global South.

The Global South cannot be defined as an absolute category comprising an exact number of states. It is not a precisely defined group of countries or actors, although the G77, as it is today, comes close to it. The Global South can be understood as a political concept, as a reflection and a conceptual result of a historical process that goes back to the first Asian-African Conference in Bandung in 1955, to the Non-Aligned Movement that was initiated in the same period, and to the institutionalization of its supporters in the G77 in 1964.

The New International Economic Order

Decolonization and political sovereignty were key aspects for countries of the Global South during the main phases of the Bandung and the NAM processes. This was also reflected in debates on economic and social development during the second half of the 20th century. For newly independent states in Asia and Africa but also for other countries in the Global South (like the LAC region) a central objective was to approach and to resolve economic disadvantages caused by centuries of Western domination and colonial rule. The objective to overcome economic inequality between South and North was very much reflected in the debates on the New International Economic Order (NIEO) that took place at the UN in the 1970s to create “an alternative order of global economic integration in which countries in the south could catch up with the economic achievements of the north” (GILMAN, 2015, p.4). Through the NIEO debates and a number of UN resolutions governments in the Global South tried to address the problems of global economic inequality and had to face objections of a number of Northern

governments that showed little if any interest in actively setting up equal economic conditions for countries in the South (ANGHIE, 2015; BENJAMIN, 2015).

The May 1974 UN resolution 3201 called "Declaration on the Establishment of a New International Economic Order" indicated some of the underlying conceptions of the NIEO like the objectives to "correct inequalities and redress existing injustices, make it possible to eliminate the widening gap between the developed and the developing countries and ensure steadily accelerating economic and social development and peace and justice for present and future generations (...)"(UNITED NATIONS, 1974a). Besides that, the resolution criticized that remainders of colonial rule, foreign occupation and neo-colonialism were still hindering countries in the Global South to improve their economic performance, also because benefits of technological progress did not reach Southern countries. Economic inequalities between South and North were therefore increasing. Changing global economic constellations of a system set up during Western colonial rule over the South was considered a solution by supporters of the NIEO.

In the 1970s, this debate was to a large part focusing on raw materials and natural resources that were (and still are) considered key aspects for economic development in several Southern countries. Also, economic domination of Western transnational corporations was addressed and regulation of these companies was suggested as a potential measure to foster economic development and protect national sovereignty of Southern states. This passage of the resolution on economic regulations plus the demand for compensations for damages caused by colonial rulers called the attention of leading industrialized countries in the North and former colonial powers.

More detailed than the NIEO declaration was UN resolution 3202 called the "Programme of Action on the Establishment of a New International Economic Order". Both documents were officially published on the same day but it was this second resolution that brought a clearer view on the objectives of the NIEO supporting states. Accordingly, this second resolution asked for measures to improve the situation of Southern countries (at that time and in the respective UN documents often called "developing countries"), especially in the fields of raw materials, food, trade, transportation, finance, industrialization, technology transfer and regulation of transnational corporations.[4] Also the development of a "Charter of Economic Rights and Duties of States" was encouraged to "constitute an

[4] Some of these aspects were later picked up again and specified in UN resolution 3362 called "Development and international economic co-operation" (published on 16 September 1975).

effective instrument towards the establishment of a new system of international economic relations based on equity, sovereign equality, and interdependence of the interests of developed and developing countries." (UNITED NATIONS, 1974b). This charter was presented at the UN as resolution 3281, a few months after the publication of the action program.

In several paragraphs, the action program asked for active measures to support the economic development of Southern countries instead of letting the so-called market forces alone decide on the future of post-colonial economies. Especially governments believing in the well-being of citizens and entire societies through their own absence rejected measures as mentioned in the resolution. Examples of requests made in the document were the prioritization of products coming from the South and reaching markets in the North. Therefore, countries in the North were asked to "facilitate the expansion of imports from developing countries and provide a fair and reasonable opportunity to the developing countries to share in the growth of the market" (Ibid.). Another demand was to "arrest and reduce the ever-increasing freight rates in order to reduce the costs of imports to, and exports from, the developing countries" (Ibid.). Also, in cooperation, countries from South and North, supported by UN agencies, were asked to set up new industrial capacities in the South to improve production and raw material treatment in post-colonial societies. Some of the requests suggested the formulation of an international code of conduct for transnational corporations which became an international dispute in the following years since a number of influential governments and companies from the Global North were not willing to accept regulations that could affect the success of their own economic activities (BAIR, 2007, p.492ff).

Seven months after the publication of the action program, the "Charter of Economic Rights and Duties of States" was published as UN resolution 3281 (UNITED NATIONS, 1974c). In 34 articles, the charter touched on a number of issues that were of central interest for Southern states, being again questions of raw materials, industrialization, technology transfer from North to South and more. Also the regulation and supervision of transnational corporations gained a prominent space in the resolution trying to protect especially young and newly independent states from experienced mostly Western companies which tried to set foot into the new markets in the South or which remained present in the South since the era of colonialism. The resolution stated that states should have the right to regulate and supervise the activities of these companies in

their own national territories to make sure they complied with national laws and policies. Besides that, the charter called for the right to nationalize and expropriate foreign property (by paying compensations) and also to improve global trade relations and international cooperation in scientific research and technology transfer.

Over the following years, the NIEO project and especially the draft version of the Code of Conduct on Transnational Corporations became subjects of intense debates and postponements. Following Bair, the Code of Conduct was the most controversial part of the NIEO project (BAIR, 2007, p.487). A draft version of the Code developed by an intergovernmental working group in the late 1970s and early 1980s was supposed to be discussed several times with the responsible commission and representatives of all interested governments.[5] Since no agreement could be reached during these sessions they were postponed several times throughout the 1980s until the end of the East-West confrontation resulted in new global constellations and challenges that required a different approach to economic debates. As a consequence, the draft version of the Code of Conduct was declared to be outdated in 1992 and the whole process at the UN was officially suspended.

A few years later, the role of transnational corporations was picked up again, this time in the context of the UN Global Compact. Instead of requesting regulations for foreign companies in Southern countries (as the NIEO recommended), the Global Compact elevated the private sector to become an equal partner in global economic affairs.

> "The Code of Conduct, and the broader NIEO agenda of which it was part, was an effort by the G-77 to define development as the politics of recognition and redistribution. (...) Rather than pursuing development, what the Global Compact seeks are solutions to the challenges of globalization. Multinationals, incarnated as corporate citizens, are conceived, alongside governments, as equal stakeholders in this collective effort." (Ibid., p.497)

The transformation of the central idea of the Code of Conduct to create a supportive environment for Southern countries and post-colonial economies into a debate where

[5] A draft version of the Code of Conduct is available on the UNCTAD website https://investmentpolicyhub.unctad.org/Download/TreatyFile/2891.

preference was given to economic and financial interests of Northern economies was a reflection of a period of ongoing neoliberal modifications that had taken place in several countries parallel to the NIEO process. A shift, that was later also influencing the consolidation of the multistakeholder approach which in turn became a fundamental concept of the later Internet Governance ecosystem.

Besides Bair, also Salomon (2013, p.46) and Gilman (2015, p.8) referred to the unwillingness of northern high-income countries to make the necessary concessions to the South to create a more balanced global economy. And it was McFarland (2015), who presented this scenario in a more comprehensive manner. Accordingly, an early slight support for structural reforms coming from US officials changed into an approach of complete rejection.

> "The alternative projects that the United States promoted in opposition to the NIEO, like the International Energy Agency (IEA) and the G-7 summits, shared the NIEO's goal of managing the world economy through political means; they simply sought to place the authority for managing such action in the hands of the industrialized nations rather than the UN General Assembly.
>
> By contrast, neoliberal globalization as it developed after the 1970s was based on a very different set of assumptions. Neoliberal economists argued that the NIEO was sheer fantasy, a proposal at odds with the basic laws of economics. They denied the desirability of any robust international governance of the global economy and argued that intervention should come only in the form of limited assistance to specific nations, along with structural adjustment of economic policy at the national level to bring it into line with free market principles. This school of thought helped convince the Reagan administration largely to abandon any U.S. effort to find common ground with the NIEO's advocates. Neoliberal assumptions became so deeply established in later years that no subsequent project for fundamental reform of the world economy has ever been taken as seriously as was the NIEO during its heyday. As a result, the NIEO debate stands out as the last moment when the leading nations of the world demonstrated a

> real sense of their own collective agency over the global economy, treating it as a system governed by rules that could be renegotiated rather than an automatic mechanism beyond political control." (MCFARLAND, 2015, p.218f)

The New International Information and Communication Order

The post-colonial reform discourse that was reflected in the NIEO debates also addressed structural concerns of international and global media and communication environments. In the same sense as Southern representatives criticized the economic imbalance of the mid-20th century, they pointed out the unequal distribution of and access to means of communication and mass media. National sovereignty as a central concept of decolonization also included the necessity to determine cultural aspects of each individual society. The dominance of Western media as a cultural intervention or "soft power" influencing foreign (in this case Southern or post-colonial) societies became the focus of an additional debate in parallel to the discussions on the NIEO. The dissemination of Western values in the Global South became part of a critical academic and political discourse on cultural imperialism or cultural colonialism that has continued throughout the 20th and into the 21st century (partly also in the context of Internet Governance), long after the debates over the NIEO and its additional subjects had been suspended (SPARKS, 2007, p.85ff).

In 1973, the year before the publication of the first UN resolutions on the NIEO, the NAM Summit in Algiers already discussed the important role of mass media and communication and its effects on Southern societies in the context of unidirectional flows of information and media content from the North to the South (or from industrialized countries to developing countries). Out of this ongoing debate later emerged the concept of the New International Information Order (NIIO) that was also referred to as the New International Information and Communication Order (NIICO) or the New World Information and Communication Order (NWICO). As Nordenstreng (1984) pointed out, the conceptual distinction between "international" and "world" order by the different actors and organizations participating in the debates was more than a meaningless historical detail but a reflection of political orientations and preferences represented by the individual actors. In this regard, the discourse represented by the Non-Aligned Movement frequently referred to the international character of its requests

and demands (NIEO, NIIO, NIICO) to underline the importance of national sovereignty while debates within the United Nations (and in this case especially UNESCO) used the world as a reference point (NWICO).

The Non-Aligned Symposium on Information that took place in Tunis in March 1976 discussed the concept of the NIICO and thereby prepared the way for the crucial New Delhi Declaration on Decolonization of Information that was developed and presented at the Ministerial Conference of Non-Aligned Countries in July the same year. It was the New Delhi Declaration that emphasized the importance of a new information order in the process of decolonization placing the NIIO on the same level of importance as the NIEO (HAMELINK, 2008, p.292). Also the NAM Summit that took place in Colombo the same year supported the idea of the NIIO.

The discussions concerning the necessity of the NIIO that took place at the different NAM meetings also influenced the debates at the United Nations. The UNESCO General Conference in Nairobi in October-November 1976 addressed the latest developments of the NAM summits and concluded in their final document (Records of the General Conference) that to support the efforts of Southern countries establishing their own information and communication systems, UNESCO should recognize the respective initiatives created by non-aligned countries throughout the foregoing months (UNESCO, 1976, p.53). The establishment of a commission to investigate and discuss the current state of media and communication followed in 1977. It was called the International Commission for the Study of Communication Problems, or the MacBride Commission, deriving from the name of its chairman Sean MacBride. In the context of the formation of the MacBride Commission and the definition of its objectives, UNESCO officially picked up the NIICO designation from the non-aligned states and changed it into NWICO. The idea to establish new international communication and media standards through the NWICO was later also supported by the UN General Assembly in December 1978.

Over the course of the following two years, the MacBride Commission held a number of meetings in different parts of the world (mostly in Europe, none in Africa) where its 16 members (regionally diversified, but almost exclusively men) analyzed and discussed the historical and then contemporary situation of information, media and communication in different parts of the world, always taking into consideration the specific situation of Southern and post-colonial countries (UNESCO, 1980, Preface XiX). The final report of the commission called Many Voices, One World (also referred to as the MacBride report)

was published by UNESCO in 1980. It criticized the imbalance and inequality of information and media distribution that became visible as a result of Western colonization in the Global South. The same imbalance was criticized in the report for supporting a "one-way flow" of information and media content disguised as a "free-flow" while the report itself suggested a "free and balanced flow" of information. (Ibid., p.35f). "Developing countries that were at the receiving end of international information flows experienced the free flow of cultural products into their countries as a new form of colonialism that threatened their cultural autonomy." (HAMELINK, 2008, p.291). As an important reason behind the imbalance was mentioned the unequal distribution of infrastructure that was favoring information flow from the North to the South. As a consequence, the development of infrastructure was recommended in the report to improve the situation of Southern countries not just in relation to the North but also to develop stronger ties within the Global South itself. Besides that, the linguistic diversity of the world was addressed in the report, stating that of the roughly 3500 existing spoken languages in the world, about 500 were also written.[6] Together with the pretension to provide information in all languages came the challenge to reduce illiteracy as a major obstacle for exclusion of large parts of the population in the Global South.

The MacBride report recommended to develop national policies all over Southern countries to reduce and eventually remove the obstacles that held these countries back from reaching the same level of access to means of information and communication as Northern countries. Further recommendations were made to develop policies promoting national languages and media content, books, national radio and TV networks and national news agencies. A special focus was given on the promotion of non-commercial forms of mass communication to support cultures and traditions of each country. Following the requests of former official NIEO documents, the MacBride report also recommended the development of regulations concerning the activities of transnational corporations in Southern countries. It also emphasized the "close relationship between the establishment of a new international economic order and the new world information and communication order" underlining the interconnection of the two processes (UNESCO, 1980, p.268).

[6] In a footnote, the report from 1980 mentions a possibly higher number of existing languages. Current surveys show about 7000 existing languages in the world.

Following Hamelink, “the Western news media began to take a critical attitude toward the demand for an NIIO” already in the mid-1970s (HAMELINK, 2008, p.293). Therefore, one of the essential objections “was the suspicion that the proposal for a restructuring of the international information order would mainly serve the interests of authoritarian states and would seriously undermine the standard of freedom of information.” (Ibid.). Interestingly, a very similar form of argumentation as it was used about 40 years later by US senator Rafael Edward “Ted” Cruz to criticize individual non-Western countries during the process of the IANA transition (KANG; STEINHAUER, 2016; WEITZNER; BERNERS-LEE, 2016). Others like Daya Thussu underlined that the lack of democratic structures in numerous countries in the Global South was indeed an important reason to seriously consider the criticism of Western media companies and political representatives who saw in the NWICO a suitable project to control news coverage and critical journalism in the South (THUSSU, 2005, p.50f).

Throughout the 1980s the NWICO process suffered the same political blockades as the NIEO did. The elections of Margaret Thatcher in the UK in 1979 and of Ronald Reagan in the USA in 1980 were symbolic moments of a political shift that was disfavoring the interests of the Global South but favored those of the economic sectors in the Global North. The idea of supporting Southern and post-colonial countries to economically catch up with their former colonial rulers was removed from the political agenda in favor of a market-oriented approach which in turn excluded most countries in the Global South from getting anywhere close to an equal situation with Northern industrialized countries. UNESCO set up a number of meetings to further discuss the NWICO even after the UK, the USA and Singapore had left the organization in 1984/85 as a result of political disagreements and - as Nordenstreng emphasized - as part of global strategical reorientations (NORDENSTRENG, 2012, p.37). This occurrence did not only cause a financial catastrophe for UNESCO, it especially showed how leading Western countries were willing to use their economic and financial power to harm organizations and countries that were not following their specific economic and political models. The damage that was done to UNESCO by the USA and the UK becomes apparent when observing the fact that even decades later, the organization was still strictly avoiding to address any kind of debate on NWICO (POHLE, 2015, p.383).

Internet Governance and Concluding Reflections

In parallel to numerous state formations and declarations of independence in the South and the subsequent debates about economic and political restructuring, infrastructure development and basic education, a number of states in other parts of the world used their historical advantages to invest in researching computer network technologies. The comparative perspective on historical advantages and disadvantages allows it here, as in other moments, to clearly comprehend the profound differences among societies and their individual state of economic or technological development which in turn was reflected also within the debates on structural reforms as discussed in the context of NIEO and NWICO. And the disputes did not stop once it came to network computing and the Internet.

Two promising computer networking projects in the times of Southern decolonization were the OGAS project in the USSR and the ARPANET project in the USA of which one was suspended while the other one developed into the Internet. After decades of experimentation and the first creation of mostly academic non-commercial networks until the early 1990s, the commercial Internet spread through a growing number of countries exhibiting growth rates that increasingly caused debates within the community of developers and beyond to find a more stable model of administration for some of its technical resources like IP numbers and the DNS. This debate on how to switch from the former rather informal model of administration to an institutionalized solution was discussed extensively throughout the literature on Internet Governance, albeit almost exclusively from the perspective of Northern industrialized countries (BETZ, KÜBLER, 2013, p.70ff.; DENARDIS, 2014, p.161ff; GOLDSMITH, WU, 2006, p.29ff; MATHIASON, 2008, p.70ff; MUELLER, 2004, p.141ff; Ibid., p.163ff; and others). Very little is known and especially published to this point regarding the perspectives of Southern countries that were not or at most marginally part of the early generation of Internet nodes and users.[7] Nevertheless, all these countries have their own historical background which led them to the age of computer networks, most of them coming straight from a state of foreign colonial rule. And many have found their way into the Northern discourse on Internet Governance, often not as a coequal actor but as a “poor” and

[7] One exception here is BHUIYAN, 2014. Another different title, the critical reader on Internet and governance in Asia (BANERJEE, 2007) has a section on Internet Governance, which however is clearly written from the standard Western IG perspective.

“developing” or “third world” country. And in the same sense as the flow of information in post-colonial constellations was or is historically going from the North to the South, the Internet Governance discourse follows the same logic.

The foundation of ICANN in the late 1990s is a reflection of the neoliberal shift that had gotten stronger since the 1980s when the debates on how to restructure global or international constellations had moved from a more supportive political approach to a less supportive economic approach. Although many early network developers in the US favored a non-commercial approach for the Internet and tried to maintain this status as good as possible, the interference of the US government in the early 1990s brought an end to their plans. The conflict that arose between parts of the early non-commercial Internet community around Jon Postel and others on the one side and commercial actors as Network Solutions on the other side turned into critical disputes that ended with a strict intervention of the US government represented by Ira Magaziner in 1998, shortly before the official foundation of ICANN (GOLDSMITH, WU, 2006, p.43ff). At that moment, the US government had already decided that control over selected critical Internet resources like IP numbers and the DNS were going over to the hands of a private organization located in their own territory and without substantial participation of governments - except themselves. As much as the US government had decided years before in the context of decolonization not to support the interests of the Global South but to put their own economic interests in the first place it was now making clear from the very early moment that no different attitude was to be expected in relation to the Internet. A decision that showed itself to be successful for the development of the US DNS and Internet industry for (so far) two subsequent decades.

For many countries in the Global South (and in other parts of the world as well) this you-can-join-but-we-control-it attitude was not acceptable. ICANN remained a disputed organization for years and caused intense debates during the WSIS process (BHUIYAN, 2014, p.51ff), the IANA stewardship transition process (MUELLER, 2014; PURKAYASTHA, BAILEY, 2014) and also during the new gTLD program which was first promoted to have an inclusive character for the Global South but in the end failed to achieve this pretension. Exaggerated fees and the insufficiency of information for providers and founders in the Global South (besides other reasons) resulted in a manifestation of the status quo of the DNS industry in the hands of Northern companies. The unequal economic South-North relations that prevailed since the “official” end of colonialism

were confirmed through ICANN's new gTLD program. While some Southern countries (mostly in Asia, some in North-Africa) benefited partly from the new IDN extensions, other regions (e.g. Latin America and the Caribbean) saw a declining participation of companies in the ICANN registrar business which brought them (especially the private sector) further away from the ICANN ecosystem than they had been already. The African continent had the lowest participation rate in the program. Only 0,9% of all applications came from Africa. ICANN's widely spread message, the next generation of Internet users in the Global South would benefit from having access to new strategical top level domains turned out to be a letdown, also since the financial speculation with strategic domain names under new extensions started frustrating public access to domain names under new TLDs and therefore reduced a possible future participation of users from the Global South. The globally active DNS industry which ICANN is partly supervising since the late 1990s has shown that also their flow of digital services (in this case domain name extensions) is economically benefiting Northern countries while the South (with few exceptions like China) is mostly acting as a receiving market. A market however, that can often rely on its own ccTLDs instead and keep those financial revenues in the countries.

When it comes to access to information on topics related to ICANN or Internet Governance in general, the post-colonial (or neo-colonial) flow from the North to the South can be observed as well. The lack of information and publications in post-colonial societies and especially in the respective languages, which was critically addressed for about two decades within the NAM and a number of international meetings and organizations aiming at restructuring historically developed unequal conditions, is today also reflected in the status quo situation of the Internet Governance community. The lack of access to information can be understood, for example, both in the sense of a sheer absence of well equipped research libraries in the Global South (even universities often have no funds to carry a sufficient amount of literature, especially not on niche topics) and also as the lack of specialized literature in almost every language. As a consequence, Internet Governance literature is (if available at all) imported from Northern countries (physically or electronically), representing Northern perspectives and experiences in the same sense as scholars of coloniality, cultural imperialism and knowledge production have discussed and criticized the transfer of Northern or Eurocentric points of view to the Global South over the foregoing decades (CONNELL,

1997; LANDER, 2000; QUIJANO, 1992. For a historical compilation on cultural imperialism see also MIRRLEES, 2013, p.21ff).

The failure of the international community to successfully restructure itself politically and economically when Western colonialism came to its (official) end can today be observed also in the global distribution of Internet Governance actors and communities, ICANN registries and registrars, or the Internet industry as a whole. Interestingly, the current concerns regarding uncontrolled multinational Internet companies are coming mostly from Europe, about four decades after it let the Global South down on almost the same subject (DOBUSH 2018).

Connell's critical discussion on so-called classical approaches and theories from the North, on the development of social thinking based on Western or Eurocentric ideas, on the Northern exclusion or ignorance of Southern historical and contemporary approaches and perspectives is just one of many possible attempts to reflect on Internet Governance and/in/from the Global South. Connell's argument that sociology "was formed within the culture of imperialism and embodied a cultural response to the colonized world", which she classified as a crucial fact to understand "the content and method of sociology as well as the discipline's cultural significance" (CONNELL, 1997, p.1519), can be transferred to the context of Internet Governance as a field of social thinking and investigation which was formed within the culture of neoliberalism (or neo-colonialism) and embodies, in the sense of includes, a cultural and political response to the Global South. A crucial fact to understand the content and cultural significance of this research area.

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The Difficult Path to the Insertion of the Global South in Internet Governance

Jean-Marie Chenou, Juan Sebastián Rojas Fuerte

Introduction

According to the International Telecommunications Union (ITU), over 70% of the 3.6 trillion Internet users are now located in developing countries (ITU, 2017). However, while most Internet users are in the Global South, actors from this part of the world do not exert a major influence over the global governance of the network. Internet governance emerged in the 1990s as the informal management, among scientists, of a new form of technology. However, the network became a crucial tool in the daily social, economic, and political lives of billions of people worldwide. Given its particular history, Internet governance is not part of an international regime nor is it included in the ITU mandate. Internet governance is currently fragmented among different hybrid institutions between the private and the public, and the technical and the political. As such, in the loosely institutionalised field of Internet governance, power dynamics differ from traditional intergovernmental power politics.

This contribution seeks to provide a general framework that allows for a reflection on the insertion of the Global South into digital markets and Internet governance. This endeavour draws upon two assumptions. First, the political (Internet governance) cannot be analytically separated from the economic (digital markets). Therefore, an International Political Economy (IPE) perspective is necessary to tackle current digital transformations. Second, a reflection on/from the Global South participates to the widening of perspectives in IR/IPE towards "global IR" (ACHARYA, 2011; 2014) and "global IPE" (HELLEINER, 2015; HELLEINER; ROSALES, 2017). The chapter focuses on the concept of insertion in order to move beyond traditional analysis of Internet governance and to outline a comprehensive framework of the position, strategies and ambitions of the Global South in the digital era. The analysis of insertion requires an analysis of the continuation and reconfiguration of power relations in the digital era; a historical

contextualisation of the position of the actors of the Global South; and a reflection on the requirements of a true insertion. True insertion goes beyond a mere inclusion in networks and global value chains. It also goes beyond participation in pre-existent political forums and institutions dominated by actors of the Global North. An insertion of the Global South in the digital era presupposes the urgency of a true and active political participation, the consolidation of digital markets in the Global South, a redefinition of the role of the state, and the formulation of autochthonous socio-technical imaginaries.

The problem related to the Global South's insertion in the digital era affects most countries around the world. However, the present contribution focuses on Latin America as a first step in this reflection. With regards to global institutions of Internet governance, Latin American efforts are generally inserted into broader emergent economies' networks such as the IBSA Dialogue Forum (India, Brazil, South Africa) or through BRICS initiatives (Brazil, Russia, India, China and South Africa). As such, the analysis of the insertion of Latin America in the governance of the digital era covers both the Global South's problems in general and the region's particularities and pave the way for future research on the insertion of the Global South in Internet governance.

This chapter is organised as follows. First, the theory section describes the approaches of Internet governance and situates this contribution in the turn to infrastructure. Second, it describes the particular situation of the Global South in the digital era considering the historical exclusion of the actors of the South and the dynamics of emergence of recent years. The third section sets out the bases for a true inclusion of Latin America and the Global South in the digital era at material and ideational levels.

1. Power Relations in Internet Governance

Power relations in Internet governance present both a continuation of pre-existent power relations and radical transformations. To examine the particular form taken by this configuration of power relations in the digital era, studies on Internet governance have recently turned to infrastructure allowing the analysis of both the continued domination and the transformations enabled by technology. This section presents the key elements of traditional studies of Internet governance inspired by the theories of international relations, and complements them with a perspective based on social

studies of science and technology in order to formulate a definition of the insertion of the Global South in this area of the International Political Economy.

1.1 Realism and Critical IPE Studies: Continuing Power Relations in the Digital Era

Many studies on Internet governance present the phenomenon as a continuation of the power relations and domination that existed previously. Realists, for example, continue to insist on the power of the state in the economy as set out by Gilpin (GILPIN, 2001), or on the fact that politics always prevails over the economy (WALTZ, 2000). Daniel Drezner (2004) offers an illustration of this realist view of Internet governance. According to the author, the literature on Internet governance reproduces the theoretical problems of the studies of globalisation, by marginalising the role of the state. What appears to be an extension of the role of non-state actors is, in truth, from this perspective, a deliberate strategy of the most powerful states. Great powers - the US in the first place - allow the proliferation of private transnational authority in non-essential areas, where they can provide greater regulatory effectiveness. However, when we consider topics of greater importance for the states, such as issues of sovereignty and security, states reclaim control. Other realists analyse the hegemonic power of the United States in the digital world (DRISSEL, 2006). In their view, technology is a tool in the hand of the most powerful states, and the international system continues to be governed by the same principles of anarchy and self-help despite the dynamics of globalisation and digitalisation.

On the other hand, the critical foci inspired by Marxism and the British heterodox tradition of International Political Economy tend to adopt a similar perspective in terms of the continuation of pre-existing power relations. However, the nucleus of these foci is not the power of certain states but rather the structural power of capital (GILL; LAW, 1989; STRANGE, 1998). ICTs and the Internet represent a technical evolution necessary for the creation of new markets and a new opportunity for profit in a context of economic crisis after the bursting of the real estate bubble in 2008. Critical studies explain the commercialisation of a communications network originally conceived outside the market (SIMPSON, 2004). They insist on the relevance of a Marxist perspective for the information age (FUCHS, 2015), and they relate digital capitalism with relations of exploitation (FUCHS, 2017) or with a questioning of democracy (MCCHESNEY, 2014). Beyond the Marxist tradition, critical perspectives studied a

number of different aspects related to digitalisation, such as, for example, intellectual property rights (MAY, 2010) or the power of the Internet giants in digital markets (WHELAN, 2017). Here too, the role of technology is not related to deep transformation of the transnational power structures.

1.2 Technological Liberalism and Determinism: The Digital Transformation

In contrast to the approaches described above, liberalism focuses on both the transformations brought about by globalisation (HELD; MCGREW, 2002), and the change represented by the emergence of the digital era (FROOMKIN, 2003). However, liberal perspectives insist on the positive consequences of the increased use of ICTs and of the existence of a freer and more equal "cyberspace" than traditional spaces of expression. Technological evolution determines, in this perspective, political transformations. Liberals build upon the horizontal and distributed nature of the technical infrastructure of the Internet to elaborate an analogy with the political and economic relations in Internet governance (MATHIASON, 2008). As cyberspace escapes governments to a great extent (MUELLER, 2010), civil society organized in transnational networks is able to play an important role in the governance of the digital era. Multistakeholder governance, imposed in the area of Internet governance and increasingly in all policies related to the regulation of online activities, represents a democratization compared to the multilateral model of intergovernmental bodies (KLEINWACHTER, 2003; 2008).

As well as its potential for democratising global governance, ICTs and the Internet in particular, impose stricter regulations in terms of transparency and accountability on states and companies (BERTOT; JAEGER; GRIMES, 2010). In the case of authoritarian regimes, the use of communication technologies allows mobilisation or even revolution, as demonstrated by the focus on social networks in the analysis of the Arab Spring (GERBAUDO, 2012).

Although the liberal perspective allows us to consider the potentially transformative power of technology, it does not consider the continued relations of power and domination described in the previous section by focusing on the democratising aspects of technological change, and it does not analyse the challenges posed by Internet governance, in particular in the Global South. As such, it fits into what Morozov calls "the folly of technological solutionism" which proposes technical solutions to political, economic and social problems (MOROZOV, 2013).

1.3 The Contribution of Social Studies of Science and Technology

Faced with the difficulty of IPE approaches in treating both the transformations brought about by the digital era and the possible extension of domination through technology, social studies of science and technology propose concepts that could contribute to the IPE debates.

First, social studies of science and technology analyse technology as an actant (LATOUR, 1990). In this view, technology is not only a repository of social relations; it mediates and alters interactions and thus has some form of agency. This concept enables us to overcome the traditional dichotomy between human and machine. Non-human objects, and in particular technology, play a crucial role in the complex networks in which social relations take place. For example, studies on Internet governance took a turn to infrastructure (MUSIANI et al., 2015) in order to consider the interrelations between technical infrastructure (cables, servers, etc.) and political actors. In this perspective, Internet governance is the meeting point for technology, private actors, and public authorities.

> "What is interesting about Internet governance is that it transcends traditional government-centric mechanisms like national statutes or intergovernmental treaties. Governance is collectively enacted by the design of technology, the policies of private companies, and the administrative functions of new global institutions like ICANN and the Internet Engineering Task Force (IETF), as well as national laws and international agreements." (DENARDIS; MUSIANI, 2015)

Second, this perspective allows for the analysis of the co-production of science and technology with the representations, identities, discourses and institutions that give ideas and objects a practical effect (JASANOFF, 2004). To sum up this idea, social relations do not determine technology, nor does technology determine social relations. The two dynamics co-construct each other and take part in the other. In other words, the emergence of the digital era is both a technical evolution and an evolution of the discourses about it and the institutions that regulate it. For example, "big data" is a set of technological evolutions of computers' increased calculation capacity, of new algorithms, and of artificial intelligence, but it is also a *mythology* of sorts, according to

which the great databases produce better quality information and allow an approach to a form of objectivity and precision (BOYD; CRAWFORD, 2012).[8]

Concepts from the social studies of science and technology allow us to renounce the dichotomy between social determinism and technological determinism. They promote a dynamic analysis of the relations between society and technology and allow the analysis of technology as an autonomous and flexible force. Internet and ICTs can take part in both the monopolization of the digital markets and the creation of forms of exchange outside the market. They are useful for both transnational networks of activists and for authoritarian governments. As such, they take part in the continued pre-existent forms of domination and in the organisation of resistance and the creation of alternatives. The latter point is particularly important when it comes to insisting on the need of the insertion of the Global South into Internet governance. This has to take into account both the domination of the actors of the Global North, particularly the US, in the digital era, and the possibility of a technology that can respond to local needs.

1.4 Insertion of the Global South in Internet Governance

As we have seen, the concept of insertion allows for a broadening of the perspective on global Internet governance aimed towards what has been recently defined as global IR and global IPE, namely a turn to the Global South. The chapter focuses on Latin America as a case study of insertion, not only in empirical terms but also because of the long tradition of scholarship related to the concept. Indeed, the topic of insertion is a key part of the reflections in International Relations in Latin America over the last 50 years (TICKNER, 2003). Insertion can describe dynamics of participation in global capitalism in a context of dependence (CARDOSO; FALETTO, 1979) or be part of a national or regional strategy aimed at autonomy (JAGUARIBE, 1979; PUIG, 1980). Insertion in the field of Internet governance is understood here as the process of inclusion in mechanisms of governance and in digital markets that enable the formulations of policies and imaginaries from the Global South about the future of cyberspace. Insertion has an internal dimension and an external one. As set out by Schutte, insertion supposes national control of the strategic decisions related to development and a strategy of

[8] For a Global South perspective of the rise in Big Data, see the Project: “Big Data from the global South”, available at: https://data-activism.net/2017/10/bigdatasur/, last accessed on 25 October 2017.

geopolitical projection and participation in the world's instances of governance (SCHUTTE, 2012; p. 85).

Based on a review of the literature outlined in the previous paragraphs, the analysis of the possibility of the insertion of the Global South and the Latin American region in Internet governance requires a combination of different elements highlighted by different theoretical perspectives:

a. An analysis of the dynamics of power and geopolitical domination, as well as the possibility of political participation for the actors of the Global South in Internet governance. A reflection on the sovereignty of the states of the Global South in the digital era.
b. An analysis of the participation of the actors of the Global South in digital markets, including ICT companies, workers and users.
c. A consideration of the transformations in the nature of global capitalism brought about and digitalisation. These transformations may lead to changes in the relations of domination and subordination between the centre and the periphery (TICKNER, 2003, p. 329).
d. An identification of the spaces which might give rise to socio-technical understandings, conceptualisations or imaginaries from the Global South that can guide political action towards the needs of the Global South in the digital era.

The following sections illustrate the analysis of the insertion of the Global South in the digital era focusing on the Latin American region. They show the recent efforts of insertion aimed at greater participation in the political forums on Internet governance, they also shed light on the difficulty of a more equal insertion in digital markets and the marginal nature of the imaginaries and discourses of the Global South in Internet governance.

2. The Global South, Between Exclusion and Emergence

This section reconstructs the Global South's original exclusion from the field of Internet governance in three dimensions described in the theoretical framework: the material aspects of technology, political exclusion, and exclusion from the market. It describes the different efforts of the insertion of the actors of the Global South from the World

Summit on the Information Society to the recent reform of the internationalisation of Internet governance. It demonstrates that these efforts allowed better participation of actors of the Global South in Internet governance. However, this participation is limited in terms of decision-making and it limits the emergence of alternative technologies, uses and imaginaries.

2.1 The Digital Gap: a Contemporary Reality

As mentioned in the introduction to this chapter, one of the factors that motivate the participation of the Global South in the dispute regarding Internet governance is the digital gap between the Global South and the Global North. This gap can be quantified in terms of Internet infrastructure, access to new technology, broadband, Internet speed, Internet eXchange Points (IXP), access to digital markets, new developments, digital entrepreneurship and the gap in terms of the many companies in the North, that lead the world of the Internet and the few companies in the South, that struggle for a space on the web.

According to the Broadband Progress Report of 2016 “in the 2015 report, measuring the Information Society, 81% of households in developed markets are connected, while only 34% in developing markets. Additionally, only 11% of households in Africa are connected.” (Broadband Commission , 2016). In other words, the gap in terms of connectivity between developed and developing countries continues to exist. In developing countries, 66% of homes are not connected, compared to 19% of homes in developed countries.

As part of the sustainable development agenda 2030 and The United Nations E-Government Survey, goals were set with regards to the digitalisation of countries and the reduction of the digital gap. In particular, goal ODS 9, which establishes “Significantly increase access to information and communications technology and strive to provide universal and affordable access to the Internet in least developed countries by 2020” (WORLD BANK, 2017). Two of the most determinant factors to comply with the goal towards the reduction of the digital gap set out by the UN are as follows: the deploying Internet eXchange Points (IXP) and the extension of territorial coverage of broadband infrastructure, which is closely related to Internet speed. For this reason, the text will analyze the digital gap in three specific dimensions. The IXP, broadband and the gap between companies in emerging markets of the Global South and those of the North. The

two first dimensions pretend to quantify the gap in terms of the internet infrastructure and the third in economic terms.

With regards the IXP, it is important to point out that their main function is to “keep local traffic local and reduce the costs associated with traffic exchange between Internet service providers (ISP)” (INTERNET SOCIETY, 2007).

Now that we understand the importance of the use of the IXP. We can affirm that thanks to these points, we can considerably reduce the cost of Internet access given that, as ensured by the Internet Society,

> “IXPs provide important benefits, including lowering Internet-access costs for end users by decreasing Internet service provider (ISP) operating costs and making Internet access more affordable for a greater number of local Internet users in a specific country or region. In addition, IXPs can ensure that traffic between local senders and local recipients use relatively cheap local connections, rather than expensive international links. The cost savings can be significant - 20 per cent or more in some countries - as local traffic can make up a significant portion of an ISP’s overall Internet traffic” (INTERNET SOCIETY, 2007).

Considering the above, it is clear that with more widespread installation of these points, the global digital gap could be significantly reduced. However, the reality is different and despite the efforts to increase the number of IXPs to cover as great a number of regions as possible, there is a clear imbalance in terms of the location of the IXPs around the world. Most of the points are situated in the Global North, that is, developed countries that enjoy better infrastructure, while there are far fewer in the Global South. For example, 63% of the world's IXPs are located in OECD (Organisation for Economic Co-operation and Development) countries, while only 37% are located in countries that do not belong to the organisation.

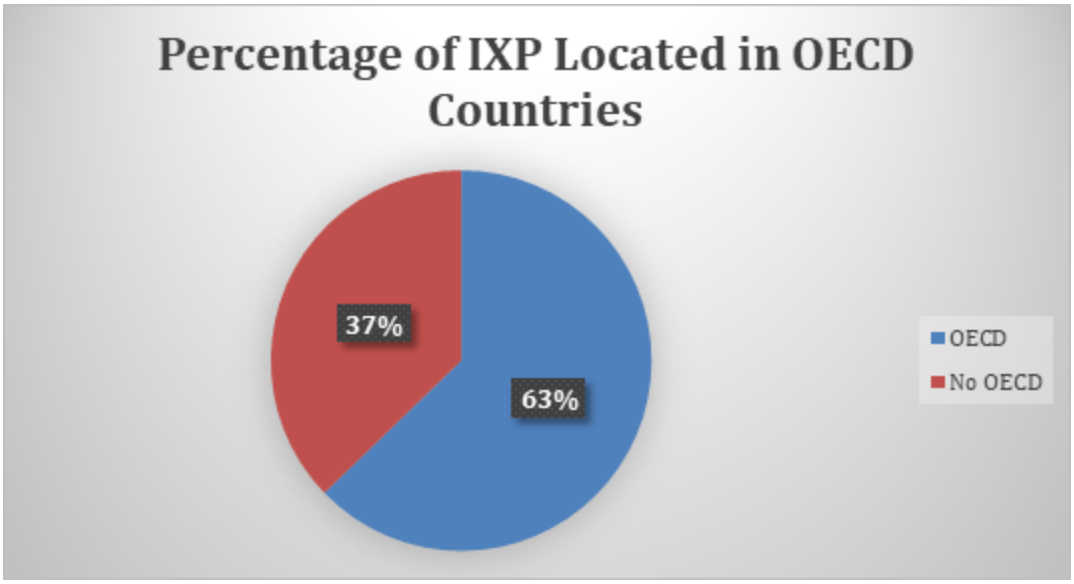

Figure 1: Distribution of IXPs among OECD member and non-member states (elaborated by the authors based on data of Packet Clearing House, Internet exchange point directory reports 2017)

Additional evidence of the imbalance of the IXPs can be found in the growth rate for such points in the different regions around the world given by the Internet Society. The report clearly highlights the growth of IXPs in regions such as Latin America and Africa. It is also important to point out the fact that these regions are home to only 21 and 17 IXPs respectively, while in Europe and the United states, there are 107 and 87 IXP respectively (PACKET CLEARING HOUSE, 2017).

Region	IXPs	Growth
Africa	17	21%
Asia Pacific	67	15%
Europe	107	54%
Latin America	20	94%
North America	87	87%

Table 1: Annualized growth rate of IXPs (as of Nov. 2007). Presented by Bill Woodcock, PCH.

Figure 2: Annual IXP growth index (2007)

While a country such as Colombia with a surface area of 1.141.749 km² only has one IXP, countries such as Sweden, with a surface area of 450.295 km² have 9. This denotes the clear inequality existing between developed and developing countries.

With regards to broadband capacity, the current situation is not very different from that of the IXP. Although it is thanks to the arrival of mobile Internet that many people were able to have access without having to acquire a landline broadband service, many still do not have access.

According to Commission figures for broadband, 53% of the population (3,9 million people) are still not connected despite the massification of mobile telephony and its arrival to low income countries (Broadband Commission, 2016). It is important to say that, as very well summed up by the International Telecommunications Union, “Internet penetration rates tell a different story, with 81% in developed countries, compared with 40% in developing countries and 15% in the Least Developed Countries.” (ITU, 2016).

There is even more evidence regarding the existence and deepening of the digital gap between developed countries and those of the Global South in terms of Internet and digitalization. In the same way as with IXPs, good broadband coverage in a country supposes development and the seizing of opportunities in fields such as: education, digital commerce, science, and technology among others. The following comparative figure shows how behind some of the region's countries are with respect to Internet speed and broadband. The figure also shows the many opportunities that are being lost for this reason.

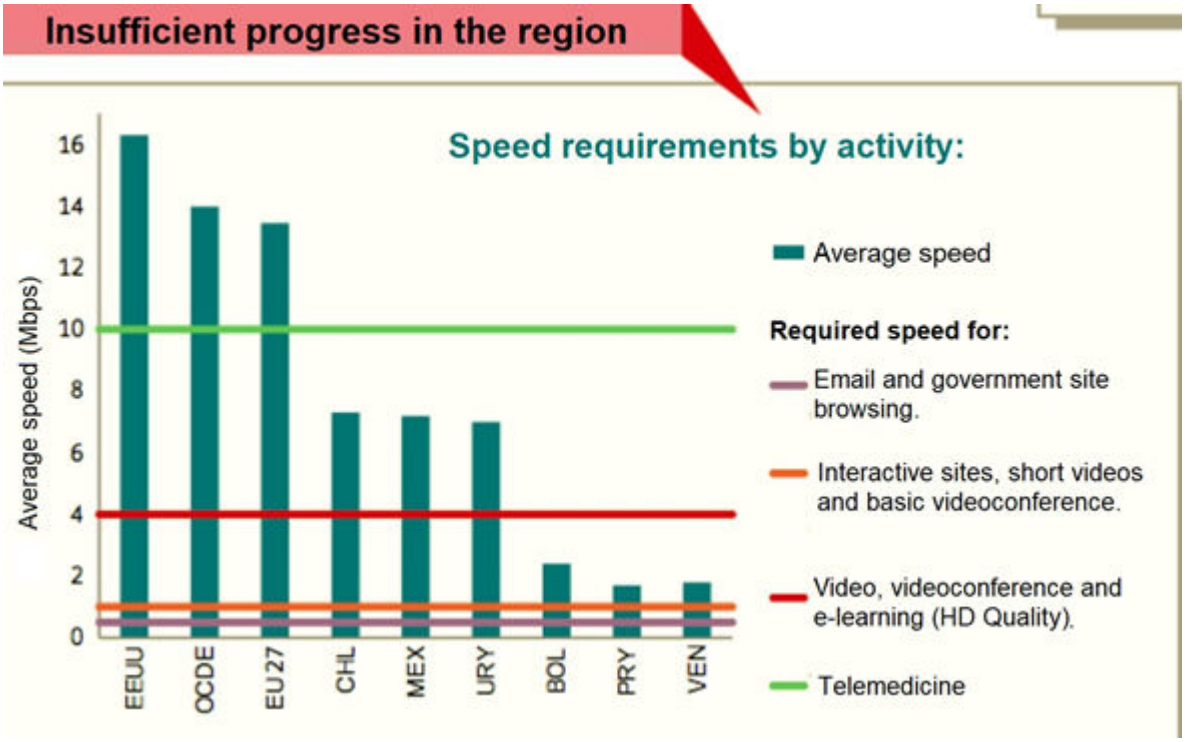

Figure 3: Bandwidth necessary per type of online activity compared with the current bandwidth for 2017 adapted from (CEPAL; OBSERVATORIO REGIONAL DE BANDA ANCHA, 2017)

One of the alternatives to landline broadband, are mobile networks and, more recently, the 4G network, which has allowed countries and service providers to reduce their infrastructure costs, given that the mobile networks use a lot less landline infrastructure which requires large investments.

It is important to highlight that "Broadband-enabled smartphones are increasingly popular in wealthy countries because of their convenience; in developing countries, chronic lack of fixed telecommunications infrastructure makes mobile more a platform of necessity, rather than choice" (BROADBAND COMMISSION, 2016). The above highlights the value of wireless networks and smartphones in reducing the digital gap. The adoption of this technology in developing countries may imply significant progress in terms of the penetration of digitalisation and access to the world of Internet. As proof of this, it is foreseen that "there will be 5,6 million single mobile subscribers in the whole world by 2020. The majority of the new subscriptions will be effected in developing countries, up 93% according to GSMA." (Broadband Commission, 2016).

Finally, it is important to stress the gap that exists in terms of the digital offer and the centralisation of large e-commerce companies, technology providers and digital content designers. The following figure illustrates the distribution of these corporations and their market values, providing evidence of the great domination of the Global North over the Global South.

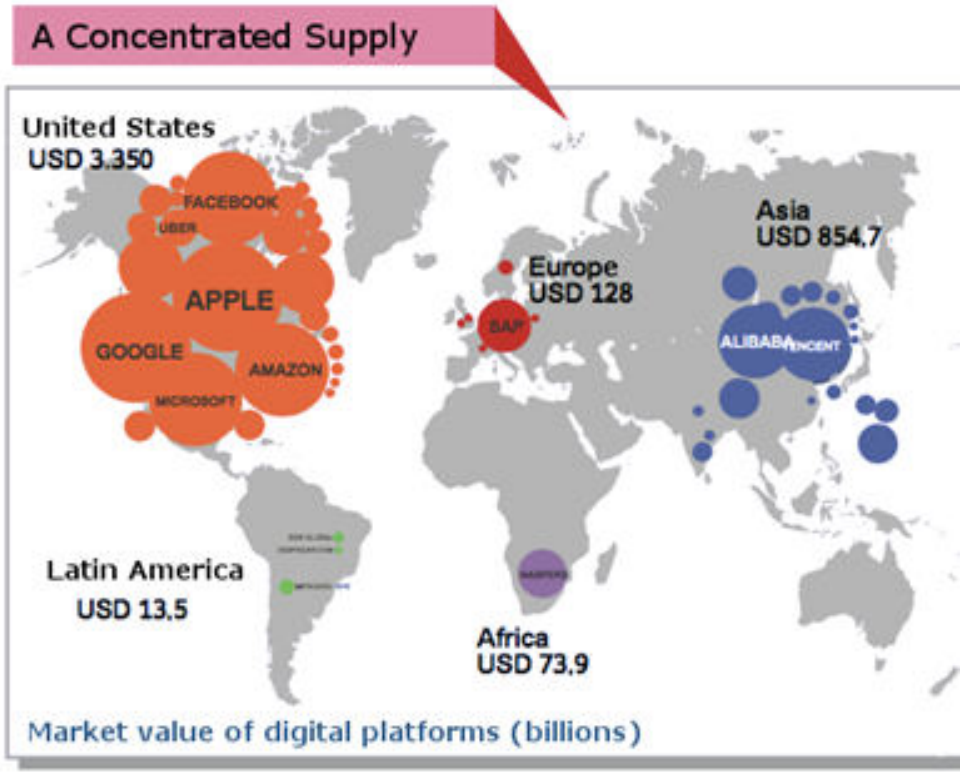

Figure 4: Concentration of the digital offer 2017 (Adapted from CEPAL; OBSERVATORIO REGIONAL DE BANDA ANCHA, 2017)

In sum, IXPs, broadband and the digital offer confirm the reality of the existence of a digital gap between developing and developed countries. It is clear that one of the most important factors that has led to the gap being maintained through time has been the difficult access to infrastructure and the high costs of such access, impeding developing and low-income countries from being at the cutting edge of technology and digitalization. This maintains the separation between the Global South and the Global North.

In terms of the gap between emerging markets and the companies of the Global South on the one hand versus those of the North on the other, we can say that the global value chains in the digital era reproduce a phenomenon of domination of the North over the Global South as illustrated in Figure 4. This tendency is reinforced by the increase of mass data through a non-remunerated production of personal data by users in the Global South which gives rise to value creation by the Internet giants, situated mainly in the United States (CASILLI, 2017).

In this context, the countries of the Global South have sought to improve their position in the global value chains and they have tried to identify specialisations that allow them to benefit from new digital markets. Winseck (2017) argues that, although it is true that US companies control the most famous Internet services such as Facebook, Google, Amazon and Netflix, there is a true emergence of some of the countries of the Global South - in particular the BRICS - in terms of infrastructure (submarine cables, datacentres, etc.). This emergence is the result of ambitious positioning policies in the digital markets. The most telling example is that of China which developed the so-called BAT (Baidu, Alibaba, Tencent) to compete with the US GAFA (Google, Amazon, Facebook, Apple).

Other states have tried to implement a stricter regulation in terms of national digital markets in order to ensure better competition rules that allow local companies to emerge. At global level the European Union presents the most advanced regulations, but other regions, and particularly Latin America, are considering the possibility of creating a unified digital market to face the challenges of the regulation of the digital economy (see next section).

In the Latin American region, the analysis of a digital ecosystem sheds light on the domination of US companies, but it also shows some sectors in which Latin American companies are able to compete, or even dominate the regional market (KATZ, 2015). For example, the Internet search market presents a quasi-monopoly by Google. The social network market is also dominated by US giants Facebook, LinkedIn and Twitter. However, the fourth most frequently used social network in the region in 2014 was Taringa (KATZ, 2015, pp. 88-89). A similar situation exists in the online video market with a limited but growing participation of local actors. For the moment, it is in the e-commerce sector that Latin American companies have been able to overtake global companies. *Mercado Libre* is the main e-commerce platform in all of the region's biggest countries (KATZ, 2015, pp. 92-93).

2.2 The Insertion Policies of Emerging States

The insertion policies of the states of the Global South and mainly the emerging states present the two dimensions of insertion mentioned in the first section of this chapter: the internal dimension of transformation to comply with global standards, and the external dimension to project its position in international governance forums. These strategies respond to the original exclusion of actors of the Global South since the 1990s.

In fact, despite having been a transnational network from the beginning, Internet governance was originally discussed in the United States and, for both ideological (CHENOU, 2014) and circumstantial reasons, a model was chosen that was based on the participation of private actors and governments of the states of the Global North (MUELLER, 2002).

If we look at the topic of exclusion based on the division between actors from OECD member states and those that are not members of this organisation, we can see a clear exclusion of the latter both in terms of the organisation in charge of the governance of the critical network resources, and in the main body of technical regulation.

First, the Internet Corporation for Assigned Names and Numbers (ICANN) was created as a non-profit organisation under California law in 1998 to manage domain names and IP addresses. The proposal made by ICANN triumphed among a number of projects, including the proposal by an International Ad Hoc Committee (IAHC) of a more international multistakeholder organization with the participation and monitoring of intergovernmental bodies such as the World Intellectual Property Organisation and, above all, the ITU (IAHC, 1997). The rejection of the participation of intergovernmental bodies and the creation of a private governance body monitored by the US Government was one of the reasons that hampered the participation of the states of the Global South. Beyond US actors, the first ICANN Board of Directors was made up of representatives from the European Union, Australia and one member from Hong Kong. In addition, the international membership foreseen in the ICANN statutes was not implemented during the early years of the organization. As such, the representation of the Global South was limited to the participation of representatives of the states in the Governmental Advisory Committee (GAC). However, this body was designed as the least powerful of the organization, acting only upon request by the Board of Directors (ICANN, 1998). Also, half of the states represented in the first meeting were members of the OECD. Only a few

states such as Argentina, Brazil, Bhutan, China, Peru, Singapore, Sri Lanka and Tuvalu represented the Global South.

Second, the exclusion of actors that were not members of the OECD was even clearer in the Internet Engineering Task Force (IETF). None of the members of the Internet Engineering Steering Group (IESG; the group of IETF directors) was from a country that did not belong to the OECD. If we look at IETF's practical work, we can consider two main types of documents. The Internet drafts are works in progress with no formal status. The Request For Comments (RFC), despite their name, comprises technical and Internet standardization documents. RFCs are sometimes referred to as Internet "laws". Although some of the IETF documents are written or co-authored by citizens who are not members of the OECD, no RFCs were written by citizens not pertaining to the OECD prior to 2006 (See Fig. 5).

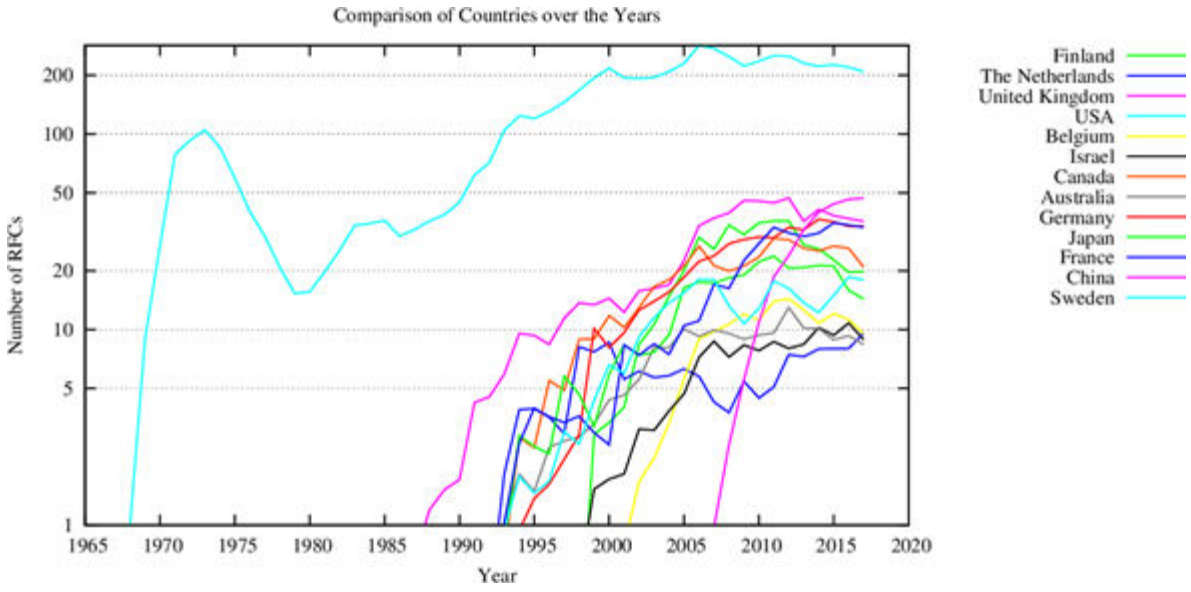

Figure 5: Number of Request For Comments per country of authorship (1965-2017)[9]

With the exclusion of actors from the Global South in the first wave of the institutionalisation of Internet governance in the 1990s, these actors, and mainly the

[9] This graphic tracks publication of RFCs with authors from a given country. Country data is calculated from the first occurrence of an author. The scale is logarithmic, and data has been smoothed using an exponential moving average with alpha = 0.40. The last year (2017) has been adjusted assuming the same publication rates as has happened during first part of the year (now 81.99 % complete).

states, mobilised to reform the institutions and obtain greater weight giving way to a power struggle that would last two decades (RADU; CHENOU; WEBER, 2014). From the perspective of the Global South, this political struggle developed in three scenarios: within the framework of the United Nations; in the efforts to reform the ICANN; and, at internal level, to adopt innovative policies in terms of network regulation.

The first great attempt to give the actors of the Global South a voice was the organisation of a World Summit on the Information Society between Tunisia and Geneva from 2003 to 2005 within the framework of the United Nations. During the summit, the internationalisation of Internet governance became a central topic as the debates went on (KUMMER, 2007; RABOY; LANDRY, 2006). Although the actors of the Global South were not able to impose a reform of the existing governance system, a consensus was reached on the creation of an Internet Governance Forum within the United Nations, which organised a multistakeholder annual meeting as from 2006 (EPSTEIN, 2013). The Internet Governance Forum is more open to the participation of the Global South and eight of the eleven meetings were held in countries of the Global South. However, it is a discussion and socialisation forum with no decision-making power. As such, the participation of actors from the Global South is real but their influence limited.

Within the framework of the United Nations, the states of the South tried to include the topic of Internet governance in the ITU discussions. This attempt gave rise to a clash of perspectives during the World Telecommunication Development Conference of 2012 that resulted in a division between Signatory states (89) and Non-signatory states (55), which corresponds, to a great extent, to the North – South divide.

As shown by the debates, which took place in the World Telecommunication Development Conference, the creation of the Internet Governance Forum did not meet the expectations of the actors of the Global South. The lack of decision power and the continued private governance dominated by actors of the North around the ICANN continued to sustain the demands for reform by marginalised actors. June 2013 saw the publication of the revelations of Edward Snowden about the mass global surveillance programs involving US companies and the National Security Agency (NSA) and US allied governments through the Five Eyes agreements (Australia, Canada, New Zealand, the UK, and the United States). In this context, the need to reform the Internet governance system and particularly the ICANN became more urgent (COGBURN, 2017). Under the leadership of Brazil's president Dilma Rousseff, the issue of reform was discussed in the

UN General Assembly. The technical Internet governance organizations met in October 2013 and adopted the Montevideo Declaration which contemplated the speeding up of ICANN reforms towards the globalisation of governance (ICANN ET AL., 2013). In May 2014, the multistakeholder meeting NetMundial organised by the government of Brazil in São Paulo insisted on the urgency of the reform. NetMundial was an original initiative since it was the first multistakeholder meeting aimed at the drafting of recommendations. The organisation as well as the outcome of the summit illustrate the strategy by Brazilian actors (especially the government and civil society organisations) to offer innovative spaces to discuss Internet governance in the Global South. This mobilisation led to the creation of an Internet Assigned Numbers Authority (IANA) transition group. The group was mandated to design the internationalisation of the allocation of IP addresses, one of ICANN's fundamental functions, which was under the supervision of the US Government since the creation of ICANN in 1998. In June 2016, the US National Telecommunication and Information Administration accepted the transition plan proposed by the group (NTIA, 2016), giving way to the creation of a new entity known as the Public Technical Identifiers (PTI), independent of the US Government. The globalisation function of IANA and the growing influence of the Governmental Advisory Committee in ICANN ensure a certain degree of autonomy from the US Government and an improved representation of the interests of the states of the Global South. However, the technical network governance bodies continue to be dominated by actors of the North, and the participation of the Global South is generally limited to governments and no other actors.

Finally, part of the insertion strategies for the regulation of the digital era was established at national level. Faced with the difficulty of actively participating in global Internet governance, many states of the South, and especially Latin America, established national policies aimed at improving access to ICTs and implementing national online regulations based on local needs. National regulations are also part of the efforts towards insertion by the Global South since, as we have seen in the introduction, insertion is both an internal and a geopolitical strategy. An important example is the Brazilian Civil Rights Framework for the Internet (Marco Civil da Internet), which sets out the fundamental principles for network regulation in the country. Other governments adopted policies in the ICT sector, which are presented as good practices at global level (see Figure 6).

Recommendations for policymakers and regulators in the area of ICT	Selected good practice
1. Establish digital leadership in the country through mandating a ministry, an agency or an inter-departmental collegial body to drive digitalization agenda in collaboration with other relevant departments.	Singapore established Infocomm Media Development Authority (IMDA) to drive innovation in the digital initiatives. In Finland digitalization is a collegial responsibility of a group of ministries. Both models, albeit different, are note-worthy.
2. Investigate how to encourage digital literacy and digital innovation through initiatives such as interactive training programs in community centres, and encourage the involvement of private organizations to accelerate digital literacy	Pakistan established National Technical Training Program to develop ICT skills through communities. In addition, government of Pakistan supports digital innovations created by private organizations, such as the Girl Effect mobile app, a global digital platform to empower young girls in more than 60 countries.
3. Establish up-to-date cybersecurity strategy that includes incident response, mitigation measures and preventative controls for cyber-attack/crime.	Finland established goals and guidelines to respond to threats to ensure that cyber activities are secure.
4. Establish national and/or sector-specific data protection laws that prohibit harmful uses of personal information that could erode trust in digital services.	Singapore created Personal Data Protection Act that governs the collection, use, and disclosure of personal data.
5. Collaboratively with different stakeholders develop cloud policy framework that provides transparency and facilitation for: • Data disclosures and supporting protocols • Regulations associated with data rights • Liability issues, especially for data misuse or loss. This does not mean a dedicated cloud regulation; rather checking whether the three aspects above are addressed in horizontal regulations.	Finland follows the European Cloud Computing Strategy that addresses ownership, access, portability of data and switching of cloud service providers.
6. Encourage digital financial inclusion, including through-e-payment innovations facilitated by secure and reliable e-payment platforms and by adjusting current regulations that may hinder its development, such as requiring a high minimum level of capital investment.	Indonesia's Financial Services Authority (OJK) issued consumer protection regulations governing electronic payment processing to provide security for consumers. As a result, the use of e-payments has significantly increased. This situation triggered many FinTech players in the country to create more e-payment innovations.

Figure 6. Examples of good practices in ICT regulation including examples from the Global South (Broadband Commission , 2017)

In 2010, the Colombian Government, for example, launched an ambitious plan “Plan Vive Digital 2010 - 2014” to increase broadband access in the country to respond to the fact that in 2010, only 4,6% of households had landline broadband access, and 2,6% to mobile broadband Internet (Broadband Commission, 2016). In other regions of the Global South like Africa and Asia, the authorities opted for mobile Internet given the difficulty of equipping large territories with landlines. As well as promoting access, governments such as the Indian promote the digitalisation of public services to achieve national digital governance (Broadband Commission, 2016).

Global South states' political insertion strategies have brought about important changes in Internet governance at global and national levels. While the first wave, in the 1990s, of the institutionalisation of Internet governance around ICANN completely excluded actors of the South, the second wave from the WSIS in 2005 to the globalisation of a

fundamental function of the ICANN in 2016, amplified the participation and the influence of governments of the Global South. However, this evolution is limited and the most important changes were given in terms of national policies for the creation of innovative regulation frameworks that allowed the rapid development of ICTs in countries of the South and some public policies more directly focussed on local needs. These policies in turn allowed the improved integration of companies of the Global South to the global value chains of the digital era.

3. Towards a Real Insertion of the Global South?

This section discusses the possibility of a true insertion of the Global South in Internet governance. Beyond participation in the Internet Governance Forums and in the institutions in charge of the technical management of critical network resources, insertion would require a reconfiguration of the material layer, a reflection on the uses in the Global South and, as such, a redefinition of imaginaries, that lend meaning to technology and that allow us to think about the future through the inclusion of alternative viewpoints.

3.1 Political Participation in Internet Governance

As we have seen, the political participation of the Global South in Internet governance is increasing, but it is still limited. The challenges have to do with both the reality of participation in multistakeholder processes and with its effectiveness.

First, the multistakeholder governance forums are not necessarily inclusive just because they are multistakeholder (CHAKRAVARTTY, 2006). The opening up of the forums to civil society and the private sector tends to hamper the participation of actors of the Global South. Despite recent efforts, the fact that the debates are not translated from English to other languages privileges speakers in this language. The technical nature of the language used and the structures of interaction in multistakeholder spaces promotes the participation of “insiders” (EPSTEIN, 2011). Such obstacles lead to a lack of participation in some of the more technical forums and to a concentration of the participation of actors of the Global South in the Internet Governance Forum, an institution that lacks decision-making power. A true insertion of the Global South in Internet governance and in the regulation of the digital era requires minimum standards of a representation of the interests of the regions in which the majority of Internet users are located.

Second, physical participation is not sufficient due to the risk of tokenism (a superficial form of representation of marginalised actors). Arnstein's (1969) ladder of citizen participation sheds light on the broad spectrum of degrees of participation from manipulation as a form of non-participation to complete citizen control. This scale can be useful when it comes to thinking about the participation of the actors of the Global South in Internet governance. A significant part of the current participation materialises in the form of tokenism with forms of information, consultation or even forms of silencing of marginalised actors. Active participation is a necessary condition for the insertion of the actors of the Global South. However, active participation of the actors of the Global South requires a modification of the multistakeholder governance model created and promoted by the states of the North. For example, Brazil has been advocating - since the WSIS in 2005 - for a model of multistakeholder governance that grants a particular role to the state vis-à-vis other types of non-state actors.[10] In this view, multistakeholderism is best defined as a partnership led by the state and including non-state actors rather than a gathering of different types of actors on an equal footing. State leadership is perhaps less necessary in countries with developed digital markets and a strong civil society, but it continues to be fundamental for many actors of the Global South. India has imposed a project for the reform of Internet governance within the UN General Assembly through the creation of a UN Committee for Internet-Related Policies (CIRP). Although the proposal was criticised for being too state-centered (DENARDIS; MUSIANI, 2015), the support it enjoyed among the country's civil society demonstrates the existence of alternative visions of a multistakeholder model in the Global South.

Other states of the Global South completely reject the multistakeholder governance model, preferring instead the intergovernmental model whose democratic basis of one state, one vote is more fully consolidated. Those who reject the multistakeholder model tend to be non-democratic regimes such as Cuba, China or states of the Arabian Peninsula. As such, their criticisms were rejected and linked to authoritarianism. Although justified, such criticism hampers the reflection on the fundamental failures of the multistakeholder model in terms of democracy, such as, for example, the

[10] Since the first phase of the WSIS, the Brazilian representatives insisted on “the state's key role in the formulation and implementation of ICT-related policies, in partnership with international organizations, the private sector and civil society.” See Brazilian comments on the draft Plan of Action, 31 May 2003, available at http://www.itu.int/wsis/documents/, last accessed January, 14, 2018.

unprecedented influence that it grants the most powerful economic sectors of the OECD countries.

It is thus necessary to reinvent the multistakeholder governance model towards actual and effective participation of actors from the Global South by taking into account the specific conditions of governments, civil society organisations, and the private sector from the Global South. In order to do so, the myth of participation on an equal footing must be debunked and institutional mechanisms have to be designed to overcome power differentials among actors.

3.2 Economic Insertion and Autonomous Markets

Beyond true political participation, the insertion of the actors of the Global South requires their inclusion in global digital markets, which cannot be limited to the production of raw material (data) for the operation of a global digital economy. As we have seen, states of the Global South have been able to implement national regulations and some of the companies belonging to these were able to emerge as important actors of digital markets. However, the markets in many of the states are not big enough to achieve efficient regulation. Vis-à-vis this situation, the dynamics of regionalism and of South-South cooperation represent important opportunities.

In the Latin American case, recent reflections set out the need to create a unified digital market for the region (CEPAL, 2015; CULLEN, 2016). Taking up a concept of the Boston Consulting Group (2014), CEPAL considers that the digital economy in the region suffers from many “e-frictions” that slow down its development. These e-frictions affect all the factors of the digital economy: infrastructure, industry, individuals, and content. According to CEPAL, the creation of a single digital market is the answer that the European Union is formulating to deal with such challenges. The Andean Development Corporation (CAF) goes further in its comparison and argues that the European Union and Latin America constitute markets of a similar size (around 500 million people) and it analyses the different regulation policies and the convergence towards a single digital market in Europe to analyse the possibility of reproducing the model in the region. In order to regulate transnational digital markets and to be able to regulate the economic activities of Internet giants, cooperation at a supranational level is necessary. Only large markets with strong institutions will be able to grant users and businesses fair rules and rights.

Another strategy for the states of the Global South is to promote South-South cooperation to identify common interests in the political and commercial arenas. This type of cooperation is becoming generalised in many areas of International Political Economy (BERGAMASCHI; MOORE; TICKNER, 2017). In terms of Internet governance and the regulation of the digital economy, India, Brazil and South Africa organised themselves into a group called the IBSA in order to promote an Internet governance that considers the interests of the emerging countries of the Global South and to define new policies of cooperation in the digital era. One of the most interesting aspects of this initiative was the fact that cooperation was not limited to governments; it involved other Civil Society actors. Although the important reforms proposed by the group were not adopted because of the opposition of the European Union and the United States (DENARDIS; MUSIANI, 2015; JAMART, 2013), the possibility to form alliances among actors of the Global South is an interesting clue in promoting its insertion in global debates.

3.3 Imagining Internet from the Global South

One of the most important points behind the achievement of the insertion of the actors of the Global South is the need to escape from the imaginaries of the Global North in terms of the Internet and the digital era. As mentioned in the first section of this chapter, the relationship between society and technology goes beyond material aspects. The insertion of the Global South does not merely refer to a connection through infrastructure, or implication in the political and technical governance forums. The relationship between technology and society is also based on socio-technical imaginaries that give social sense to technology and allow us to imagine its future (JASANOFF; KIM, 2015). As mentioned by the authors of the book “Beyond imported magic” (MEDINA et al., 2014), in the 1970s, students at Universidade Federal do Rio de Janeiro (UFRJ) referred to computers as "imported magic". As long as Internet and the ICTs are treated as imported magic in the Global South, alternative imaginaries of such technology cannot arise. A true insertion of the Global South requires the formulation of socio-technical imaginaries that give technology a social sense from the Global South, and these imaginaries have to be shared and discussed at a global level. One of the most important challenges is the definition of future imaginaries of the digital economy and society. There are many terms, which are used on a daily basis (digital economy, big data, digital

revolution, fourth industrial revolution, industry 4.0, etc.), and such concepts allow us to imagine the future of technology. They all come from dominant actors of the Global North and propose a purely economic perspective of the Internet and ICT. This perspective has to be debated and compared with alternative imaginaries, including those formulated in the Global South.

Conclusion

This chapter proposes a broad view of Internet governance to reflect on the insertion of the actors of the Global South. This reflection contributes to a dialogue between Internet governance studies, global IR and global IPE. Drawing upon the concept of insertion, the chapter outlines a comprehensive framework that includes political, economic and technical aspects to contribute to a perspective from the Global South on Internet governance. While traditional IR/IPE scholarship adopts either a technological determinism (the Internet transforms power relations) or a social determinism (the Internet embodies pre-existing power relations), an STS-inspired perspective allows for an analysis of insertion as both a continuation of power relations and their transformation through the adoption of a key technology. This outlines a non-deterministic framework to analyse the participation of the Global South in the advent of the digital age. Beyond traditional forums (technical and political) in which Internet governance is debated, a broader view attempts to cover the political and economic dimensions of the digital era, the continued power relations and domination along with their transformations brought about by the emergence of new technologies, and the material and discursive aspects of technology. This broad view allows the analysis of the original exclusion of the actors of the Global South in all the dimensions mentioned, as well as the insertion efforts of these actors in recent decades. Insertion strategies are described as efforts to transform the uses and regulations of technology at national level, and as a projection to global level in order to meet local needs and interests. The balance of the insertion efforts made to date is nuanced. Although states and economic actors of the Global South have improved their participation in political debates as well as in global digital markets, they have not been able to transform the structural domination of the actors of the North in either of the two cases. The last section sets out scenarios for a true insertion of the Global South in the digital era. First, it argues that a true political insertion goes beyond the current participation of the

actors of the Global South which is limited, in general, to forms of tokenism without real participation in decision-making in the most important spheres. Political insertion requires reforms not only of the institutions but also of the multistakeholder governance model in order to make it more inclusive and democratic. Second, the consolidation of the insertion of Global South actors in digital markets must set out new relations in the global value chains of the digital era so that users in the Global South become more than mere consumers of services from the North and/or data producers through their use of platforms and networks, without the added value of this data production benefiting the economies of the Global South. Here, strategies of regionalism and South-South cooperation may improve the position of the South in digital markets. Finally, the chapter sets out the more problematic need for formulating alternative imaginaries from the Global South about the uses of technology and of possible futures promoted by the emergence of the digital era. This last point is more complex but necessary if we are to comply satisfactorily with the two previous points. If we do not imagine the future of the digital era beyond that which is proposed by Internet giants and governments of the most powerful states on the planet, there will probably never be a privileged position for Global South actors in the digital era.

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Governança Global da Internet: Aspectos Conceituais, Questões da Agenda Contemporânea e Prospectos para o Estudo do Tema

Diego Canabarro

1. Introdução

A criação e a popularização da Internet pelo mundo levaram à institucionalização de uma realidade de governança descentralizada e multifacetada, que toca diversos regimes internacionais vigentes, arregimenta uma pluralidade quase infinita de atores e conta com grande protagonismo de atores privados.

Em um sentido estrito, a governança global da Internet diz respeito ao endereçamento numérico e alfanumérico dos dispositivos computacionais terminais e nucleares que integram a Internet e às tarefas de transmissão, roteamento e comutação de pacotes de dados de uma ponta à outra da Rede. Em um sentido mais amplo, a governança da Internet diz respeito à inevitavelmente a tensão existente entre, de um lado, o caráter global de fluxos e transações que ocorrem por meio da Internet, e, de outro, a vinculação territorial da infraestrutura, dos usuários e dos provedores de bens e serviços relativos à Internet. Isso os submete a diferentes jurisdições soberanas e regimes regulatórios nacionais e internacionais, e impõe desafios de coordenação da ação coletiva no campo das políticas públicas em diferentes níveis: da governança internacional das telecomunicações em sentido estrito à própria governança política no plano global, passando, inclusive, pela governança política no âmbito das poliarquias contemporâneas.

Este trabalho trata da governança global da Internet em uma perspectiva histórica e detalha, especificamente, as disputas políticas e as consequências observáveis em torno de seus contornos institucionais que foram inauguradas a partir do caso Snowden. Ele tem como premissa as assimetrias de poder que caracterizam a governança global da Internet e o fato de que tais assimetrias têm determinado os rumos observáveis nesse setor das relações internacionais até os dias atuais. A pesquisa da qual derivou este texto

foi realizada durante o processo de doutoramento do autor entre 2010 e 2014 e estendida sistematicamente por sua inserção no campo a partir de então. Ela empregou os métodos de análise contextual e de rastreamento histórico de processos políticos e estruturou-se a partir de um referencial teórico que envolve a matriz histórica da teoria institucional e a matriz realista ao estudo de regimes internacionais e da governança global.

O texto a seguir divide-se em três grandes partes. A primeira detalha os conceitos fundamentais para a compreensão do estudo e resume, em perspectiva histórica, os diferentes formatos institucionais assumidos pela governança da Internet até os dias atuais. A segunda explica a paralisia do desenvolvimento institucional da governança da Rede na primeira década do século XXI. A seguir, na terceira, o trabalho aborda os resultados decorrentes das revelações de Edward Snowden em meados de 2013 para esse setor das relações internacionais, e apresenta o cenário político consolidado entre 2014 e 2016 de maneira perspectivada às seções anteriores, e apresenta o cenário político consolidado entre 2014 e 2016 de maneira perspectivada às seções anteriores. Ao fim, apontam-se as oportunidades que se abrem à pesquisa sobre o assunto no âmbito das Relações Internacionais.

2. Governança Global da Internet: Aspectos Conceituais e Institucionais

Há duas acepções comumente relacionadas à expressão "governança da Internet"[11]. Em primeiro lugar, ela diz respeito ao conjunto de atividades de padronização e administração dos recursos essenciais ao funcionamento da Internet como uma rede única em todo o mundo. Nesse caso, a expressão engloba a coordenação centralizada do sistema de nomes de domínio (DNS), incluída aí a administração da zona-raiz do DNS; a gestão e a alocação distribuída dos recursos de endereçamento numérico (números IP e números de Sistemas Autônomos) e alfanumérico (nomes de domínio); e o desenvolvimento de protocolos que orientam o funcionamento da Internet. A governança da Internet envolve, nesse escopo, a definição, nos fóruns especializados, de

[11] MUELLER, M. (2002). Ruling the Root: Internet Governance and the Taming of Cyberspace. Cambridge, USA, MIT Press. KLEINWÄCHTER, W. The History of Internet Governance. In: OSCE (2007). Governing the Internet: Freedom and Regulation in the OSCE Region. Vienna: OSCE, p. 41-64. Disponível em: http://www.osce.org/fom/26169. Acessado em: 20/08/2017. DRAKE, W. J.; WILSON III, E. J. (2008) Governing Global Electronic Networks: International Perspective on Policy and Power. Cambridge: The MIT Press. POST, D. G. (2009) In Search of Jefferson's Moose - Notes on the State of Cyberspace. New York: Oxford University Press. DENARDIS, L. The Emerging Field of Internet Governance. In: DUTTON, W.H. (2013) Oxford Handbook of Internet Studies. Oxford: Oxford University Press, p. 555-576. KURBALIJA, J. (2017). An Introduction to Internet Governance -- 7th edition. Geneva: DiploFoundation.

regras e políticas para a operação das diversas porções estruturais da rede, bem como a própria implementação distribuída dessas regras e políticas no funcionamento quotidiano das diversas redes que integram a Internet.[12]

Em uma perspectiva mais ampla, nos termos da Cúpula Mundial sobre a Sociedade da Informação, a governança da Internet envolve *"o desenvolvimento e a aplicação pelos governos, pelo setor privado e pela sociedade civil, nos seus respetivos papéis, de princípios, normas, regras, procedimentos de tomada de decisão e programas compartilhados que moldam a evolução e a utilização da Internet"*.[13] Além da definição de protocolos e políticas de funcionamento e da operação das diversas porções da Internet de forma distribuída pelo planeta, portanto, a governança da Internet engloba a complexa teia de fenômenos sociotécnicos decorrentes do emprego e do uso da Internet nas mais variadas esferas da vida contemporânea.[14] Entre muitos outros temas, são questões comuns dessa agenda ampliada: a privacidade e a proteção de dados pessoais no contexto da crescente coleta, armazenamento e processamento de informações como modelo de negócio na era digital; a tensão entre, de um lado, a possibilidade potencialmente infinita de livre acesso à informação e ao conhecimento e, de outro, os direitos de propriedade intelectual; o contencioso entre a liberdade de expressão e a remoção de conteúdos ofensivos aos direitos de atores sociais dos mais variados; as modalidades de regulação, fiscalização e tributação de serviços (tanto os tradicionais serviços de telecomunicações que servem de suporte à Internet, quanto aqueles serviços que são oferecidos através dela).

Em síntese, portanto, a expressão "governança da Internet" refere-se tanto à governança da Rede em si, quanto de todas as coisas que a rodeiam e com ela se relacionam. [15]

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[12] DENARDIS, L. (2010). The Privatization of Internet Governance (September 2010). GigaNet: Global Internet Governance Academic Network, Annual Symposium 2010. Disponível em: https://ssrn.com/abstract=2809229. Acessado em: 30/09/2017. DENARDIS, L. (2014). The Global War for Internet Governance. Yale University Press.

[13] UNITED NATIONS (2005). Report of the Working Group on Internet Governance. Disponível em: http://www.wgig.org/docs/WGIGREPORT.pdf. Acessado em: 30/09/2017.

[14] KLEINWÄCHTER, W. (2015) Internet Governance Outlook 2015: Two Processes, Many Venues, Four Baskets. CircleID. Disponível em: http://bit.ly/2gCSyJz. Acessado em: 13/08/2017.

[15] Para tentativa de delimitação daquilo que deve ser entendido como "governança da Internet", ver: DENARDIS, L. (2014). The Global War for Internet Governance. Yale University Press. Para a autora, governança da Internet envolve basicamente a gestão dos recursos críticos da Internet; a política dos protocolos; a segurança e estabilidade do sistema (que cada vez mais ganha interface com aspectos de segurança pública, segurança nacional e segurança internacional); as relações políticas e jurídicas que condicionam a interconectividade global que sustenta a Internet; e o papel dos diversos intermediários (no nível da infraestrutura e da provisão de serviços) nos rumos do uso e desenvolvimento da Internet.

Como se verá na seção seguinte, desde a década de 1970 até o final da década de 1990 a governança da Internet ficou restrita às atividades conduzidas pelo núcleo-duro de cientistas de universidades americanas envolvidos com o projeto central que deu origem à Internet global, sempre sob a supervisão de órgãos do governo estadunidense.[16] A partir de meados da década de 1990, diante do crescimento da importância da Internet, a governança da Internet passou por um processo de institucionalização complexo que faz dela *"uma arena multidimensional e pluriparticipativa de interação política entre atores estatais e não estatais diversos, que existe paralelamente nos planos doméstico, regional e internacional, em que se determina – de maneira variável, tanto hierárquica, quanto anarquicamente – a forma de organização do controle dos recursos críticos da Internet (dos quais depende a disponibilidade permanente e a estabilidade da Rede), bem como os direitos e deveres dos diferentes atores conectados à Rede (usuários pessoas físicas e pessoas jurídicas públicas e privadas, provedores de serviço e conteúdo, terceiros-interessados, etc.)"*[17].

2.1 Os Espaços Institucionais da Governança da Internet em uma Acepção Restrita

O cerne da governança da Internet envolve a execução das funções IANA (acrônimo para *Internet Assigned Numbers Authority*). As funções IANA referem-se à administração bases de dados centrais que catalogam os inúmeros protocolos da Internet e servem de base para a alocação de endereços numéricos (IPs), bem como para a resolução de nomes de domínio em endereços IPs. Além disso, elas englobam, também, a coordenação do sistema de servidores-raiz da Internet.

Como tivemos a oportunidade de explicar em outro lugar, há quem limite o estudo da governança da Internet aos aspectos mais relacionados aos recursos críticos da Internet. Há, porém, quem amplie a definição a ponto de torná-la sinônimo do que Denardis chama de "Internet policy" e "information policy". Ver, nesse sentido, as diversas definições apresentadas no capítulo 6 de CANABARRO, D. R. (2014). Governança Global da Internet: Tecnologia, Poder e Desenvolvimento. Tese (Doutorado em Ciência Política) -- PPG Ciência Política, Universidade Federal do Rio Grande do Sul, 2014. Disponível em: http://www.lume.ufrgs.br/handle/10183/114399. Último acesso em 30/09/2017. Denardis estuda, também, dois aspectos temáticos singulares em meio a esses aspectos mais estruturantes: questões relacionadas a neutralidade da rede e a exploração da infraestrutura da Internet e de suas instâncias de governança para a assegurar a proteção e a não violação de direitos de propriedade intelectual. Essa tendência denota a interpenetração entre uma abordagem mais restrita e uma abordagem mais ampla para a governança da Internet.

[16] ABBATE, J. Inventing the Internet. Cambridge, MA: MIT Press, 2000.

[17] CANABARRO, D. R. (2014). Governança Global da Internet: Tecnologia, Poder e Desenvolvimento. Tese (Doutorado em Ciência Política) -- PPG Ciência Política, Universidade Federal do Rio Grande do Sul, 2014, p. 28. Disponível em: http://www.lume.ufrgs.br/handle/10183/114399. Último acesso em 30/09/2017.

A IANA funciona como um ponto de convergência para as comunidades setoriais envolvidas, respectivamente, com o desenvolvimento e a implementação operacional de protocolos para a Internet (representada pela *Internet Engineering Task Force -- IETF*[18]), bem como com a definição e a implementação de políticas de endereçamento numérico (a *Numbers Resource Organization -- NRO* como um guarda-chuva para os *Regional Internet Registries*[19]) e alfanumérico (a *Internet Corporation for Assigned Names and Numbers* -- ICANN, o espaço que congrega administradores de registros de nomes de domínio de primeiro nível genéricos [gTLDs] e códigos de países [ccTLDs] no DNS)[20]. A execução das funções IANA, por requererem coordenação central, foi desempenhada pela própria *ICANN.* Desde o final de 2016, uma entidade subsidiária da ICANN (a *Public Technical Identifiers -- PTI*) passou ocupar-se do desempenho das funções IANA como se verá na seção 4 deste trabalho.

À definição de regras e políticas que definem o funcionamento do sistema, bem como sua coordenação centralizada, deve-se adicionar também a implementação distribuída das mesmas no cotidiano operacional das diversas redes que integram a Internet. Regras e políticas abstratamente definidas nas instâncias descritas acima acabam ganhando contornos contextualizados a partir da ação de provedores locais de acesso e conexão à Internet (que buscam, na esfera dos *Regional Internet Registries*, os endereços por meio dos quais conectam suas redes à Internet global; que administram de forma distribuída pelo planeta as inúmeras zonas que compõem o sistema de nomes de domínio (*registries)*; e que comercializam esses nomes e ofertam serviços associados ao funcionamento do DNS (*registrars, data escrows,* etc.). Essa tarefas inerentes à viabilização do funcionamento da Internet encontram-se em uma fronteira tênue existente entre uma concepção mais estrita e uma mais abrangente de governança da Internet.

Em suma, os elementos apontados acima estruturam um ecossistema de governança distribuída, cujos distintos componentes são, sobretudo, entidades de natureza privada

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[18] O IETF está vinculado a uma complexa estrutura organizacional sustentada pela "Internet Society" (ISOC) da qual fazem parte também a "Internet Architecture Board" (IAB) e o "Internet Engineering Steering Group" (IESG). Para entender as ligações formais e informais entre esses grupos, ver: HOFFMAN, P. (ed.) (2012). The Tao of IETF: A Novice's Guide to the Internet Engineering Task Force. Disponível em: https://www.ietf.org/tao-archive/. Último acesso em 29/09/2017.

[19] Sobre a organização dos RIRs e da NRO, ver: https://www.nro.net/. Último acesso em 30/09/2017.

[20] Sobre a complexa estrutura institucional em torno da gestão do DNS, ver: ICANN (2013). Beginner's Guide to Participating in ICANN. Disponível em: https://www.icann.org/resources/files/participating-2013-11-08-en. Último acesso em 30/09/2017.

com perfil técnico por jurisdições distintas, mas com substancial concentração geográfica em torno da jurisdição dos Estados Unidos.[21]

2.2 Os Espaços Institucionais da Governança da Internet em uma Acepção Ampla

As diversas trilhas de governança inauguradas a partir da Cúpula Mundial sobre a Sociedade da Informação, entre os anos de 2003 e 2005, configuram o principal espaço especializado no assunto existente na atualidade.

A Cúpula começou a ser gestada no final da década de 1990, quando a União Internacional das Telecomunicações (UIT) comissionou ao Secretário-Geral da ONU a realização de um processo continuado destinado a gerar insumos relacionados ao papel que a "sociedade da informação" poderiam ter para o alcance das Metas de Desenvolvimento do Milênio. Esse processo representou o ápice de um contencioso iniciado a partir do final da década de 1960 e que que tem, desde então, dividido atores do norte e do sul global em torno do tratamento a ser dado a fluxos informacionais e comunicacionais no planeta. Esse contencioso é caracterizado:

> "(...) pela disputa entre duas orientações político-ideológicas principais para o tratamento da informação e da comunicação. Nos países centrais, desenvolveu-se – especialmente dentro da sociologia norte-americana –, a noção de *New World Information Order* (NWIO), marcada por determinismos tecnológicos e por um viés economicista para explicar a revolução informacional desencadeada após a Segunda Guerra. Essa orientação ganhou expressão máxima com a apropriação de sua agenda pelas políticas neoliberais que marcaram o setor da telecomunicação (entre

[21] GONZALES, Alexandre A. Quem governa a governança a governança da internet? Uma análise do papel da internet sobre os rumos do sistema-mundo. Dissertação (Mestrado em Ciência Política) -- PPG Ciência Política, Universidade Federal do Rio Grande do Sul, 2016. Disponível em: http://hdl.handle.net/10183/140410. Acessado em: 16/06/2017. Além disso, de forma ilustrativa, aponta-se aqui o caso brasileiro. Ele serve para explicar a forma com a qual um determinado país insere-se na governança global da Internet por uma perspectiva restrita. Isso envolve a existência de instâncias que organizam o endereçamento das redes locais e definição de regras que organizam o funcionamento da zona do código de país referente ao país no DNS (ccTLD). No caso brasileiro, trata-se do arcabouço do Comitê Gestor da Internet no Brasil (CGI.br) e do Núcleo de Informação e Coordenação do Ponto BR (NIC.br), encarregado da distribuição de endereços IP e números de sistemas autônomos para as redes Internet no país e pela administração da zona raiz do <.BR> no sistema de nomes de domínio. Tais atividades contam, também, com dinâmicas técnicas e políticas próprias por meio das quais são definidas regras e padrões para organizar o funcionamento da Internet localmente, em torno das quais os atores interessados no tema organizam-se entre o plano nacional e o plano internacional.

> muitos outros) na virada do século. Nos países periféricos, a reação se deu a partir da articulação do Movimento dos Não Alinhados em oposição à concentração de poder midiático e tecnológico nos países centrais, ao avanço desse poder em detrimento de caracteres culturais locais e da própria ênfase na comunicação como sendo elemento central para a cidadania e da democracia. Tal reação foi articulada em torno da *New World Information and Communication Order* (NWICO). Essa pauta ganhou espaço tanto na União Internacional das Telecomunicações quanto na UNESCO, que montou, a pedido dos Estados Unidos, uma comissão intitulada Comissão MacBride. A Comissão publicou um relatório que apontou as causas e consequências das desigualdades no processo comunicacional, e advogou a existência de um direito à informação como direito fundamental. O resultado do relatório acabou se chocando diretamente com as orientações políticas e econômicas desenvolvidas pelos Estados Unidos na época, o que contribuiu para a saída do país da UNESCO. A orientação neoliberal dos Estados Unidos foi o que vingou como horizonte normativo para a sociedade da informação (e da comunicação) durante a década de 1990, e as controvérsias a respeito (e as consequências excludentes) dessa preponderância acabaram desaguando na Cúpula Mundial para a Sociedade da Informação no início dos anos 2000."[22]

O processo desencadeado pela UIT estendeu-se de 1998 a 2005, e produziu duas reuniões de Cúpula, em 2003 e 2005, onde a questão da governança da Internet (uma tecnologia cada vez mais central para a era digital como um todo, mas até então bastante

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[22] CANABARRO, D. R. (2014). Governança Global da Internet: Tecnologia, Poder e Desenvolvimento. Tese (Doutorado em Ciência Política) -- PPG Ciência Política, Universidade Federal do Rio Grande do Sul, 2014, p. 107. Disponível em: http://www.lume.ufrgs.br/handle/10183/114399. Último acesso em 30/09/2017. Outras fontes consultadas a respeito do assunto foram: CHAKRAVARTY, P. Governance Without Politics: Civil Society, Development and the Postcolonial State. International Journal of Communication 1, 297-317, 2007. SIOCHRÚ, S. Ó. Will the real WSIS please stand up?: The historic Encounter of the Information Society and the Communication Society. Gazette The International Journal for Communications Studies. Vol.66, (3-4), 2004. p. 203-224. Disponível em: http://gaz.sagepub.com/cgi/content/refs/66/3-4/203. Acessado em: 21 outubro, 2017. HOFFER, P.. Upheaval in the UN System: The United States' Withdrawal from UNESCO, Brooklyn Journal of International Law 12(1), 161 -207, 1986. O relatório da Comissão MacBride [ABEL, E. (1984). Many voices, one world: the MacBride report. Paris, Unesco] encontra-se disponível no sítio eletrônico da UNESCO: http://unesdoc.unesco.org/images/0004/000400/040066eb.pdf. Acessado em: 10/02/2017.

subordinada aos interesses públicos e privados dos Estados Unidos) ganhou protagonismo em relação a todos os demais temas da agenda.

Em um esforço de democratização desse campo das relações internacionais, criou-se o "Fórum de Governança da Internet" (no acrônimo em inglês, IGF) sob a responsabilidade do Secretário da ONU, para servir como ponto focal para as discussões relativas ao assunto no plano global. Inaugurou-se, também, um processo continuado no âmbito da Conferência das Nações Unidas para o Comércio e o Desenvolvimento de discussão da chamada "Cooperação Aprimorada", para tratar de como enfrentar a questão das políticas públicas em interface com a Internet.

A UIT, organização na qual se deu ímpeto a todos os desenvolvimentos recém citados continua sendo um espaço onde questões da agenda mais ampla de governança da Internet são tratadas. Mas com a seguinte ressalva: a UIT tem como mandato tratar diretamente de toda a infraestrutura por sobre a qual a Internet se estrutura. A governança da Internet em si (segundo a perspectiva restrita vista acima), enquanto rede autônoma, é apenas transversal. Isso não significa, entretanto, que não haja controvérsia a respeito do *locus* institucional adequado para o desenvolvimento de protocolos, a coordenação dos sistemas de endereçamento da Internet e a definição de políticas para o mesmo. Em linhas gerais, essas atividades todas foram sendo desenvolvidas à margem das atividades da UIT ao longo das últimas cinco décadas e o sistema resultante mostrou-se absolutamente viável, robusto e seguro.

Há, além disso, inúmeros outros espaços em que a questão da governança da Internet é apenas incidental, mas tem ganhado cada vez mais espaço como assunto de interesse. É o caso de organizações técnicas de padrões para hardware e software empregados para a estruturação de redes Internet (por exemplo, o *Institute of Electrical and Electronics Engineers*) e de entidades envolvidas com o desafio de padronização de tecnologias empregadas na Web (por exemplo, o *World Wide Web Consortium*). Esses espaços organizam-se, em paralelo, nacional, regional e internacionalmente, e conformam instâncias de "governança sem governo" que desafiam as concepções mais tradicionais de governança política desenvolvidas e estudadas ao longo do Século XX.[23] Além disso, inúmeras organizações internacionais (governamentais e não governamentais) têm buscado uma maior inserção em espaços como a ICANN e o IGF de modo a alinhar suas

[23] MUELLER, M. (2010) Networks and States: The Global Politics of Internet Governance. Londres, MIT Press.

pautas temáticas aos desenvolvimentos observáveis no regime complexo que tem se estruturado em torno da governança da Internet.

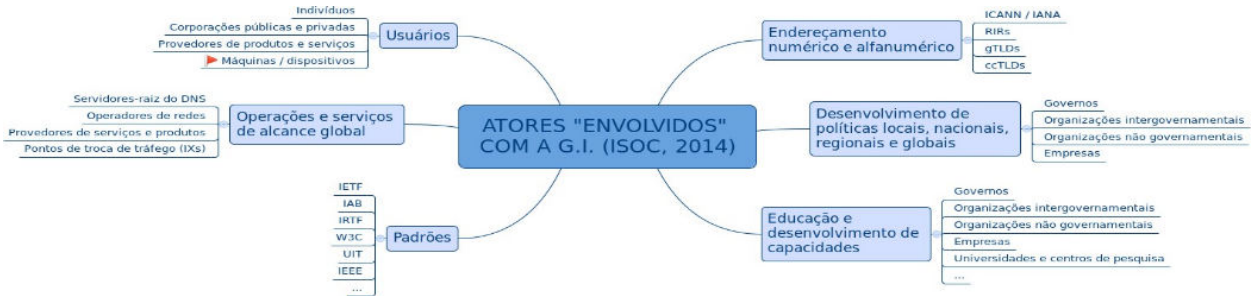
Em uma perspectiva ampliada, a governança da Internet encontra-se, ainda, na ação normativa desempenhada pelos distintos provedores de produtos e serviços relacionados à Internet. Esses atores são capazes de determinar, em maior ou menor medida, a forma com a qual a Internet é usada por meio de termos de uso e serviços, políticas de privacidade, e outros instrumentos impostos por meio de relações contratuais gratuitas ou onerosas.[24] É tamanho o poder de controle, monitoramento e modulação de ações dos usuários da Internet que está atualmente nas mãos de quem as diferentes parcelas que compõem a infraestrutura da Internet e dos serviços viabilizados por meio dela, que tem sido bastante comum a ocorrência de delegação de competências próprias do setor público, no âmbito das políticas públicas, para o setor privado (e.g.: provimento de serviços eletrônicos, oferecimento de canais de comunicação e mecanismo de autenticação do acesso de cidadãos a esses serviços). Igualmente, tem-se registrado o aumento de pressão de autoridades públicas de um país sobre atores privados de outros países com finalidades regulatórias, administrativas e até mesmo de persecução criminal e segurança pública.

No nível nacional de cada país, de maneira mais ou menos direta, a governança da Internet acaba por ser definida pelo conjunto composto pelo ordenamento jurídico; pela jurisprudência consagrada nos tribunais; pelas ações de políticas públicas implementadas pelo setor público (individualmente ou em parceria com o setor privado); por atividades regulatórias que afetam o setor de telecomunicações (que dá sustentação ao provimento de acesso e conexão de Internet), a oferta de produtos e serviços online (e.g.: modalidades de tributação, requisitos formais para operação no país, etc.); pelas características do mercado local, que definem os tipos de atividades e condições definidas pelos ofertantes de produtos e serviços; e, em um sentido mais amplo, por aspectos culturais, socioeconômicos e políticos que influenciam todos as demais variáveis anteriores, em um contexto de imprecisão entre o que é efetivamente

[24] DENARDIS, L. (2010). The Privatization of Internet Governance. Paper presented at the 5th Annual GigaNet Symposium, September 2010, Vilnius, Lithuania. Disponível em: http://bit.ly/2wNmqtD. Acessado em: 11/10/2017. Para uma perspectiva mais ampla a respeito da crescente privatização da governança da Internet a partir de uma série de estudos de caso temáticos: MUSIANI, F.; COGBURN, D. L.; DENARDIS, L.; LEVINSON N.S. (2016). The turn to infrastructure in Internet governance. Nova Iorque, Springer.

doméstico e o que é internacional em virtude do caráter transfronteiriço dos fluxos e transações efetivadas por meio da Internet.

Tomam parte nas atividades desenvolvidas dentro desse arcabouço complexo estados, corporações empresariais, usuários individuais, organizações intergovernamentais, organizações não governamentais de todas as modalidades (do terceiro setor, de comunidades científicas, de entidades técnicas, etc.).[25]



Esse conjunto de atores conforma uma esfera complexa no âmbito doméstico dos países e no nível das relações internacionais. A governança da Internet é composta por múltiplas dimensões, tem contornos imprecisos e está em constante transformação.[26] Por meio dela, determina-se os rumos do desenvolvimento da Internet e, principalmente, os limites e possibilidades de seu uso como instrumento em suporte das mais variadas atividades. As linhas divisórias entre países ricos do Norte e países em desenvolvimento do Sul seguem sendo bastante visíveis no campo. Enquanto para alguns países o acesso à infraestrutura de telecomunicações e o desenvolvimento de capacidades para o uso de

[25] Há abordagens do assunto, sobretudo no campo dos estudos de Ciência, Tecnologia e Sociedade (STS) a partir da perspectiva da teoria "Ator-Rede" que se ocupam, também, do papel de atores não-humanos na retroalimentação das dinâmicas políticas observáveis no contexto da Era Digital. É o caso dos algoritmos que animam a inteligência artificial, a comunicação máquina a máquina e o aprendizado de máquinas, bem como as dinâmicas decorrentes da operação dessas entidades em contextos variáveis. A despeito da validade dessa perspectiva, não há espaço para aprofundar a discussão e problematizar o assunto neste texto. Para uma introdução ao tema, ver: LATOUR, B. (2012) Reagregando o social: uma introdução à teoria do Ator-Rede. Salvador: EDUFBA.

[26] DENARDIS, L.; RAYMOND, M. (2013) Thinking Clearly About Multistakeholder Internet Governance. Paper presented at the 8th Annual GigaNet Symposium, October 21, 2013, Bali, Indonesia. http://ssrn.com/abstract=2354377 (accessed January 20, 2015). RAYMOND, M.; DENARDIS, L. (2015). Multistakeholderism: Anatomy of an inchoate global institution. International Theory. 7. 1-45.

TIC continuam sendo os desafios elementares e persistentes para a integração de suas respectivas populações à rede mundial, para outros (mais próximos da fronteira tecnológica) os principais desafios relacionam-se com a realidade de interconexão plena prometida pela chamada de "Internet das Coisas" em suas interfaces com a Inteligência artificial e a robótica. Assuntos como segurança cibernética; proteção da privacidade e de dados pessoais; economia do compartilhamento e novas modalidades de transação *online* que desafiam o sistema financeiro global; governança dos algoritmos que estruturam as aplicações e serviços na Internet; etc., são coisas transversais aos dois mundos.[27] Como manejar toda essa complexidade representa, hoje, um dos principais desafios para o estudo da Ciência Política e das Relações Internacionais no Século XXI.[28]

As duas seções a seguir procuram detalhar como se deu a conformação dos contornos institucionais da governança global da Internet por uma perspectiva histórica, e apontar as implicações das revelações de Edward Snowden, em meados de 2013, para o seu futuro.

3. O Desenvolvimento Institucional da Governança Global da Internet: De Onde Viemos?

O desenvolvimento institucional da governança da Internet (que segue em linhas gerais o desenvolvimento histórico da própria Internet) pode ser dividido, grosso modo, em três grandes fases (sem limites estanques e com características compartilhadas entre elas): uma fase marcada sobretudo pela experimentação e difusão acadêmica, em que sua governança esteve restrita a comunidades epistêmicas específicas; uma fase de exploração comercial e popularização do uso da Internet, em que sua governança ganhou contornos institucionais mais bem delimitados, ainda centrados na jurisdição dos

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[27] Este capítulo não pretende mapear de forma aprofundada o posicionamento de atores em relação a temas distintos da agenda de modo a explicar a formação de consensos e dissensos na agenda contemporânea. Um estudo detalhado do assunto pode ser encontrado no capítulo #6 (Governança da Internet: Definição e Escopo) de: CANABARRO, D. R. (2014). Governança Global da Internet: Tecnologia, Poder e Desenvolvimento. Tese (Doutorado em Ciência Política) -- PPG Ciência Política, Universidade Federal do Rio Grande do Sul, 2014. Disponível em: http://www.lume.ufrgs.br/handle/10183/114399. Último acesso em 30/09/2017; e no diagnóstico feito por Everton Lucero em sua monografia apresentada como trabalho final do Curso de Altos Estudos do Instituto Rio Branco: LUCERO, E. Governança da Internet: aspectos da formação de um regime global e oportunidades para ação diplomática. Brasília: FUNAG, 2011.

[28] CANABARRO, D. R. (2014). Governança Global da Internet: Tecnologia, Poder e Desenvolvimento. Tese (Doutorado em Ciência Política) -- PPG Ciência Política, Universidade Federal do Rio Grande do Sul, 2014. Disponível em: http://www.lume.ufrgs.br/handle/10183/114399. Último acesso em 30/09/2017.

Estados Unidos; e uma fase de massificação que aumenta sobremaneira a complexidade da governança.

3.1 Institucionalização Liderada pela Comunidade Técnica e Acadêmica

A primeira fase representa o momento em que a coordenação técnica dos recursos críticos da Internet foram desenvolvidas por parte dos cientistas envolvidos nos diversos projetos que deram origem à Internet como conhecemos hoje.[29] A partir da década de 1980, o principal expoente desse grupo foi Jonathan Postel. Foi Postel que, a partir do Instituto de Ciências da Informação da Universidade do Sul da Califórnia, organizou os processos de catalogação dos protocolos criados ao longo do desenvolvimento técnico da Internet[30] e de distribuição de identificadores (primeiro numéricos e, posteriormente, alfanuméricos).

Em linhas gerais, Postel mantinha e atualizava as bases de dados responsáveis por orientar o funcionamento das diversas redes integrantes da Internet. Para viabilizar essas tarefas, Postel definiu autonomamente um conjunto de políticas que guiavam a alocação de endereços IP e a atribuição de nomes de domínio para os interessados em integrar a Internet. A partir do Instituto, era ele quem fazia essas designações e, em virtude de seu papel central para o sistema, era responsável por compilar, atualizar e distribuir o "arquivo-raiz" empregado na organização do DNS. Postel era, nesse sentido, a própria "Internet Assigned Numbers Authority"[31].

A partir do final da década de 1980, em virtude do aumento da escala da Internet e da

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[29] ABBATE, J. Inventing the Internet. Cambridge, MA: MIT Press, 2000.

[30] Os protocolos técnicos da Internet são desenvolvidos por meio de propostas documentadas e abertas a comentários de pares na comunidade técnica (as chamadas "Solicitações de Comentários", tradução de "Requests for Comments"). O primeiro desses RFCs foi divulgado por Steve Crocker, em 7 de abril de 1969, na lista de correspondência de um grupo de trabalho composto por vários pesquisadores envolvidos no projeto da ARPANET (projeto que, como se sabe bem na atualidade, é o precursor da Internet como conhecemos hoje). Postel, por sua vez, alguns anos mais tarde, foi o responsável por criar uma base de dados sistematizada de todas as RFCs, desenhar o processo a ser observado na discussão de novos RFCs e definir as regras de catalogação dos novos documentos. A Internet Engineering Task Force (IETF), criada em 1986, passou o ponto focal para o desenvolvimento de protocolos da Internet. Atualmente é o IETF que administra a base de dados que, por mais de uma década, foi gerenciada por Postel. Disponível em: http://www.rfc-editor.org/rfc-index.html. Acessado em: 10/10/2016. Para um estudo detalhado da "política dos protocolos, ver: DENARDIS, L. (2009). Protocol Politics - The Globalization of Internet Governance. Cambridge: The MIT Press.

[31] Note-se a semelhança entre os dois trechos a seguir: RFC #739/1977: *"(...) This RFC will be updated periodically, and in any case current information can be obtained from Jon Postel. (...)"* RFC #1060/1990: *"This RFC will be updated periodically, and in any case current information can be obtained from the Internet Assigned Numbers Authority (IANA)."*

complexidade das tarefas estruturantes da governança da Internet, foram surgindo espaços especializados para a discussão e definição de políticas relativas à geração de protocolos e à sistemática de endereçamento das redes integrantes da Internet. O IETF foi criado em 1986 para ser o fórum técnico especializado para o desenvolvimento de protocolos para a Internet. Originalmente dependente de financiamento de órgãos do governo dos Estados Unidos vinculados com a pesquisa sobre a Internet, o IETF acabou por ser inserido no arcabouço da *Internet Society* no início da década de 1990 e funciona até hoje como o espaço no qual se dá o desenvolvimento de protocolos que orientam o funcionamento da rede até hoje.

Com o espalhamento geográfico da Internet, a definição de políticas e as práticas de alocação de endereços IPs passaram a ser realizados localmente nas arenas técnico-políticas estruturadas em torno de cinco *Regional Internet Registries (RIRs)*[32]. As estruturas regionais foram se desenvolvendo, uma a uma, de meados da década de 1990 até meados dos anos 2000.[33] Em 2003, essas estruturas (com exceção do Afrinic) criaram uma organização de coordenação (a *Numbers Resource Organization*) que serve como espaço central de articulação conjunta das entidades regionais.

Em paralelo a esses desenvolvimentos, o sistema de nomes de domínio acabou por ser percebido como um mercado lucrativo de nomes com valor semântico derivado dos identificadores alfanuméricos que delimitam espaços Internet, páginas na Web, etc. (Mueller, 2002). É nesse contexto que tem início a segunda fase do desenvolvimento institucional da governança da Internet.

3.2 Institucionalização Pautada por Imperativos Econômicos e Comerciais

Essa segunda fase é pautada pela ascendência do Departamento de Comércio dos Estados Unidos (em substituição à National Science Foundation, que já havia, por sua vez, sucedido o Departamento de Defesa) na supervisão da governança dos recursos críticos da Internet.[34] Isso decorreu do início da comercialização do acesso à Internet em todo o mundo, que levou a gestão Clinton a perceber o potencial da rede como um elemento

[32] RFC 1174/1990. Disponível em: https://tools.ietf.org/html/rfc1174. RFC 1466/1993. Disponível em: https://tools.ietf.org/html/rfc1466. Último acesso para ambos em: 29/09/2017.

[33] RIPE NCC para Europa e Oriente Médio (1992), APNIC para a Ásia e a região do Pacífico (1993), ARIN para a América do Norte (1997), LACNIC para a América Latina e o Caribe (2002), AFRINIC para a África (2005).

[34] ABBATE, J. Inventing the Internet. Cambridge, MA: MIT Press, 2000. HAFNER, K.; LYON, M. Where Wizards Stay Up Late: The Origins of the Internet. Nova Iorque, EUA: Simon & Schuster, 1996.

central da estratégia político-econômica do país na virada do século XX para o século XXI.[35] Nesse contexto, o Departamento de Comércio do país pautou e organizou, entre 1995 e 1998, processo que deu origem à *Internet Corporation for Assigned Names and Numbers* (ICANN).

A nova instituição – uma entidade privada sem fins lucrativos nos termos da legislação californiana – foi criada com a finalidade de execução das funções *IANA*, até então desempenhadas por Postel. A maior formalização dessas atividades surgiu com a dupla finalidade de aumentar a segurança jurídica em torno da raiz da Internet e transferir inteiramente para o setor privado do país a responsabilidade pela coordenação dos recursos críticos da Internet global. Nesse sentido, em relação à IANA, a ICANN passou a relacionar-se de forma coordenada com o IETF e os RIRs, tornando-se a entidade coordenadora da alocação parâmetros de protocolos e de identificadores numéricos. Além disso, a ICANN passou a o ponto focal para a definição de políticas relativas ao DNS e de coordenação da raiz do DNS.[36] De 1998 a 2016, segundo o esquema definido a partir da criação da ICANN, a supervisão do governo estadunidense restringiu-se à validação, uma espécie de auditoria, da conformidade dos processos definidos nos foros apropriados para a modificação, confecção e distribuição do arquivo-raiz do DNS para os operadores dos servidores localizados na camada hierarquicamente mais alta do sistema.

3.3 A Institucionalização no Campo da Política Internacional

Quase que em paralelo à criação da ICANN, a União Internacional de Telecomunicações lançava o processo que culminou com a Cúpula Mundial sobre a Sociedade da

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[35] CANABARRO, D. R.; GONZALES, A. A. (2017) Governança global da Internet: Um Mapa da Economia Política Internacional em Torno dos Identificadores Alfanuméricos da Rede. In: 6o Encontro da Associação Brasileira de Relações Internacionais, 2017, Belo Horizonte, MG. Anais do 6o Encontro da Associação Brasileira de Relações Internacionais. Disponível em: http://bit.ly/2vHghBr. Acessado em: 10/10/2017. Nesse sentido, "a Internet oferecia a promessa de estimular a economia global de uma forma que nada fizera e, além disso, nós [governo Clinton] também identificamos a sequência do genoma humano e o impacto que isso poderia ter na biotecnologia e, também, nas energias renováveis, como as três grandes áreas tecnológicas. Mas a Internet nós sentíamos que estava vindo primeiro. E que se nós colocassemos em posição uma série de processos que a tornassem 'amigável' com o mercado, para a Internet se desenvolver, para as pessoas investirem e um conjunto de acordos globais que a tornassem amigáveis, para a Internet decolar como meio comercial, nós sentimos que podíamos realmente ajudar a Internet a agitar a economia." MAGAZINER, Ira. DUBLIN – Transition Perspectives: From an Internet Pioneer and the US Congress. ICANN54. Dublin, Ireland. October 18, 2015. Disponível em: https://go.icann.org/2xz6gbK. Acessado em: 20/08/2017.

[36] BYGRAVE, L. A.; BING, J. (2009). Internet governance: infrastructure and institutions. New York: Oxford University Press.

Informação, descrito em detalhes na seção anterior. A Cúpula surgiu, no início dos anos 2000, com uma agenda difusa em torno da interface entre o avanço da digitalização e o alcance das Metas do Milênio da ONU. De algo incidental e secundário, nesse contexto, a governança da Internet acabou por grande destaque nos documentos políticos adotados e na agenda de trabalho prospectivo adotado no contexto das fases de Genebra e Túnis.[37]

Foi nesse contexto que surgiu o IGF (e alguns outros processos que giram em torno dele) como espaço institucional ampliado destinado a acomodar a discussão e a coordenação dos diversos *stakeholders* em relação a todas aquelas questões não englobadas diretamente pelo regime constituído em torno da governança dos recursos críticos da Internet, originalmente centradas nos seguintes assuntos: custos de interconexão internacional de redes; estabilidade e resiliência do funcionamento da Internet; o combate a ilícitos online; a coordenação no combate ao SPAM; o desenvolvimento de capacidades para a inclusão de um maior número de *stakeholders* nos ciclos de políticas públicas relacionadas com a Internet; direitos e garantias dos usuários da rede e consumidores de produtos e serviços prestados por meio dela; e diversidade lingüística.

Apesar de a Agenda de Túnis fazer referência ao desenvolvimento de políticas de alocação de nomes de domínios enquanto processo político, excluiu-se do documento o controle da raiz da Internet e as questões inerentes à coordenação e execução das funções IANA. O mesmo ocorreu com discussões inerentes aos direitos de propriedade intelectual (entendidos como tema a ser debatido em fóruns especializados sobre o assunto). Como tivemos a oportunidade de escrever em outro espaço, "o *primeiro caso resultou de uma clara manobra dos Departamentos de Estado e de Comércio dos Estados Unidos com a finalidade de preservar o papel central do país na política de governança da Internet. O segundo, de uma reação de países europeus em contestação à possibilidade de disputas relativas a direitos de propriedade intelectual serem resolvidas pela aplicação*

[37] CÚPULA MUNDIAL PARA A SOCIEDADE DA INFORMAÇÃO (2003a). Declaration of Principles: Building the Information Society: a global challenge in the new Millennium. Documento n. WSIS-03/GENEVA/DOC/4-E. Disponível em: http://www.itu.int/wsis/docs/geneva/official/dop.html. Acessado em: 14/12/2010. CÚPULA MUNDIAL PARA A SOCIEDADE DA INFORMAÇÃO (2003b) Geneva Plan of Action. Documento n. WSIS-03/GENEVA/DOC/0005. Disponível em: http://www.itu.int/wsis/docs/geneva/official/poa.html. Acessado em: 14/12/2010. CÚPULA MUNDIAL PARA A SOCIEDADE DA INFORMAÇÃO (2005a). Tunis Agenda for the Information Society. Documento n. WSIS- 05/TUNIS/DOC/6(Rev. 1)-E. Disponível em: http://www.itu.int/wsis/docs2/tunis/off/6rev1.html. Acessado em: 14/12/2010. CÚPULA MUNDIAL PARA A SOCIEDADE DA INFORMAÇÃO (2005b). Tunis Commitment. Documento n. WSIS-05/TUNIS/DOC/7. Disponível em: http://www.itu.int/wsis/docs2/tunis/off/7.html. Acessado em: 14/12/2010.

extrajurisdicional do ordenamento jurídico norte-americano a partir dos termos de contratação dos serviços de registro de nomes de domínio."[38] Tais restrições, com o passar do tempo, não tiveram qualquer efeito prático, uma vez que o IGF transformou-se na grande arena global onde toda e qualquer questão direta e indiretamente relacionada à Internet tem espaço.

3.4 A Paralisia no Desenvolvimento Institucional da Governança Global da Internet

Deve-se consignar que o regime de governança constituído em torno dos recursos críticos da Internet tem um nível de estruturação muito mais aprofundado que o regime mais abrangente criado em torno do IGF. Ele conta com mecanismos que abrangem todas as etapas necessárias para a governança dos recursos críticos: levantamento de assuntos que integram a agenda; definição de prioridades; deliberação em torno de alternativas e cursos de ação possíveis; mecanismos de implementação das decisões tomadas; avaliação dos resultados alcançados, resolução de controvérsias e retroalimentação da agenda de ação. O regime em torno do IGF, entretanto, justamente em virtude da complexidade inerente à coordenação da ação coletiva no plano global, em torno do que se convencionou tratar como uma agenda ampliada de governança da Internet (sem limites precisos), estruturou-se tão somente como um espaço unificado no plano internacional para o levantamento e discussão, sem qualquer mecanismo de natureza executiva e resolutiva, de assuntos de interesse dos atores envolvidos com a governança da Internet.

No primeiro caso, o escopo das questões envolvidas pode ser entendido como um facilitador da adoção de soluções institucionais mais completas em virtude de sua natureza mais técnica que política e de um maior protagonismo de atores não estatais. No segundo, o da governança global da Internet e da coordenação da ação coletiva no nível das políticas públicas relacionadas à Internet em uma perspectiva mais ampla, tem-se um terreno mais complexo, que convive com as relações internacionais em um sentido mais amplo, onde os Estados nacionais tradicionalmente sempre tiveram mais protagonismo que atores não estatais. Para além da governança da Internet, pode-se dizer que esse espaço encontra-se justamente no limite entre os moldes da governança global como conhecida durante o século XX e os contornos que terá no século XXI.

[38] WAGNER, F. R. ; CANABARRO, D. R. A governança da Internet: Definição, Desafios e Perspectivas. In: Marcelo Soares Pimenta; Diego Rafael Canabarro. (Org.). Governança Digital - Coleção CEGOV Capacidade Estatal e Democracia. 1ed.Porto Alegre: Editora da UFRGS, 2014, v. 1, p. 191-209.

Acontece, porém, que o regime de governança estruturado em torno dos recursos críticos da Internet -- desde a criação da ICANN -- foi sendo crescentemente contestado por estar diretamente vinculado ao controle e à supervisão do governo dos Estados Unidos. Igualmente, por ter sido gestado com uma maior participação de *stakeholders* do país, esse regime é intrinsecamente assimétrico em relação aos demais países do mundo. Isso é bastante significativo num contexto de crescente relevância da rede, pois ainda que indiretamente, a raiz do DNS representa um ponto central de controle, passível de definir os limites e as possibilidades de integração e visibilidade na Internet.

Em virtude disso, ao longo de todo o período posterior à realização das duas fases da Cúpula Mundial sobre a Sociedade da Informação, foi permanente a contestação ao papel privilegiado dos Estados Unidos. Essa pressão tornou-se insustentável a partir de 2013, sobretudo quando Edward Snowden denunciou ao mundo o alcance do vigilantismo conduzido pelos Estados Unidos e seus aliados, viabilizado por meio de todas as porções que compõem o ciberespaço, especialmente da Internet. As denúncias feitas por Snowden apontaram a exploração maciça das infraestruturas de telecomunicações e dos serviços e aplicações ofertados por meio da Internet como elementos estruturantes de tal vigilantismo; porém, não fizeram qualquer referência ao sistema de nomes de domínio e à supervisão unilateral dos Estados Unidos sobre a raiz do DNS, a posição unilateral dos Estados Unidos relativamente à IANA acabou retroalimentando o processo que se inaugurou no plano das relações internacionais com a finalidade de reverter as assimetrias características do ciberespaço como um todo.

A contestação internacional desencadeada pelas revelações de Snowden foi capitaneada pelo Brasil (que teve sua presidente na ocasião, Dilma Rousseff, apontada como um dos alvos monitorados pelo esquema da Agência de Segurança Nacional dos EUA). O país foi à Assembleia Geral da ONU e, além da condenação no nível diplomático, conclamou os demais a discutir e redefinir as bases da governança global da Internet em um sentido amplo, de modo a tornar-lhe mais horizontalizada e mais plural.[39] Ao discurso de Dilma, seguiu-se uma manifestação assinada pelo conjunto de entidades encarregadas da operação da infraestrutura técnica relacionada aos sistemas de endereçamento da Internet, acompanhadas de IETF e W3C, por meio da qual - entre outras coisas - expressaram preocupação a respeito da exploração da Internet para fins de vigilantismo

[39] CANABARRO, D. R.; BORNE, T. The Brazilian Reactions to the Snowden Affairs: Implications for the Study of International Relations in an Interconnected World. Conjuntura Austral, v. 6, p. 50-74, 2015.

e monitoramento ubíquo, e rogaram pela *"aceleração da globalização da ICANN e das funções IANA"*[40] (sic).

A partir da convergência de interesses entre esses atores, ICANN, em conjunto com o governo do Brasil, por meio da ação executiva do Comitê Gestor da Internet no país, envidaram esforços para a realização do Encontro Multissetorial Sobre o Futuro da Governança da Internet, em abril de 2014, na cidade de São Paulo. Esse processo serviu como um divisor de águas para a governança da rede; muito menos pela incidência dos documentos normativos produzidos na ocasião para guiar o futuro da governança da Internet do que pelas consequências do anúncio, um mês antes do evento, da intenção do governo dos Estados Unidos de abandonar a prerrogativa de supervisionar unilateralmente a execução das funções IANA pela ICANN. É disto que trata a questão abaixo.

4. O Desenvolvimento Institucional da Governança Global da Internet: Para Onde Vamos?[41]

Esta seção trata do "longo 2014 da governança da Internet", um dos anos mais movimentados para a rede desde o fim da Cúpula Mundial sobre a Sociedade da Informação (WSIS). Ela emprega uma metáfora bastante comum no estudo da História[42], para destacar que o ano de 2014 da governança global da Internet começou ainda dentro de 2013. E, só foi terminar, efetivamente, ao fim de 2016.

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[40] Para a íntegra da declaração, ver: Montevideo Statement on the Future of Internet Cooperation. Disponível em: https://go.icann.org/2i0j8k3. Acessado em: 19/09/2017.

[41] Esta seção reproduz, com uma série de adaptações, trechos de CANABARRO, D. R. O longo 2014 da governança da Internet - um balanço do 9o IGF. Politics (Impresso), v. 19, p. 21-30, 2014; e CANABARRO, D. R. ; RODRIGUES, E. T. A transição IANA chegou à outra margem do Rubicão. Politics (Impresso), v. 23, p. 3-11, 2016.

[42] A título de exemplo, Eric Hobsbawm fala de um "longo século XIX" e um "curto século XX" no conjunto de "A Era das Revoluções: 1789-1848", "A Era do Capital: 1848-1875", "A Era do Império: 1875-1914" e "A Era dos Extremos: 1914-1991". O primeiro inicia-se com a Revolução Francesa (1789), quando se inaugura uma fase de equilíbrio de poder entre as potências europeias que só vai se encerrar a partir da Primeira Guerra Mundial. O "curto século XX" vai do fim da Primeira Guerra (1918), que inaugura uma nova fase na distribuição de poder no sistema internacional, culminando na bipolaridade entre Estados Unidos e União Soviética, e que se encerra em 1991 com o desmantelamento da última – antes, portanto, do fim efetivo do século XX. Outro historiador que emprega a metáfora é Giovanni Arrighi em seu "O Longo Século XX: Dinheiro, Poder e as Origens do NossoTempo". No trabalho, ele explora as causas que moldaram o século XX num horizonte de 700 anos passados.

4.1 O curto rescaldo da Conferência Mundial sobre a Regulamentação das Telecomunicações Internacionais (WCIT)

O ano de 2013 começou ainda na ressaca da Conferência Mundial sobre a Regulamentação das Telecomunicações Internacionais (WCIT), que aconteceu entre 3 e 14 de dezembro de 2012.[43] As discussões antes, durante e depois da WCIT centraram-se, principalmente, no alcance que a atualização e a reforma da regulamentação das telecomunicações internacionais (que sustentam o tráfego global de dados e, portanto da Internet) teriam para a rede de que trata este trabalho. A Conferência que atualizaria as *International Telecommunication Regulations* (ITR) – um corpo de legislação internacional com mais de 25 anos de existência (e que, por conta de sua obsolecência, não fazia referência à Internet) – poderia significar mais uma tentativa de a União Internacional das Telecomunicações (UIT) assumir um maior protagonismo na governança da Internet. Isso acabaria por submeter a última aos imperativos do intergovernamentalismo (ou "multilateralismo", no jargão diplomático), especialmente os interesses das operadoras de telecomunicação, quase nunca favoráveis aos princípios fundamentais que pautaram os desenvolvimentos apontados na seção precedente.[44]

Como agravante, as propostas enviadas pelos países-membros da UIT e pelas empresas e associações habilitadas a participar do processo de tomada de decisões na União só acabaram por ser de conhecimento público quando o escândalo de vazamento conhecido por *WCITLeaks* revelou o teor de boa parte das propostas: algumas avessas à neutralidade da rede; outras, favoráveis ao controle governamental irrestrito por motivos de combate ao crime; algumas defendendo o monitoramento da rede para fins de proteção dos direitos autorais etc.[45] Por conta disso, ao longo de todo o processo de preparação para a WCIT, muito se falou a respeito "do fim da Internet livre, aberta e neutra" como sendo o resultado potencial da reforma das ITR na virada para 2013. Os ânimos já estavam acirrados a tal ponto que, na cerimônia de abertura da WCIT, o Secretário-Geral da UIT – Hamadoun Touré – paramentou-se com um capacete azul das forças de paz da ONU e

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[43] Informações sobre o evento encontram-se disponíveis em: http://www.itu.int/en/wcit-12/Pages/default.aspx. *Último acesso em 02/10/2017.*

[44] Ver o capítulo 15 de CANABARRO, D. R. (2014). Governança Global da Internet: Tecnologia, Poder e Desenvolvimento. Tese (Doutorado em Ciência Política) -- PPG Ciência Política, Universidade Federal do Rio Grande do Sul, 2014. Disponível em: http://www.lume.ufrgs.br/handle/10183/114399. Último acesso em 30/09/2017.

[45] A plataforma utilizada para divulgar os vazamentos encontra-se disponível em: http://wcitleaks.org. Acessado em: 13/10/2017.

abriu espaço para a participação do CEO da ICANN como forma de simbolicamente pedir a paz entre a comunidade das *telcos* e a comunidade da Internet.[46]

Ao fim da Conferência, o texto reformado das ITR, sem nenhuma menção à Internet, foi assinado por aproximadamente dois terços dos membros da UIT. Um anexo não vinculante abordando a importância de os países-membros continuarem a dialogar a respeito da governança da rede inclusive no âmbito da União foi colocado em votação a pedido da delegação do Irã – o que violou o compromisso do Secretário-Geral de trabalhar para que as ITR fossem adotadas por consenso. Tal medida culminou com o abandono da Conferência pela delegação estadunidense e de alguns aliados europeus, no que Milton Mueller chamou de uma "fobia injustificada à UIT", diante da ausência de significados práticos do anexo para os diversos processos que integram a multifacetada e multissetorial governança da Internet.[47] Polêmicas e ameaças à parte, o mais relevante desse processo foi o alerta definitivo a respeito da impossibilidade de se conduzir qualquer discussão relativa à Internet sem contar com a participação efetiva dos diversos setores direta e indiretamente interessados e engajados na governança da rede. Nesses termos, por exemplo, diversas organizações da sociedade civil aproveitaram o momento para destacar os riscos inerentes à adoção de políticas para a Internet somente no nível das relações entre governos nacionais, de forma não aberta, opaca e sem a participação dos diversos setores afetados, em detrimento do *ethos* multissetorial que vinha pautando o desenvolvimento e a governança da Internet até então.[48]

No curto prazo, parecia que o evento de Dubai, suas características e as controvérsias que ele gerou reverberariam em todas as demais trilhas políticas que dizem respeito à governança da Internet.[49] O mês de junho de 2013, porém, modificou de forma abrupta tal cenário prospectivo.

4.2 O Fator Snowden

Tão logo o mundo conheceu as informações reveladas por Edward Snowden a respeito do aparato orwelliano desenvolvido há anos pela Agência de Segurança Nacional (NSA) dos

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[46] Uma síntese das projeções e uma análise a respeito da viabilidade de elas se realizarem foi feita por Milton Mueller, atualmente da Universidade de Georgia Tech, na série "Threat Analysis of ITU's WCIT", dividida em quatro capítulos, publicada no blog do Internet Governance Project". Disponível em: http://www.internetgovernance.org. Acessado em: 15/09/2017.

[47] Disponível em: http://bit.ly/2guMsvq. Acessado em: 15/09/2017.

[48] Disponível em: http://bit.ly/2g1Wdk8. Acessado em: 15/09/2017.

[49] Disponível em: http://bit.ly/2zdRu7z. Acessado em: 15/09/2017.

Estados Unidos na exploração das comunicações travadas por meio do ciberespaço, a tônica dos debates em torno da governança global da Internet foi modificada.

Durante toda a segunda metade de 2013, o ex-analista de inteligência dos Estados Unidos vazou para diversos veículos de imprensa (sobretudo o *The Guardian,* do Reino Unido) um conjunto robusto de informações e documentos operacionais da NSA (incluindo sua ação conjunta com os serviços de inteligência de outros países). Snowden apresentou evidência irrefutáveis[50] de que, por anos a fio, a comunidade de inteligência capitaneada pelos Estados Unidos criou ferramentas e processos para coletar, armazenar e processar de forma crescente enormes quantidades de dados e metadados gerados pelo uso de tecnologias da informação e comunicação, com especial destaque para a exploração dos fluxos informacionais e comunicacionais travados por meio da Internet: não apenas de estrangeiros, mas, também, cidadãos estadunidenses indistintamente. Snowden revelou, também, a relação cooperativa das agências de inteligência com provedores de infraestrutura de telecomunicações e de aplicações da Internet dos Estados Unidos, bem como a sistemática de leis e instituições criadas sob o manto do segredo de estado com a finalidade de compelir sempre que necessário as empresas que operam no país a franquear acesso a registros telefônicos, comunicações privadas armazenadas e outras coisas.

Inaugurou-se, a partir disso, a agenda política do que chamamos aqui de "o longo 2014 da governança da Internet".

O papel dos Estados Unidos como o grande guardião da rede aberta e livre foi posto em xeque, sobretudo a partir do discurso proferido pela Presidenta do Brasil, Dilma Rousseff, na Assembleia Geral da ONU. Ela protestou formalmente por ter sido alvo direto da espionagem norte-americana e destacou que é fundamental que se reverta a instrumentalização do espaço cibernético como um campo e uma arma de disputa político-econômica entre os países. Ficaram evidentes, nesse contexto, a persistência das linhas que dividem os países do norte e do sul global nos termos apresentados na sessão 2, acima. Além da dependência excessiva - para os últimos - da infraestrutura e dos serviços providos por atores do mundo desenvolvido para integração à Internet, as revelações feitas por Snowden apontaram com provas irrefutáveis a sofisticação do

[50] Uma compilação completa das informações vazadas por Edward Snowden é mantida e permanentemente atualizada pelo jornal britânico The Guardian. Disponível em http://www.theguardian.com/world/the-nsa-files. Acessado em: 15/09/2017.

complexo militar-informacional desenvolvido pelos Estados Unidos e países aliados para a exploração de vantagens político-militares e econômicas em relação aos demais.

A presidenta do Brasil propugnou, com inspiração no modelo brasileiro de governança da rede e em linha com os Princípios para a Governança e o Uso da Internet no Brasil (o Decálogo do CGI.br)[51], que a governança global da Internet seja pautada pelo respeito aos direitos humanos fundamentais, com irrestrita proteção da privacidade e da liberdade de expressão; que seja democrática, aberta, transparente e conte com a participação de todos os envolvidos sem discriminação; que promova o ideal de inclusão universal e de preservação da diversidade cultural; e que garanta a neutralidade da rede. Tudo isso para alinhá-la aos imperativos de uma ordem internacional democrática e voltada ao desenvolvimento socioeconômico, em reversão ao caráter assimétrico que é intrínseco ao desenvolvimento tecnológico de desiguais. Para tanto, o Brasil anunciou que apresentaria "propostas para o estabelecimento de um marco civil multilateral [global] para a governança e uso da internet".[52]

O ímpeto brasileiro foi seguido por organizações envolvidas na gestão técnica da Internet no que ficou conhecido como a "Declaração de Montevidéu", que clamou pelo fim da subordinação da ICANN e da IANA à jurisdição dos Estados Unidos.[53] Logo em seguida, setores da sociedade civil e da comunidade técnica e acadêmica anunciaram a Iniciativa 1NET (One Net, ou "uma rede"), que acabou por englobar a comunidade multissetorial em termos mais amplos.[54] Em decorrência dessa reação, o Brasil anunciou que sediaria um evento para promover e facilitar os debates a respeito do futuro da governança da Internet. Do meio para o fim de 2013, então, a agenda da governança global da Internet passaria a gravitar em torno da organização, da realização e dos resultados do que veio a ser conhecido o Encontro Multissetorial Global sobre o Futuro da Governança da Internet (NETmundial)[55], organizado em uma parceria entre o Brasil (com grande destaque para a atuação do Ministério das Relações Exteriores e do Comitê Gestor da Internet no país), e pela 1NET como representante da comunidade global da Internet.

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[51] Disponível em: http://www.cgi.br/resolucoes/documento/2009/003. Acessado em: 15/09/2017.

[52] BRASIL. (2013) "Discurso da Presidenta da República, Dilma Rousseff, na abertura do Debate Geral da 68º Assembleia-Geral das Nações Unidas – Nova Iorque/EUA". Disponível em: http://bit.ly/2pV770N. Acessado em: 15/09/2017.

[53] Montevideo Statement on the Future of Internet Cooperation. Disponível em: https://go.icann.org/2i0j8k3. Acessado em: 19/09/2017.

[54] A página de articulação do grupo na Web encontra-se, ainda hoje, disponível em: http://1net.org. Acessado em: 19/09/2017.

[55] Disponível em: http://netmundial.br. Acessado em: 19/09/2017.

O NETmundial, em um processo sem precedentes, produziu na última semana de abril de 2014, em São Paulo, uma declaração construída com a participação em pé de igualdade de governos, de representantes do setor empresarial, do terceiro setor, de acadêmicos e técnicos envolvidos com o desenvolvimento da Internet. A Declaração do NETmundial conta com duas partes: um conjunto de princípios fundamentais para a governança da rede[56] e um "mapa do caminho" para orientar a construção de um ecossistema de governança para a Internet alinhado a tais princípios.[57]

4.3 A Interferência dos EUA na Agenda do NETmundial com o Anúncio da "Transição IANA"

Pouco antes do NETmundial, de forma decisiva para o futuro do ecossistema de governança da Internet, o Departamento de Comércio dos Estados Unidos respondeu à crescente pressão internacional e anunciou sua intenção de deixar a supervisão do exercício das funções IANA – que estava, então, relegada à ICANN, por força de um contrato que vinha sendo sucessivamente renovado desde 2000.[58] Invariavelmente, tal mudança incorporou-se integralmente ao debate sobre o futuro do ecossistema da governança da rede. E pode-se afirmar com segurança que monopolizou a atenção de todo o campo pelos dois anos que se seguiram.

Na ocasião do anúncio, o governo estadunidense impôs (mais uma vez unilateralmente) cinco condições a serem cumpridas para a não renovação do contrato: (a) a manutenção da ICANN como uma organização multissetorial (ou seja, capaz de acomodar atores governamentais e não governamentais "em pé de igualdade" na definição de políticas para a governança da Internet); (b) a necessidade de preservação da segurança,

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[56] A declaração adotada em São Paulo postula um horizonte normativo pautado pelo respeito aos direitos humanos fundamentais e valores relacionados; pela inimputabilidade dos intermediários da rede; pela diversidade linguística e cultural; pela neutralidade, estabilidade, segurança e resiliência da Internet entendida como um espaço unificado de arquitetura aberta e construída de forma distribuída com o emprego de padrões abertos, capaz de fomentar a inovação e a criatividade; e que conte com um processo de governança verdadeiramente democrático, pluri participativo, colaborativo e multissetorial, inclusivo e equitativo, transparente e voltado ao consenso. A íntegra da Declaração NETmundial encontra-se disponível em: http://bit.ly/1nLhMBC. Acessado em: 19/09/2017.

[57] De forma bastante simbólica, na cerimônia de abertura do evento, o Marco Civil da Internet no Brasil foi sancionado, convertendo-se na Lei 12.965/2014, que representa o compromisso do país no âmbito doméstico com uma Internet calcada em princípios. Para um detalhamento do histórico de desenvolvimento do Marco Civil, bem como uma avaliação dos desafios inerentes a sua vigência, ver: SOUZA, C. A. P.; LEMOS, R. (2016) Marco Civil da Internet: Construção e Aplicação. Juiz de Fora: Editar.

[58] ESTADOS UNIDOS. (2014) NTIA Announces Intent to Transition Key Internet Domain Name Functions. Disponível em: http://bit.ly/1LDD192. Acessado em:20/09/2017.

estabilidade e funcionalidade do DNS; (c) o atendimento das expectativas dos usuários/clientes das funções IANA (leia-se: todas as entidades envolvidas com o desenvolvimento e a administração de redes Internet pelo mundo); e (d) a manutenção da Internet como uma rede aberta. O documento foi, ainda, taxativo ao dizer que "NTIA não [aceitaria] propostas que [substituíssem] o papel da NTIA por uma solução liderada por governos ou uma organização intergovernamental" (sic). Em síntese, antecipando qualquer resultado no mesmo sentido capaz de ser heteronomamente definido para o futuro da governança da raiz da Internet, o governo estadunidense definiu, assim como nas prévias da CMSI em 2005 (quando agiu para excluir do mandato do IGF quaisquer discussões sobre a raiz da Internet), limites a serem estritamente observados para a reformatação da governança da Internet.[59]

Pelas condições impostas pelo governo Obama, a ICANN deveria ser alçada, de uma corporação privada, conforme apontado anteriormente, à condição de "organização internacional" capaz de servir como arena política para equacionar os interesses e coordenar a ação coletiva em torno da coordenação dos recursos críticos da Internet global. Além disso, e principalmente, as já referidas condições vetavam a possibilidade de transformação do regime centrado no setor privado em um regime constituído em torno de arranjos intergovernamentais. Nesses termos, delegou-se à própria ICANN, por meio da comunidade envolvida com suas atividades, a tarefa de desenvolver o plano de transição, que seria submetido ao Departamento de Comércio dos EUA para a avaliação do atendimento às condicionalidades recém citadas; e, em última instância, ao Congresso dos Estados Unidos, para aprovação ou rejeição da ação Executiva da Presidência dos EUA, de descontinuar o vínculo contratual.

De 2014 a 2016, o plano de transição foi desenvolvido no âmbito das atividades da ICANN, em um processo questionável em termos de amplitude e diversidade de participação, com sobrepeso de representantes estadunidenses de empresas de tecnologia; escritórios de propriedade intelectual; e registrantes de nomes domínios.[60] A previsão inicial de

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[59] Para uma descrição histórica das oportunidades em que o governo dos Estados Unidos definiu a agenda de discussão para os demais atores no campo da governança global da Internet, ver (especialmente o capítulo 9): CANABARRO, D. R. (2014). Governança Global da Internet: Tecnologia, Poder e Desenvolvimento. Tese (Doutorado em Ciência Política) -- PPG Ciência Política, Universidade Federal do Rio Grande do Sul, 2014. Disponível em: http://www.lume.ufrgs.br/handle/10183/114399. Último acesso em 30/09/2017.

[60] PRAKASH, P. (2015). The 'Global Multistakeholder Community' is Neither Global Nor Multistakeholder. Disponível em: http://bit.ly/2g0apu2. Acessado em: 20/09/2017.

encerramento das atividades de confecção do plano para setembro de 2015 não foi observada. As atividades desse processo foram adiadas por doze meses adicionais e a subordinação da ICANN ao Departamento de Comércio foi renovada até setembro de 2016.

O plano de transição foi finalizado em março de 2016. Ele definiu a criação de uma empresa subsidiária da própria ICANN, chamada de "*Public Technical Identifiers*" (PTI), para funcionar como a nova sede institucional da IANA. A PTI entrou em operação em outubro de 2016 e, assim como a ICANN, está sujeita às leis da Califórnia.

A nova entidade seguirá as políticas provenientes do IETF; RIRs por meio da NRO; e ICANN. Nesses termos, o funcionamento da PTI deverá ocorrer em estrito acordo firmado com cada um dos três grupos que congregam os clientes da IANA. No modelo proposto, em termos formais, cada cliente serve como o espaço em que os diferentes stakeholders definem as políticas que deverão ser seguidas pela PTI em sua operação. Esse desenho dá corpo à noção de "separabilidade" entre a esfera de definição de políticas e de operação, além de permitir que a PTI seja substituída em caso de mal desempenho na operação da IANA. Em termos práticos, ICANN e PTI mantém entre si um contrato de desempenho para a execução das funções inerentes à raiz do DNS. Os RIRs e IETF optaram por firmar contratos com a própria ICANN, que repassou, também por contrato, suas responsabilidades em relação aos identificadores numéricos e aos parâmetros de protocolos para sua subsidiária.

O plano de transição criou, também, uma série de mecanismos de acompanhamento do desempenho da PTI, como um Comitê Permanente de Consumidores (CSC) da IANA (Registries, Registrars, RIRs, IETF, etc.) para acompanhar mensalmente a qualidade dos serviços prestados pela PTI e um Time de Revisão das Funções IANA (IRFT), que atuará depois de dois anos do início da operação da PTI, numa base quinquenal. Há, também, mecanismos *ad hoc* de revisão que têm por objetivo verificar a pertinência da manutenção ou não da PTI no desempenho das funções IANA. Além disso, além de garantias operacionais, a transição desenvolveu instrumentos de fiscalização e prestação/prestação de contas da ICANN diante da ausência da supervisão externa outrora exercida pelo governo estadunidense.

A primeira fase do processo encerrou-se ainda em 2016 e seus resultados integraram o plano de transição aprovado pelo Departamento de Comércio dos Estados Unidos em junho de 2016, que passou a ser implementado a partir de outubro do mesmo ano

(quando a relação contratual entre aquele e a ICANN expirou efetivamente).[61] A segunda fase desse processo, para aprofundar a reforma da ICANN em nove linhas de ação distintas[62] seguia em desenvolvimento quando do fechamento deste texto. Essa atividade deverá estar encerrada em torno de março de 2018, a partir de quando os direcionamentos resultantes serão postos em discussão e deliberação para a adoção de uma solução final até o fim do mesmo ano.

Com isso tudo, a ICANN (antes subordinada ao Departamento de Comércio dos Estados Unidos) transformou-se muito recentemente em uma organização internacional não governamental inteiramente autônoma. Se por um lado, houve intensa atividade de desenvolvimento institucional em torno do regime existente em torno dos recursos críticos da Internet, pode-se afirmar com segurança, nesse contexto, que a grande atenção e a enorme quantidade de recursos despendidos no processo de transição desviou a atenção da comunidade para o baixo nível de institucionalização, no nível global, do regime estruturado em torno da governança da Internet por uma perspectiva ampliada. Essas limitações, os desafios inerentes às sobreposições entre os componentes públicos e privados desse novo regime[63] e as interfaces entre os dois universos da governança global da Internet na atualidade apresentam-se como grandes desafios teóricos e práticos para a compreensão das consequências do "longo 2014 da governança da Internet".

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[61] Essa parcela do plano conta com quatro pilares: Princípios fundamentais para a operação da ICANN, que condicionam a incorporação de trechos da Afirmação de Compromissos (AoC) ao estatuto da ICANN à criação de cláusulas pétreas que demandam maioria qualificada para serem modificadas; Mecanismos que empoderam a comunidade da ICANN, dando-lhe prerrogativas de supervisão das atividades da corporação na ausência da supervisão externa por parte do Departamento de Comércio; A adaptação do papel do Conselho Diretor de acordo as novas diretrizes de funcionamento; e a Constituição de Mecanismo Independente de Revisão - órgão arbitral independente para solucionar controvérsias procedimentais e substanciais entre os constituintes da ICANN, com decisões vinculantes para a corporação. Esses pilares representam, respectivamente, um "pacto constitucional"; o "poder legislativo"; o "poder executivo"; e o "poder judiciário" da ICANN, em uma analogia aproximada aos elementos fundamentais propostos para a estruturação de comunidades políticas modernas.

[62] São elas diversidade no âmbito da organização; conduta e boa-fé dos stakeholders nos processos da ICANN; Direitos Humanos; jurisdição; o papel do Ombudsman da ICANN; a revisão das modalidades de engajamento da comunidade da ICANN para a solução de conflitos sem a necessidade de escalonamento; accountability das Organizações de Apoio e dos Comitês Consultivos (SOs e ACs); e accountability do corpo de funcionários da ICANN.

[63] Apenas a título de exemplo: a necessidade de subordinação de Estados soberanos à jurisdição interna dos Estados Unidos para poderem participar do arcabouço institucional resultante da transição; e, ainda, a complexidade envolvida com a proteção, o respeito e a promoção de Direitos Humanos em um arcabouço institucional eminentemente privado.

5. Conclusões e Prospectos para o Estudo da Governança da Internet no Âmbito das Relações Internacionais

A evolução histórica retratada nas seções anteriores demonstra que o regime de governança global da Internet desenvolveu-se parcialmente. Ele é bastante estruturado no âmbito da gestão da raiz do DNS e da coordenação dos identificadores comuns à toda rede; mas, bastante incipiente no que diz respeito ao desenvolvimento de uma solução institucional para acomodar a coordenação da ação coletiva em torno das políticas públicas em sua interface com a Internet. Tanto num caso como no outro, o regime é enviesado em favor dos interesses de atores governamentais, do setor privado e de entidades não governamentais da sociedade civil dos Estados Unidos. No que diz respeito à governança da Internet em um sentido estrito, isso se deve tanto por conta do maior protagonismo de atores do país na gênese e no desenvolvimento inicial do projeto que deu origem à Internet como conhecemos hoje, quanto por ter sido subordinado quase que permanentemente à supervisão unilateral do Departamento de Comércio dos Estados Unidos. Atualmente, além disso, há grande dominação do mercado em torno do DNS por entidades do país. No caso da governança da Internet em um sentido mais amplo, apesar da observância de um processo permanente de contestação à preponderância do unilateralismo direto e indireto dos Estados Unidos em relação ao DNS e da tentativa de democratizar a chamada "sociedade da informação", pode-se afirmar que os demais atores das relações internacionais não foram capazes de reverter o poder do país na economia política da era digital como um todo.

A própria inflação temática da governança da Internet em uma perspectiva ampla (que, em linhas gerais, envolve quase tudo que diga respeito à coordenação, ao funcionamento e ao uso da Internet pelo planeta) tem aumentado exponencialmente a complexidade inerente à coordenação da ação coletiva no âmbito global. Isso contribui para a crescente incomensurabilidade entre o intergovernamentalismo como modalidade de governança e a realidade subjacente a ser orquestrada, o que tem favorecido a manutenção do *status quo* e o congelamento (e, provavelmente, o aumento) das assimetrias entre "governance makers" e "governance takers" na expressão de William Drake.[64] O multissetorialismo, como modalidade alternativa de governança, parece promissor por ter como base ontológica a ideia de participação horizontalizada dos diferentes atores existentes em

[64] DRAKE, W. J. (2008) Introduction. In: DRAKE, W. J.; WILSON III, E. J. (2008) Governing Global Electronic Networks: International Perspective on Policy and Power. Cambridge: The MIT Press.

um campo político. Entretanto, a implementação prática de uma noção idealizada de multissetorialismo, não é de fácil aplicação no âmbito da política internacional.[65]

Deve-se consignar que, de forma semelhante ao que ocorre na governança global das telecomunicações, um setor bastante estudado no âmbito das Relações Internacionais em virtude dos desenvolvimentos institucionais observáveis no último século,[66] a governança da Internet engloba também problemas distributivos de difícil resolução cooperativa no plano global. Apesar do grande protagonismo de atores não estatais, tais problemas não escapam das dinâmicas de poder estabelecidas entre os Estados nas relações internacionais.[67]

O estudo da agência política no nível das relações internacionais envolve, basicamente, a controvérsia fundamental a respeito de quais atores são capazes de orquestrar e definir os contornos da governança no plano global.[68] A redução do protagonismo dos Estados no âmbito da governança global, tem sido impulsionada, consideravelmente, por forças do mercado há umas três décadas.[69] Como se sabe atualmente, nos marcos da competição capitalista no plano sistêmico, há um papel considerável desempenhado por atores privados no assessoramento e até mesmo na substituição de atores governamentais na governança global. Mas sabe-se, também, que, mesmo quando atores privados são os elementos centrais de um determinado arranjo de governança há participação estatal (ainda que indireta) na definição dos interesses nacionais mais amplos a serem perseguidos pela ação coordenada de atores públicos e privados de um mesmo país.[70]

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[65] RAYMOND, M.; DENARDIS, L. (2015). Multistakeholderism: Anatomy of an inchoate global institution. International Theory. 7. 1-45.

[66] COWHEY, P. "The international telecommunications regime: The political roots of regimes for high technology." International Organization 44: 169–199, 1990.

[67] Nesse sentido, ver: STRANGE, S. The Retreat of the State: the Diffusion of Power in the World Economy. Cambridge, MA, EUA: Cambridge University Press, 1996. Para uma avaliação específica do campo da governança da Internet, ver: DREZNER, D. W. The Global Governance of the Internet: Bringing the State Back In. Political Science Quarterly, v. 119, n. 3, p. 447–498, 2004.

[68] Nesse sentido, *"[t]he concept of 'global governance' initially overlapped with that of 'international regimes', 'international institutions', 'multilateralism', and 'international governance'. Yet contemporary usage in the early twenty-first century refers, in the literature of IR, to a qualitative change embedded in the demand of political globalization to cope with the qualitative change embedded in the demand of political globalization to cope with the challenges of economic globalization and global problems (such as environmental degradation or nuclear proliferation). The result has been a movement from government to "governance", and a concomitant transformation from IR to 'global politics'."* KACOVICZ, A. Global Governance, International Order, and World Order. In: LEVI-FAUR, D. (Ed.). Oxford Handbook of Governance. Nova Iorque: Oxford University Press, 2012. P. 686–698.

[69] STRANGE, S. States and Markets. [s.l.] Blackwell Publishers, 1988.

[70] Para um estudo de caso a esse respeito, tendo como pano de fundo a governança da Internet, ver: COWHEY, P.; MUELLER, M. Delegation, Networks and Internet Governance. In: KAHLER, M. (Ed.).

Nesse sentido, o caso Snowden e as consequências ulteriores observáveis no campo da governança da Internet corroboraram integralmente esse entendimento.

Pode-se dizer que o ano de 2013 precipitou uma série de reflexões e questionamentos latentes teóricos e práticos a respeito das dinâmicas de governança global da Internet (e da própria governança global em um sentido mais amplo, no contexto das disputas políticas empreendidas nos últimos cinquenta anos). O equilíbrio observável até então no desenvolvimento institucional da governança global da Internet foi rompido e deu espaço para (a) a reforma do arcabouço constituído em torno da raiz da Internet (b) o avanço e o robustecimento do arcabouço existente em torno de uma concepção mais ampla de governança da Internet. Nos dois casos, o acompanhamento do processo de revisão do *status quo* e a compreensão das consequências das opções institucionais que vêm sendo pensadas e adotadas desde 2014 na definição do futuro da governança da Internet passam necessariamente pela avaliação, em perspectiva longitudinal, da evolução das assimetrias políticas e socioeconômicas observáveis nas diversas arenas que compõem a governança da Internet. E, também, pelo escrutínio dos tipos de relações estabelecidas entre atores estatais e não estatais na condução da governança global, o que envolve testar teorias centradas na figura do Estado nacional, que estruturaram sobremaneira o desenvolvimento da disciplina ao longo do século XX. Um maior desenvolvimento da pesquisa no campo das Relações Internacionais nesses dois vetores pode ser crucial para instrumentalizar o avanço do desenvolvimento institucional da governança da Internet de forma menos desigual e mais democrática do que ocorreu até os dias de hoje.

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Prolegomenon to the Decolonization of Internet Governance

Syed Mustafa Ali

"As wars have been won and lost on the battleground of ideas, leverage over the narrative is paramount." (Franklin 2009, p.222)

"One's ideas and analysis must strive to make sense of the world in a way that facilitates both private and collective action." (Mueller 2010, p.255)

1. Introduction

Does Internet governance need to be decolonized? If so, why? How can Internet governance be 'colonial' (thereby necessitating decolonization) if the colonial project is a thing of the past? And even if Internet governance is a colonial phenomenon, what might it mean to 'decolonize' Internet governance, and how should this be carried out?

In what follows, and drawing on previous work outlining a 'decolonial computing' (Ali 2014, 2016), I argue that insofar as Internet governance is a (late) modern phenomenon, it is thereby also necessarily[71] colonial, and that decolonizing this phenomenon – assuming this is possible – is not only desirable but necessary for advancing social justice, both locally and globally. I further hold that the latter project must become focal and that 'Internet Governance in the Global South' should be understood in terms of an embrace of the 'decolonial option' (Mignolo 2010), viz. preferential disposition towards

[71] A similar claim regarding the *necessity* of computing being considered colonial *insofar as* it is a modern phenomenon was made in an earlier work (Ali 2016). With hindsight, I suggest that this claim should have been articulated in a more nuanced fashion in order to draw out the *particular* (that is, specific, non-universal, non-totalizing etc.) nature of the claim; in short, not *everything* that is modern is *thereby* colonial for if the converse were true, it would lead to the rather unfortunate if not bizarre conclusion that decolonial and critical race theoretical discourses, which are themselves modern phenomena insofar as they are articulated within a modern / postmodern context, would *also* be colonial discourses. That said, I stand by the view that computing, as a *particular* phenomenon and one that is socio-technical in nature/essence, is indeed colonial in nature, as is Internet governance as I will attempt to demonstrate in what follows.

those located at the margins or 'periphery' of the world system and reparations as compensation for the persistent legacy effects of colonialism. Adopting this normative (political, ethical) orientation points to the possibility of an Internet governance *of*, *by* and *for* the Global South rather than one framed in terms of the possibilities of 'inclusion' into an extant, incursive, hegemonically 'Northern' (that is, 'Western', West-centric etc.) system of Internet governance, albeit one that is, I would suggest, arguably being 'masked' (obscured, occluded, hidden), intentionally or otherwise, through advocacy of multi-stakeholder approaches[72].

Yet in order to begin to think about the 'what' and 'how' of *decolonizing* Internet governance, I hold that it is necessary to first interrogate – that is, 'question concerning' – the 'essence' (that is, the nature, 'what-ness' and 'how-ness') of the Internet, governance and Internet governance with a view to disclosing their hegemonically colonial nature. In order to do this in such a way as to further the project of local and global social justice, I suggest the desirability of adopting a broadly phenomenological approach, viz. 'getting back to things in themselves', albeit one informed and qualified by critical race theoretical and 'decolonial' insights in which body-political ('who'), geo-political ('where') and other concerns related to epistemology and ontology are centred. In short, my concern is to think about what is – or *should* be – preparatory for – that is, prior to – any attempt to think about the decolonization of Internet governance by providing means by which to interrogate the power-relational structures of the Internet, governance and Internet governance relative to issues of 'knowing' and 'being'.

Why might such 'preparatory' inquiry be *necessary*? I would suggest that the simple answer to this question is that there is far too much taken for granted – politically, economically, socially, culturally, ethically etc. – in discussions about Internet

[72] In terms of related precedents to the argument presented herein, reference should be made to Bhuiyan (2014) who considers Internet governance *and* the Global South, and Zapata Rioja (2014) who considers Internet governance *from* a Global South perspective. However, I want to consider what it might mean to think about Internet governance *in* the Global South, and adopting a somewhat Foucauldian perspective, I want to suggest the need to consider the preposition 'in' as referring both to Internet governance *over* the Global South by those exercising power from a dominant and currently hegemonic position situated outside it – that is the Global North, 'the West' etc. – in contrast to Internet governance done *of*, *by* and *for* the Global South itself – that is, by those attempting resistance to the global hegemon. As will be seen in what follows, my point of departure for such a 'both-and' conceptualization of Internet governance 'in' the Global South is a 'decolonial' extension to world systems theory that requires considering core-periphery (or 'West'-'Rest') relationships in terms of 'residual legacy system effects', viz. the persistence of 'coloniality' or the social, political, economic, cultural, epistemological and ontological structuring logics of colonialism, on those located at the periphery of the world system from the perspective of those so located.

governance; far too many assumptions and predispositions that remain hegemonically and tacitly operative in the background, shaping the boundaries (limits, borders) and contours (landscape, topology) of this discourse, not to mention setting its terms (that is, its 'logic' or grammar[73] and 'lexicon' or vocabulary), and that a 'hermeneutical' or interpretative inquiry is warranted in order to disclose this background with a view to attempting to forge new decolonial 'horizons' including, specifically, those associated with Internet governance. Hence, the need for a *prolegomenon* – that is, a preliminary critical discussion serving to introduce and interpret a future extended work – *to* the decolonization of Internet governance[74], an attempt at providing a theoretical 'lens' and making a methodological and conceptual contribution towards thinking about the issue of Internet governance from a 'critical' perspective, that is, one engaging considerations of power. To this end, an attempt is made to disclose what might be described as the operation of a tacit 'racialized colonial governmentality' within Internet governance *discourse* with a view to preparing the ground for the decolonization of Internet governance *per se*[75].

For this reason, while concurring with the views expressed in the two quotations at the start of this chapter, in what follows I attempt to make the case for adopting a *decolonial narrative* in order to make *decolonial sense of the world* as a preferred orientation relative to other approaches vis-à-vis thinking about Internet governance in/for the Global South.

This chapter has two parts:

In Part I, I begin with a brief presentation of the phenomenological approach informing my argument, drawing attention to important notions such as 'world' and 'horizon'; I then go on to explore in some detail the modern world system, its origin in European colonialism and its fundamentally racialized nature as the 'background' or 'horizon'

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[73] Drawing on the thinking of the later Wittgenstein, Pole (1958) describes grammar as "the form in which we represent the world; it is like a scheme for a map which for different purposes might be drawn according to different projections." (p.36)

[74] In this connection, Odysseos' (2017) proposal attempting to set out the terms of a prolegomenon in relation to any future decolonial ethics is timely.

[75] In this preparatory work, there is either no engagement with or only brief exploration of issues which tend to be the focus of mainstream Internet governance debates. These include 'critical' analyses of the control and ownership of critical Internet resources (CIRs), power-relationships associated with the setting of technical standards and protocols etc.

within which Internet governance operates. Following this, I briefly describe what is meant by 'decoloniality' and 'decolonial computing', contrasting the latter with earlier and related 'critical' approaches to ICT including those articulated from the periphery, as well as those ostensibly evincing a preferential orientation towards it.

In Part II, I begin by outlining my decolonial computing approach to mounting a critique of some contemporary 'mainstream' – and North-centric (or West-centric) – Internet governance discourses[76]. My particular concern is to explicate, through close, decolonial reading[77], the tacit, yet possibly unintentional, operation of colonial logics in certain views about Internet governance articulated by (DeNardis 2014) and (Mueller 2010, 2017) [78]. In this connection, I draw attention to three issues that I suggest are 'entangled' with the issue of 'alignment' which I maintain constitutes a preeminent site for the operation of racialized coloniality in Internet governance discourse: (1) how Internet governance is discursively-framed, by whom and for what purposes; (2) the relation of prior extant network formations – social, political, economic, technological, cultural etc. – to emerging socio-technical networks such as the Internet, web and social media vis-à-vis reproduction of world systemic power-relations; and (3) the persistent yet masked illiberalism of Western conceptions of liberal political and economic order under colonial modernity.

I then go on to present an extended decolonial reflection on NWICO and WSIS with a view to drawing attention to power-relational shifts in Internet governance discourse that resulted in deferral of the decolonization project, and conclude by offering some brief recommendations about how to proceed with decolonizing Internet governance vis-à-vis the issue of alignment and its 'entanglement' with Internet fragmentation.

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[76] It is important to appreciate that North-/West-centric views can be articulated by those body-politically marked as 'non-white' and geo-politically situated in the periphery of the world system – more specifically, located outside 'the West'; however, I suggest that such articulations should be understood as informed and inflected by coloniality.

[77] My decolonial approach to reading should be understood as broadly methodologically-informed by critical discourse analysis (Fairclough 1989) and loosely drawing upon certain ideas associated with discourse theory (Sayyid and Zac 1998).

[78] It must be appreciated that in referring to the 'tacit' nature of coloniality ostensibly evinced in the discourses of theorists such as DeNardis and Mueller, I am not suggesting that such logics are being deployed *intentionally* in the sense of involving conscious and/or wilful intent on their part; rather, that their discourses are marked by a certain *intentionality* ('aboutness', 'directedness') insofar as they are shaped by prior goal-directed intentional actions on the part of other historical discursive actors, traces that have become embedded as part of a shared social-psychological 'background'.

Part I

2. Phenomenology: 'World' and 'Horizon'

For present purposes, and drawing upon the sociological and phenomenological account presented by Berger and Luckmann (1966), it might be argued that a 'world' is a socially-constructed reality in which people find themselves and which they shape through various kinds of action, both individual and collective. Thus, a 'world' is the inter-related totality of things both natural and artifactual, which in the contemporary 'information' era includes computing and ICT systems, network infrastructure, and various technical institutions and governing bodies responsible for the maintenance and regulation of the former. However, it is important to appreciate that this way of thinking about 'world' tends to obscure certain fundamental – or 'foundational' – considerations relating to the site and operation of power and its role in bringing forth such a reality – that is, constituting the being (or ontology) of a world. The philosopher Martin Heidegger (1889-1976) famously stated that the stone is world-less, the animal is poor in world, and the human is 'world-forming' (Heidegger 1995). Granted the correctness of this statement, what such an articulation omits to consider – intentionally or otherwise – is the asymmetric wielding of power by different agents (embodied subjects), differently located in time (history) and space (geography), in relation to such world-forming action; in short, Heidegger's world-forming 'human' is a universalizing abstraction that 'masks' (conceals, occludes) the operation of differential power, and, *a fortiori*, the tacit Eurocentrism of 'the world' (Maldonado-Torres 2004, 2010), both of which must be taken into consideration when thinking critically about Internet governance insofar as it is a phenomenon in 'the world'.

In what follows, I will have recourse to the concept of 'world' advanced by philosopher and decolonial theorist, Enrique Dussel, as presented in *Philosophy of Liberation* (1985), which he frames as follows:

> World is … an instrumental totality of sense. It is not merely an external aggregate of beings but the totality of the beings that are meaningful to me … The world is thus the system of all systems that have humankind as their foundation … The everyday world, the obvious one that we live in each day, is a totality in time and space. As a temporal totality, it is a retention of the

> past, a launching site for the fundamental undertakings projected into the future, and the stage on which we live out the present possibilities that depend on that future. As a spatial totality, the world always situates the 'I,' the person, the subject, as its centre; from this centre beings are organized spatially from the closest ones with the most meaning to the ones furthest away with the least meaning – peripheral beings. (pp. 22-24)

Dussel's conception of world, and his framing of it in terms of a spatial-temporal totality – or rather, a geographical-historical 'matrix' (Quijano 2007a) – within which are embedded differentially situated subjects, viz. those at 'the centre' (or 'core') and those at 'the margins' (or 'periphery'), is useful insofar as it points to the existence of a historically-sedimented and futurally-oriented background 'horizon' against which both human beings and various humanly-constructed 'things' (objects, processes, events etc.) and 'artefactual' systems must be positioned in order to make sense of them. The importance of this finding for the present study is that the Internet (as sociotechnical), governance (as political) and Internet governance (as ostensibly institutional[79]) are all artefactual systems (and processes) and hence, must all be positioned in relation to 'the world'. Yet, phenomenologically-speaking, the existence of the world as a 'horizon' for 'historically-shaped' and 'futurally-oriented' projects necessitates that, beyond interrogating the nature of *particular* systemic artefacts such as the above, there is a *prior* need to subject the broader totality that is 'the world' itself to interrogation with a view to understanding *its* embedding, systemic nature and, from a critical race theoretical and decolonial perspective, this means interrogating the origins of the modern world system and the nature of its political ontology.

3. The Modern/Colonial World System

A review of the vast and expanding literature on Internet governance readily evinces that 'mainstream' discourse, including that which claims to engage with 'critical' or power-relational concerns, tends to focus on ostensibly technical issues of end-to-end connectivity, openness, standards and interoperability, and social concerns about an ongoing commitment to 'network neutrality', the trade-off between privacy and

[79] The qualifier 'ostensibly' is necessary insofar as it is an aim of this study to interrogate whether governance is necessarily institutional.

security, and the continued 'stability' and 'universality' of the Internet in the face of the alleged 'threat' of fragmentation, whether posed by democratic or 'authoritarian' governments[80]. Crucially, in relation to what was stated in the previous section, this discourse tends to operate against an assumed liberal, if not neoliberal, background 'horizon' wherein matters relating to political-economy and culture in computing and ICT contexts are framed in terms of notions metonymically associated with modern capitalism such as free markets[81], unrestricted flow of goods and services, democratic governance, progress, development etc.[82]

However, adopting a *decolonial* perspective requires us to reconsider the nature of neoliberal capitalism by situating it in relation to the long durée of the modern world system and its origins in European colonialism. Decolonial thinking traces its origins to Marxist world systems theory, dependency theory and area studies, yet goes beyond these frameworks by considering the nature of the world system from the experience of those located at the non-European margins (or periphery) of this system rather than those situated at its European core; furthermore, and crucially, decolonial thought necessitates thinking about the nature or constitution of the world system in terms of the construction of core-periphery relations *foundationally* predicated on processes of 'racialization'[83] and the production of an asymmetric 'West-Rest'/Europe-non-Europe/North-South binary, thereby calling into question

[80] Other obvious threats include cybercrime and cyberwar, neither of which are considered here. Regarding the term 'authoritarianism', it must be noted that its deployment is necessarily informed by commitment, tacit or explicit, to a particular sociopolitical formation as normative, articulated from a particular site of enunciation; in short, there is nothing 'neutral' (or objective) about the term 'authoritarian' – it is 'politically-loaded' through and through. For a useful critique of how this term is deployed for Eurocentric/West-centric purposes, see Sayyid (2005).

[81] For 'Leftist' critiques of the ideology – and rhetoric – of 'free market' capitalism under neoliberalism, see Amin (2004) and Tandon (2015) among other works.

[82] Crucially, I suggest that this is the case both for those apparently committed to the hegemonic capitalist project such as Mueller (2010, 2017) and DeNardis (2015, 2016), as well as those explicitly committed to 'subaltern' anti-capitalist / anti-imperialist positions such as Abu Bhuiyan (2008, 2014) insofar as both groups frame their positions in relation to the modern world system *as* capitalist.

[83] According to Miles (2004), 'racialization' refers to "any process or situation wherein the meaning of 'race' is introduced to define and given meaning to some particular population, its characteristics and actions." (p.348) Extending this view, Hesse (2007) maintains that rather than being necessarily correlated with the presence (or absence) of material markers on the body, "racialization [is] embodied in a series of onto-colonial taxonomies of land, climate, history, bodies, customs, language, all of which became sedimented metonymically, metaphorically, and normatively, as the assembled attributions of race." (pp.658-659).

'economistic' characterizations of the world system as capitalist[84]. In this sense, and at a minimum, it is necessary to talk about the modern capitalist world system as *also* a colonial racist world system (Quijano and Wallerstein 1992a), and decolonial interrogation of the contemporary world system should be seen as exposing the 'dark underside' (Mignolo 2011) of Western modernity as a racist colonial order[85]. While this 'West-Rest' binary can, and should, be unpacked along body-political and geo-political lines – that is, in terms of how different bodies are 'raced' differently in different 'zones' of the world system – the formative 'entanglement' of race with 'religion', notwithstanding the contested nature of the latter as a universal category, should not be ignored: as Pasha (2017a) has rightly argued, there is a tendency of postcolonial and decolonial theorists to operate within a 'secular' (that is, post-religious) framework[86] which obscures consideration of persistent 'theo-political' forces at play in the modern/colonial world system[87], a failing to which he draws attention in the context of discussing how to move beyond the Eurocentrism of mainstream and 'critical'

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[84] Such 'foundationalism' should not be understood as implying a commitment to a position structurally-analogous to that assumed in Marxist infrastructure-superstructure analysis wherein economic phenomena are held to determine political, cultural etc. phenomena. While race / racism / racialization might function as a 'primary contradiction' (Mills 2003), and concurring with Quijano (2007b) that "the idea of 'race' is surely the most efficient instrument of social domination produced in the last 500 years" having been "imposed as the basic criterion for social classification of the entire world's population [and] taken as the principal determinant of the world's new social and geocultural identities" (p.45), it is by no means the only such 'marker' of difference, nor are all other markers / contradictions to be reduced to it. According to Quijano (2007b), "'racism' in daily social relations is not, to be sure, the *only* manifestation of the coloniality of power, but it is certainly the *most* obvious and the most *omnipresent*. For this reason, it has remained the *principal* arena of conflict [emphases added]." (p.46) Expanding on this view, Grosfoguel (2011) argues that race should be understood to function as an *organizing principle*, 'transversally' structuring a number of 'entangled' hierarchies including, but not limited to, the epistemic, spatial, sexual, economic, ecological, political, spiritual and aesthetic. For present purposes, it should be noted that included among such hierarchies is "a media/informational hierarchy where the West has the control over the means of global media production and information technology while the non-West do not have the means to make their points of view enter the global media networks." (p.10)

[85] In this connection, Bhambra (2014) maintains that, for Quijano, "the modernity that Europe takes as the context for its own being is, in fact, so deeply imbricated in the structures of European colonial domination over the rest of the world that it is impossible to separate the two: hence, modernity / coloniality." (p.118)

[86] As an aside, I suggest that critical race philosopher Charles W. Mills espouses such a 'secular' commitment when referring to the triad of race, class and gender to the exclusion of 'religion' in his various works.

[87] In this connection, I have elsewhere drawn attention to the sedimented, historically-constitutive antagonistic negative dialectical relation between Christendom *cum* Europe *cum* 'the West' and the Islamicate world, a relationship that, I aver, persists and informs the 'background' of the post-modern/post-colonial era (Ali 2017).

approaches to international relations, the latter being of obvious relevance to the discourse of Internet governance[88].

On this basis, and following the lead of seminal decolonial thinker, Frantz Fanon (1986), I want to argue that when thinking about, speaking of, and acting in the 'modern world', we need to understand the latter as 'The World' – that is, *the* global hierarchical system of domination, whose dominant core lies in 'the West' and whose subaltern periphery is constituted by 'the Rest' (Hall 1992), which emerged as a historically-unprecedented phenomenon during what has come to be known as the long *durée* of the 16th century commencing with the Columbia voyages in 1492 CE[89]. In addition to 'the West' and 'the Rest'– and the 'West' can include 'Eastern' constituents such as Japan (a case of the exception *confirming* the rule) – 'The World' goes by many other names articulated with increasing intensity, clarity and visibility in the contemporary era: coloniality of power (Quijano 1992b), racist culture (Goldberg 1993), global white supremacy (Mills 1997), the modern racial world system (Winant 2004), the Orientalist world system (Samman 2008) and the colonial matrix of power or modernity/coloniality (Mignolo 2011) among others. What is common to all such 'namings', if only in terms of a Wittgensteinian shared 'family resemblance', is the centrality of *race* as a unifying principle in their articulation[90].

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[88] In this connection, the present work should be seen as aimed at contributing to what Mills (2015a) refers to as the 'unwriting and unwhitening of the world' which he explores in the context of 'critical' international relations theory and which I engage in relation to internet governance.

[89] According to Wallerstein (2006), "the history of the modern world-system has been in large part a history of the expansion of European states and peoples into the rest of the world" (p.1), commencing with the so-called Columbian "voyages of discovery" in 1492 CE which resulted in the emergence of a racial-capitalist world system. This global modern/colonial order was predicated on a set of unequal relationships between the colonial power and the colony, and between the colonists – or colonizers – and the indigenous population – or colonized. Such relationships assumed the form of an ensemble of socio-cultural norms, attitudes, and practices in which race as naturalized, heritable (or reproductive), hierarchical (or taxonomic) exclusion, rather than capital, functioned as organizing principle.

[90] The literature on race / racism is vast and somewhat eclectic, and engagement with it is clearly beyond the scope and remit of this study. For present purposes, it should suffice to invoke the postcolonial/decolonial conception of race / racism articulated by Hesse (2004, 2007), viz. that phenomenon tied to processes of 'racialization' which give rise to a series of Eurocentric material 'assemblages' (systems of classification, taxonomies etc.) emerging in the context of European colonial expansion during the long durée of the 16th century. In passing, it should be noted that while an emerging body of scholarship offers the prospect of revising the onset and periodization of race/racism, I would suggest that in its *systemic*, *binary* and *globalized* form, Hesse's account remains authoritative, if not definitive (or exclusive).

3.1. Decolonization, Post-Colonialism and Coloniality

Although formal 'boots on the ground' colonialism ended in the 1960s as a consequence of various national decolonization struggles, the decolonization project remains unfinished insofar as the contemporary 'postcolonial' situation is marked by a condition of 'coloniality' that involves: (1) an ongoing legacy of colonialism in contemporary societies in the form of social discrimination, which has outlived formal colonialism and become integrated in succeeding postcolonial social orders, both core and periphery; and (2) practices and legacies of European colonialism in terms of the persistence of certain 'sedimented' colonial ways of knowing and being – that is, colonial epistemology and ontology – based on systems of categorization, classification, and taxonomisation, and their manifestation in histories, knowledge structures, artefacts, and technologies including, I want to suggest, those of relatively recent origin such as the Internet. In this connection, and by way of preparing the ground for the presentation of certain arguments in Part II, it is imperative to note that an expanding body of scholarship produced by critical race philosophers and decolonial theorists has made – and *continues* to make – an arguably convincing case that *actual* social, political and economic liberalism was forged upon racist and ostensibly 'illiberal' foundations including colonialism, indigenous genocide and slavery (Mills 2017).

Building on such arguments, I want to suggest that Internet governance and its associated discourse, irrespective of whether the latter is 'mainstream' / liberal, 'critical', postcolonial or even decolonial (as is the one presented herein), tacitly operates against a background 'horizon' of coloniality. If this is true, then the 'what' and 'how' of the Internet, governance and Internet governance, and the latter's tendency to discursively frame and concern itself with issues of network neutrality, openness, standards and interoperability, stability and universality (as against instability and fragmentation), must be understood as *potentially*[91] informed and inflected by the differential body-political and geo-political – and possibly also theo-political (given the 'entanglement' of race and religion mentioned earlier) – orientations of those generating this discourse; in short, there is a need to consider 'race' and 'place' in the modern world

[91] This qualifier is necessary so that I am not understood to be positing the *actual* orientation of any stakeholder, however bodied and located, as wholly determined by such embodiment and world-systemic situatedness.

system vis-à-vis the historically-informed dispositions and biases orienting the futurally-directed projects of power-relationally differentiated discursive stakeholders[92].

3.2. A Brief Note on 'Westphalian State-Centrism'

While an understanding of the background 'horizon' that is the modern/colonial world system with its attendant structuring logic of racialized coloniality is key to the decolonial argument presented herein, there is another, related issue that needs to be briefly discussed insofar as it speaks directly to how the matter of 'alignment' is framed in Internet governance discourse, viz. *the global nation-state system*.

Mainstream Internet governance discourse almost invariably tends to be articulated against the backdrop of, and centre upon, the Westphalian international state system[93]. Appreciation of this fact is crucial since 'Westphalian state-centrism' tends to obscure the relational background, both geographical and historical, against which the Westphalian interstate system itself emerged. In this connection, I maintain that, notwithstanding the fictive Eurocentrism of a 'Westphalian narrative' that purports to trace the origins of the contemporary inter-state system to the Treaty of Westphalia in 1648 CE (Kayaoglu 2010)[94], it is imperative to think about the Westphalian interstate system in relation to the long durée history of the modern/colonial world system emerging in 1492 CE. In short, the 'Westphalian setting' should be understood as embedded within an encompassing 'colonial setting', and that the latter informs and

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[92] Pre-empting criticism of this line of argument on the grounds that it evinces a commitment on my part to some form of crude 'identity politics', I should like to suggest that such a move is decolonially-suspect in that it tacitly attempts to re-centre a Eurocentric conception of politics, irrespective of whether liberal / individualist or Marxist / class-based in orientation, that is fundamentally economistic. Beyond this, and drawing on arguments presented by Sayyid and Zac (1998), I should like to suggest that *all politics is identity politics* in that political subjectivity and agency is necessarily tied up with questions of identity and difference; further, that it is not possible to understand political identity outside of discursive articulation. In short, (political) identities are *products* of discourse.

[93] I aver that Westphalian state-centrism sets the terms of debate irrespective of whether one is arguing for the central role of the state in matters of Internet governance (Goldsmith and Wu 2008) (Salhi 2009), or contesting such centrality (DeNardis 2014) (Mueller 2010, 2017) etc. along multistakeholder lines.

[94] In this connection, it is interesting to note that Mueller (2017), an opponent of Westphalian state-centrism vis-à-vis Internet governance, maintains that "it is common to assert that the nation-state system has been in place for centuries. While that is true of a few major European powers such as France and the UK, which took their familiar form since the seventeenth century, most of Europe's political units took the form of multinational empires and most of the non-western developing world was subject to colonial powers. Not until the US-imposed post-WW2 postcolonial order was in place can one clearly say that the international system was based on a society of sovereign nation-states." (p.153)

inflects the political structures associated with the former[95]. Granted the validity of this claim, it would appear to suggest that transitioning to a *post-Westphalian* state-centric political reality would not necessarily entail transitioning to a *post-West*-centric reality since coloniality stands in a contingent relation to Westphalian state-centrism and can persist beyond the nation-state system. For example, and as will be argued in more detail later, 'network colonialism' – that is, the operation of colonial logics in global / transnational networks such as the Internet, web and social media – is not only possible but, I suggest, *probable* given (1) the historical 'entanglement' of prior extant 'legacy system' networks with such 'emergent' socio-technical network formations, and (2) the operation of network effects including 'preferential attachment'.

4. Decoloniality and Decolonial Computing

Having described the colonial nature of 'the world' within which the Internet, governance and Internet governance are embedded as socio-technical, political and institutional phenomena, it is necessary to briefly clarify the idea of 'decoloniality', explain what is meant by 'decolonial computing' and suggest why the latter approach is preferable to other related earlier 'critical' orientations vis-à-vis Internet governance in/for the Global South.

4.1. Decoloniality

In addition to (1) dating the onset of the condition of modernity and/or the modern world system to European colonialism and the long durée of the 16th century, (2) understanding this system as global and *racialized* – thereby entailing the need to engage critique of capitalism in terms of *racial* political economy – and (3) insisting on the *persistence* of structural colonial logics or 'coloniality' into the contemporary postcolonial era, decolonial thought and praxis – that is, *decoloniality* – is also characterized by adoption of what decolonial theorists Walter Mignolo and Madina Tlostanova (2006, 2009) refer to as 'delinking' and border-thinking, viz. consideration of the 'body-politics' and 'geo-politics' of knowledge – that is, *who* is thinking / knowing and from *where* – engaging thereby with the *material* dimensions of epistemology in contrast to the abstract / disembodied 'theo-politics' and, following secularization,

[95] I assert this in full recognition that it might be necessary to situate the European colonial enterprise in relation to antecedent events including the Crusades commencing in 1095 CE (Ali 2017).

'ego-politics' of universalizing Eurocentric epistemology by thinking from the margins (borders, frontiers, periphery). Crucially, such 'materiality' is not that of the race-less / de-raced structures of political economy or culture, but that of the corporeal experiences of those who have been excluded from the production of knowledge by colonial modernity. In addition, according to Mignolo (2010a), decoloniality "is not an interdisciplinary *tool* but, rather, a trans-disciplinary *horizon* in which de-coloniality of knowledge and de-colonial knowledge places life (in general) first and institutions at the service of the regeneration of life [emphasis added]." (p.11) On his view, decoloniality necessitates integrating the concepts of coloniality, modernity, and decolonisation of knowledge by thinking about history (time) in relation to geography (space), thereby providing the basis for subjecting the idea of a single linear time and associated notions of 'progress' and 'development' – both of which appear in Internet governance discourse [96] – to critique in terms of the operation of power, and motivating the shift away from a universal perspective towards a 'pluriversal' perspective – that is, a worldview constituted from multiple sites of enunciation, pre-eminently those situated at the margins of the world system[97].

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[96] Consider in this regard the following statement contained in the NETmundial Multistakeholder Statement (NETmundial 2014) related to 'Human Rights and Shared Values': "all people have a right to development and the Internet has a vital role to play in helping to achieve the full realization of internationally agreed sustainable development goals. It is a vital tool for giving people living in poverty the means to participate in development processes."; and the following in relation to 'Access and low barriers': "Internet governance should promote universal, equal opportunity, affordable and high quality Internet access so it can be an effective tool for enabling human development and social inclusion." Other statements in this document reinforcing the commitment to development include the following: "Internet governance should promote sustainable and inclusive development and for the promotion of human rights"; and "all stakeholders should renew their commitment to build a people centred, inclusive and development oriented Information Society as defined by the WSIS outcome documents. Therefore in pursuing the improvements of the Internet governance ecosystem, the focus on development should be retained." For detailed critiques of 'development', 'progress' and related notions as Eurocentric, see Sachs (2010). For a critique of 'developmentalism' or "the fetishization of development", see Dirlik (2014), and critique of 'development as colonialism', see Goldsmith (1997) and Rist (2008).

[97] According to Bhambra (2014), "Mignolo develops Quijano's earlier theoretical work and, in particular, further elaborates his conception of modernity/coloniality in the context of the work of epistemic decolonization necessary to undo the damage wrought by both modernity and by understanding modernity/coloniality only as modernity. The decolonization of knowledge, he suggests, occurs in acknowledging the sources and geo-political locations of knowledge while at the same time affirming those modes and practices of knowledge that have been denied by the dominance of particular forms. He is not arguing simply for a geo-politics of location as central to any academic endeavour, but rather a consideration of what that geo-politics enables to be known and how it is to be known. The key issue for Mignolo is not only that epistemology is not ahistorical, but also, and perhaps more importantly, that epistemology 'has to be geographical in its historicity'." (pp.118-119)

4.2. Decolonial Computing

Computing is inherently colonial in some sense since as a modern phenomenon, it is founded upon, and continues to embody aspects of, colonialism. I suggest that this holds for specific kinds of computing such as ubicomp, which has been said to be driven by a 'colonial impulse' (Dourish and Mainwaring 2012), as well as other areas of computing such as HCI, AI, robotics, ICT4D, 'Big Data' / data science and Internet governance. In fact, and as argued elsewhere, computing *per se* should be understood as characterized by an 'expansionist' thrust associated with the transformation of the modern world through incessant 'computerization' (latterly 'digitalization' and more recently, 'datafication') and the rise of a purportedly global 'information society' following the 'cybernetic turn' of the 1950s (Ali 2016). Crucially, this expansionist thrust is hegemonically-Western, computing emerging in the West (primarily Britain and the US) against the background of inter-European conflicts (WW2) and post-war ideological conflicts (The Cold War), both of which need to be considered in relation to the periphery as non-European world (WW2) or Third World (The Cold War), respectively[98]. In the context of the present study, particular attention needs to be afforded to the 'supremacist' motivations underpinning the race to develop a global information network or Internet, and in this connection Barbrook (2007) provides an account which I suggest merits engaging with at some length insofar as it provides a number of important insights that other more mainstream, liberal and somewhat 'technophilic' accounts have tended to ignore[99].

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[98] In this connection, consider the military setting against which two 'founding fathers' of modern computing, Alan Turing and John von Neumann, developed their ideas: Turing, a mathematician, cryptographer and computer scientist was involved in the war effort as a code breaker at Bletchley Park during WW2; von Neumann, a mathematician and computer scientist, played a decisive role in the US Cold War effort.

[99] In this connection, consider, for example, the authoritative account of Naughton (1999) for whom "it's always earlier than you think. Whenever you go looking for the origins of any significant technological development you find that the more you learn about it, the deeper its roots seem to tunnel into the past." (p.49) In this connection he is led to ask: "how far down should we drill in seeking the origins of the Net? Given that a large part of my story is about computers, should I go back all the way to the 1830s when Charles Babbage developed detailed plans for what he called the 'analytical engine', a device capable of performing any arithmetical operation in response to instructions contained on punched cards?" (p.50) On his view, "any starting-point for an historical trail is likely to be arbitrary." (p.51) From a critical race theoretical and decolonial perspective, I would suggest that this is not the case; rather, than the choice of starting point is determined by ethico-political orientation. It should be noted, however, that Naughton is well-aware of the centrality of The Cold War vis-à-vis emergence of the Internet: "the Internet did not originate in one blinding, 'Eureka!' moment. But if one had to put a finger on the spark that lit the fuse, one would have to say it happened on 4 October 1957 – the day the Soviet Union launched into orbit a

4.2.1. The (Cold) War for Internet Supremacy

According to Barbrook (2007), "the imaginary future of artificial intelligence disguised the original motivation for developing IBM's mainframes: killing large numbers of people. During the Cold War, smart advertising had to hide horrific use values ... The horrors of the Cold War present had been successfully hidden by the marvels of the imaginary futures." (pp.50-51) While framing the development of such 'AI-for-death' technology in terms of the targeting of Russian cities, I want to suggest that this target of the Western 'war-machine', although quite real, was relatively recent in origin when considered relative to non-Europe, the target of Western colonial violence for the past five centuries[100]. Barbrook goes on to state that "because of the nuclear stalemate in Europe, the most important front in the Cold War was the propaganda battle ... The long-term security of America's sphere of influence now required more than the 'hard power' of military and economic pre-eminence. The US elite also had to achieve *supremacy* in the 'soft power' of ideological and cultural hegemony [emphasis added]." (p.84) Regarding the Cold War origins of the Internet, he maintains that "when, in the early 1960s, the CIA alerted the US government to the danger of falling behind its rival in the race to build the Net, ARPA was given the responsibility for fighting this new battle on the technological front of the Cold War." (p.151) According to Barbrook, the CIA argued that "the technological race to develop the Net had become the key contest which would decide whether America or Russia would lead humanity into the information society. The superpower that owned this imaginary future had *hegemony over the entire*

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bleeping football called Sputnik." (p.77) While the origins of the Internet in the efforts of various engineers receiving ARPA funding is widely recognised, he maintains that under J.C.R. Licklider's brief leadership of ARPA's Command and Control Division, its vision transitioned from a military outlook to a "*utopianism* which maintained that computer technology held out the promise of a better world [emphasis added]" (p.82) Against this technophile perspective, and following Barbrook (2007), yet reframing the latter's Eurocentric / West-centric Marxist narrative in the context of considering global core-periphery modern/colonial power relations, I want to suggest that Western 'utopianism' should be understood as a 'neo-colonial' attempt to project some form of *Eurocentric universal* (Wallerstein 2006) – rhetorically-camouflaged as progress, development etc. – onto the world.

[100] In this connection, Blaney and Ticker (2017) raise a number of pertinent questions: "How can we think of the Cold War as a long-peace, given the vast body-count across the globe? How is a liberal peace consistent with liberal colonial wars? Why do the field's foundational stories revert to World War I and not the administration of race relations and external (and internal) colonies?" (p.301) In addition, there is the matter of the 'Orientalization' of the Soviet Union by the US and its allies during The Cold War, arguably drawing on long durée sedimented Western Orientalist predispositions, to consider; in this connection, see (GoGwilt 1995) and (Bonnett 2002) among other works.

planet [emphasis added]" (p.164); and on the matter of the emergence of the 'information society', he maintains that:

> Across the ideological spectrum, possessing the prophecy of the Net had become a claim to political power. When the owner of the future controlled the present, geopolitical rivalries and class conflicts were focused upon the struggle between opposing definitions of the global village. At various times from the 1950s to the 2000s, the information society has been identified as a state plan, a military machine, a mixed economy, a university campus, a hippy commune[101], a free market, a medieval community or a dotcom firm. During these five decades, these rival definitions came in and out of fashion as the fortunes of their promoters waxed and waned. Only one principle remained constant throughout. If about nothing else, the rival ideologues agreed that building the Net was making the future society. (p.273)

While broadly concurring with Barbrook's reading of the Internet and the information society as 'entangled' with competition over 'planetary informational hegemony', from a critical race theoretical and decolonial perspective, I would suggest that his Marxist 'core-centric' interpretation of such Cold War developments results in a framing of the issue in classist and economistic terms, viz. the Internet as a vehicle for neoliberal capitalism and US imperialism[102]. On a decolonial framing, it might be argued that the race for the net was tied up with the need for 'the West' (under US leadership) to maintain, expand and refine global white (cum Western[103]) supremacy under contestation both at home and abroad, *ostensibly* from the Soviet Union ('The East') but certainly from the decolonizing Third World ('the Rest')[104].

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[101] For a 'subaltern' structuralist critique of 'countercultural' readings of the Internet and 'information society', see (Aouragh and Chakravartty 2016).

[102] There is also the matter of the *European* origin and arguably *Eurocentric* logic of Marxism to consider; on this point, see Mills (1997, 2003) among other works.

[103] On the discursive shift from 'white' to 'Western', see (Füredi 1998) and Bonnett (2003, 2005).

[104] On the 'entanglement' of Cold War politics with what African-American sociologist W.E.B. DuBois described as "the problem of the 20th century" (1903), viz. "the problem of the colour line" or racism, see (Füredi 1998), (Borstlemann 2001) and (Westad 2017). Notwithstanding gains accruing from civil rights struggles in the particular local context of the US, and those associated with anti-colonial movements more globally which resulted in the formal independence of previously colonised peoples, the 'decolonial project' remains unfinished and, importantly, continues to be deferred if not thwarted by hegemonic players in the

In terms of the relevance of The Cold War to matters of Internet governance, it is intriguing to note that in an essay entitled 'Are we in a Digital Cold War?' aimed at mounting a historically-informed critique of the idea of contemporary 'Cyber Cold War' emerging in the aftermath of the Dubai World Conference on International Telecommunications (WCIT), Mueller (2013) maintains that "the very act of framing the problem in that way … contribute[s] to the militarization of the Internet and foreshadow[s] a bleak future: an Internet policy landscape dominated by national security concerns and great power conflict." On his view, "the best response to the challenge [of a posited Cyber Cold War] would be a historically informed review of the nature of the Cold War, coupled with a dispassionate analysis of its similarities and differences to the current cyber situation." Crucially, Mueller explicitly holds that such a "larger perspective on the Cold War is important to students of Internet governance." Yet what is the *scope* of this 'larger perspective'? Mueller goes on to present a core-centric / West-centric and Westphalian nation state-centric reading of The Cold War as the final struggle in a long war "over the nature and constitution of the 20th century nation state". Nowhere does the 'entanglement' of the Cold War and the colour line, both local / national and global / transnational, feature in this account; rather, there is an overriding state-centric concern with 'militarization' of the Internet, ignoring the possibility that, from a critical race theoretical and decolonial perspective, the Internet was already militarized *as* a multistakeholder informational space geared towards maintaining – and expanding – Western *supremacy* through political, economic, cultural and other means. In short, I want to suggest that Mueller's 'larger narrative' of 'the long war' (over nation-statism) ultimately constitutes an 'intra-core account' that serves to occlude the *long durée* historical war against the peripheral(ized) 'other'.

4.2.2. Decolonizing Computing

Decolonial computing (Ali 2014, 2016) is a recent proposal that attempts to engage with the phenomenon of computing from a perspective informed by (even if not situated at) the margins or periphery of the modern world system wherein issues of 'body politics' and 'geo-politics' of knowledge are analytically foregrounded. Decolonial computing, as

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world system such that the problem of the 20th century continues as the problem of the 21st century, albeit a problem arguably assuming an increasingly socio-technical – more specifically, digital, data-centric and networked – form.

a critical project, is about interrogating who is doing computing, from where are they doing it, and how (that is, in terms of which knowledge paradigms); on this basis, issues of race, and not merely 'culture' and 'power', are brought into bold relief, prompting the need for critical thinking about what freedom, inclusion, diversity and equality might mean from a world systems perspective informed by a preferential option for the peripheralized – that is, an ethical commitment to effecting compensation and/or reparations for the persistent 'legacy effects' of colonialism. Researchers and practitioners adopting a decolonial computing perspective are required, at a minimum, to do the following: firstly, consider their geo-political and body-political orientation when designing, building, researching, or theorizing about computing phenomena; secondly, embrace the 'decolonial option' as an ethic, attempting to think through what it might mean to design and build and *govern* computing and ICT systems with and *for* those situated at the peripheries of the world system, informed by the ways of thinking and knowing (epistemologies) located at such sites, with a view to undermining the asymmetry of local-global power relationships.

4.3. Related Precedents and Their Limitations

In closing this part, I turn to examine some related 'critical' approaches to engaging with ICT phenomena – more specifically, Internet governance – drawing attention to their perceived limitations from a decolonial perspective with a view to making the case for the adoption of a decolonial computing approach to Internet governance.

4.3.1. Postcolonial Computing/ICT

The potential utility of certain ideas drawn from postcolonial studies for disclosing the persistence of colonial epistemologies in computing has not been lost on theorists and practitioners. In this connection, 'post-colonial computing' (Irani et al. 2010) (Dourish and Mainwaring 2012) (Philip et al. 2012) has been proposed as an analytic lens and guide to praxis in which questions of power, authority, legitimacy, participation, and intelligibility in contexts of cultural encounter against the backdrop of contemporary globalization are centred. Notwithstanding the contribution that such a stance might make vis-à-vis interrogating Internet governance discourse, I suggest that it suffers from three drawbacks relative to a decolonial computing approach: (1) a tendency to focus on *local* manifestations of power, conceptualizing these in post-structuralist terms

which go back to Foucault, rather than engaging with *global* structuralist framings in terms of asymmetric power relations[105]; (2) a tendency towards privileging 'culturalist' perspectives over and against maintaining a sharp focus on concerns of (racial) political economy; and (3) a tendency to engage with the legacy effects of colonialism from the 18th century onwards rather than date the onset of colonialism to 1492 CE and the long durée of the 16th century.

A somewhat different 'postcolonial' approach to ICT, drawing on the work of Marxist economist Samir Amin and others, has been proposed by Abu Bhuiyan (2008, 2014) who argues for engaging Internet governance issues from a critical Global South perspective along 'postcolonial' and 'Third-Worldist' lines[106]. While useful in terms of providing for a critique of the imperialist and neo-colonial drivers underpinning capitalism in its neoliberal form, I would suggest that this approach has limited *decolonial* value on

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[105] According to Franklin (2004), "no technology stands above and beyond those who design and control it. In that respect, 'we' get the Internet 'we' deserve. Critical social constructivist, feminist, and postcolonial approaches to ICTs in general, and the Internet/World Wide Web in particular, would focus on the class/status, race/ethnicity, and sex/gender exactitudes and nuances of online–offline (re)articulations of structural power. They would aim to examine inner and outer tensions of these everyday tactical and strategic operations, and demystify assumptions about sex/gender, race/ethnicity, and class/status in the process. They would all want to underscore how the tale of non-elite and 'non-Western' practices of everyday life online is just as cogent, just as vibrant, and just as crucial to debates about the present and future of ICTs in any 'new world order.'" (p.228) While conceding that such critical approaches to ICT phenomena in general, and Internet governance more specifically, can be used to disclose the relevance of non-Western practices and formation, I would suggest that Franklin possibly overstates the case for 'resistance' by virtue of a post-structuralist appeal to Foucauldian analyses of power as diffuse and locally-operative, obscuring more structuralist accounts which continue to emphasize the hegemonic, if not supremacist, nature of 'core' power relations within the world system; for a useful critique of such post-structuralist approaches drawing on Frantz Fanon's decolonial thought, see (Ciccariello-Maher 2006). I would suggest that, ironically, Franklin (2011) herself concedes the facticity of 'Western' technological hegemony (vis-à-vis non-Western subaltern resistant technological formations) in stating that although "initial designs and intentions can change as technologies are used, subverted or redesigned according to different principles", nonetheless "as generational layers of programs they can also become difficult to redirect. Integrated systems and their increasing levels of complexity and long-term investment commitments thereby start to take on a quasi-autonomous quality [emphasis added]." (pp.13-14) Beyond this, there is a need to consider the problematic nature of invocations of the 'intersectional mantra', viz. "class, race and gender", which Johar Schueller (2005) argues is a hallmark of white feminist thinking, and which obscures asymmetric, non-homologous differences between various structural power relations.

[106] For example, Abu Bhuiyan (2008) maintains that "when the information society project is seen from a postcolonial subject position, it seems like a neocolonial project with a goal to expand information capitalism across the South." On his view, 'postcolonial' refers to "an epistemological position that is in opposition to colonialism", a position he develops "by combining the elements of postcolonial theory and critical political economy." (p.100) This stance appears closer to a decolonial orientation than the postcolonial orientation associated with 'postcolonial computing' insofar as it advances an oppositional rather than merely pluralizing / decentering orientation; however, Abu Bhuiyan's commitment to interpreting the world system as capitalist rather than as colonially-racialized results in a rather historically-truncated and geographically-Eurocentric framework.

account of its Marxist orientation wherein economic issues remain determinative relative to others, while the issue of race and its 'entanglement' with political economy in the modern/colonial world system, viz. *racial political economy*, remains somewhat obscured. In appealing to anti-imperialist currents and precedents within world systems theory and dependency theory in order to frame the world system in neo-liberal / capitalist terms, I aver that Abu Bhuiyan's approach suffers from a theoretical shortcoming in that it does not take into consideration Quijano's extension of world systems theory incorporating the foundational and constitutive role of racial colonialism in the formation of the modern world system (Quijano and Wallerstein 1992a)[107]. On this basis, I would suggest that any attempt at thinking about Internet governance in (of, by, for) the Global South along anti-imperialist lines is problematic since it misconstrues the nature of 'the world' (system) and the place / position of Internet governance, as a sub-systemic phenomenon, within it vis-à-vis the centrality of the systemic, structuring logics of race / racism / racialization[108]. In addition, his position evinces a rather

[107] According to Grosfoguel (2011), "the old Marxist paradigm of infrastructure and superstructure [needs to be] replaced by a historical-heterogeneous structure … or a 'heterarchy'… that is, an entangled articulation of multiple hierarchies, in which subjectivity and the social imaginary is not derivative but constitutive of the structures of the world-system … In this conceptualization, *race and racism are not superstructural or instrumental to an overarching logic of capitalist accumulation; they are constitutive of capitalist accumulation at a world-scale*. The 'colonial power matrix' is an organizing principle involving exploitation and domination exercised in multiple dimensions of social life, from economic, sexual, or gender relations, to political organizations, structures of knowledge, state institutions, and households [emphasis added]." (p.11) On this basis, he maintains that referring to "the present world-system [as] 'capitalist' is, to say the least, misleading. Given the hegemonic Eurocentric 'common sense,' the moment we use the word 'capitalism,' people immediately think that we are talking about the 'economy'. However, 'capitalism' is only one of the multiple entangled constellations of colonial power matrix of what I called, at the risk of sounding ridiculous, 'Capitalist/Patriarchal Western-centric/Christian-centric Modern/Colonial World-System.' Capitalism is an important constellation of power, but not the sole one. Given its entanglement with other power relations, destroying the capitalist aspects of the world-system would not be enough to destroy the present world-system. To transform this world-system it is crucial to destroy the historical, structural, heterogeneous totality called the 'colonial power matrix' of the 'world-system' with its multiple forms of power hierarchies." (p.12)

[108] In this connection, and in the context of a critique of the view that rising wealth in the non-Western semi-peripheries of the modern/colonial world system appears to provide empirical evidence contradicting arguments for the continued centrality of race as organizing principle, Boatcă (2017) maintains that the reality of "semiperipheries more generally (Western and non-Western) in lending stability to the system by replicating, mirroring and disseminating racialized mechanisms of endless accumulation of capital at different levels in the structural hierarchy … does not amount to the nonwestern semiperipheries' ability to overturn *the racializing logic on which endless accumulation has been premised since the emergence of the modern/colonial* world-*system*, and should not be mistaken for it [emphasis added]" (p.2); going further she states that "even if not all racists are white, racism in the world-system is premised on colonially enforced whiteness. In this context, whiteness is just as much a geopolitical category as it is a racial designation." (pp.7-8)

uncritical embrace of Westphalian state-centrism in relation to the matter of Internet governance[109], resulting in the occlusion of non-statist political formations that transversally inform and inflect the issue, not to mention a certain 'developmentalism' at work in his line of argument[110]. Yet notwithstanding such criticisms, I would suggest that from a decolonial perspective, Abu Bhuiyan is surely correct in arguing that "with the end of the modernization project, the US[111] needed a new project to carry out its hegemony" and that "information society seems to be the new project." (p.104)[112]

4.3.2. Electronic Colonialism Theory (ECT)

Abu Bhuiyan (2014) asks: "Which theory of international communication helps us understand the role of the global south in Internet policymaking? Theoretical approaches employed to explain interstate relationships regarding communication resources include cultural imperialism, the globalization paradigm, and regime theory. Of these theoretical perspectives, cultural imperialism was the earliest, while the other two are recent additions to communication studies." (p.8) According to McPhail (2014), however,

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[109] For example, Abu Bhuiyan (2014) maintains that "global Internet politics is primarily a conflict between states—the United States of America and the states of the global south—since the US controls Internet policymaking. The states of the global south have been oppositional and acquiescent at the same time toward US-sponsored Internet policies. They do not oppose the neoliberal policies promoted by the US, but ask for an international framework to govern the Internet so that they can work as equal partners to the US in setting norms for the global Internet." (p.8) Insisting on "the need to resort to state theory" (p.15), he maintains that "states are in the driving seat of Internet policymaking at both national and supranational level. The US and the global south are two key actors here." (p.16) Yet *is* state-centrism the *appropriate* frame in which to think about the Global South?

[110] Consider, in this connection the following statement: "Since northern societies have moved along the path of the information society, southern societies cannot afford not to follow because the world is now more interconnected than before. Southern societies are now in many ways more dependent on the North than before." (p.113) I would suggest that Abu Bhuiyan here fails to engage – and *contest* – the ontological 'horizon' of development *per se* insofar as his argument operates *within* this horizon, seeking an-'other' development rather than, for example, a *post-development* paradigm.

[111] Crucially, in relation to the line of argument presented herein, Abu Buiyan (2014) maintains that "politically, there is little difference between the *values* of the US and the EU, although they sometimes differ from each other on global political and economic issues." (p.5) Similar to Barbrook (2007), Abu Bhuiyan (2008) refers to the information society as "the new imperialist ideology" (p.112).

[112] Grosfoguel (2011) maintains that "during the last 510 years of the 'Capitalist / Patriarchal / Westerncentric / Christian-centric Modern / Colonial World-System' we went from the 16th Century 'christianize or I shoot you,' to the 19th Century 'civilize or I shoot you,' to 20th Century 'develop or I shoot you,' to the late 20th Century 'neoliberalize or I shoot you,' and to the early 21st century 'democratize or I shoot you.'" (p.37) Drawing on Abu Buiyan's analysis, it might be argued that Grosfoguel's position needs to be augmented with 'informationalize or I shoot you', such 'informating' assuming various forms including, arguably, proposals to engage with the Internet of Things (IoT), a development which, I suggest, should be understood as a form of settler colonialism via embedded technological proxy – a case of 'bits in the ground' as contrasted with the boots on the ground approach of historical colonialism.

"earlier attempts at theorizing have failed to develop models or research agendas that match the reality of the contemporary role of global communication. Theories of modernization, dependency, and cultural imperialism have failed to satisfactorily explain global communication. The old theories only explain part of the global picture." (p.289) In place of such theories, he proposes Electronic Colonialism Theory (ECT) which should be applied in combination with world systems analysis[113]. Originating in the 1980s, *electronic colonialism*[114] is concerned with "the dependent relationship of poorer regions on the post-industrial nations which is caused and established by the importation of communication hardware and foreign-produced software, along with engineers, technicians, and related information protocols. These establish a set of foreign norms, values, and expectations that, to varying degrees, alter domestic cultures, languages, habits, values, and the socialization process itself."(p.13)[115] According to the originator of the theory, world system theory (WST) makes it possible "to decipher some of the structural cleavages in the international communication field. It approaches the nations of the world through an *economic* lens" whereas ECT "basically views the world through a *cultural* lens. These two theories, WST and ECT, help unify the various stakeholders as well as identify their collective impact on globalization." (pp.vii-viii) Insofar as a synthesis of WST and ECT engages with economics and culture, but does not embrace the 'decolonial turn' vis-à-vis engaging with the persistent legacy system effects of racialized colonialism and adopting a preferential option for the periphery, I

[113] McPhail (2014) claims that "combining the two theories provides the most powerful explanation of the contemporary phenomenon of global communication that is available to students, policy analysts, corporate planners, and researchers alike." (p.294)

[114] According to McPhail (2014), "over the course of history, there have been only a few major successful trends in empire-building", viz. (1) military colonialism of the Greco-Roman period, (2) militant Christian colonialism during the Crusades, and (3) mercantile colonialism commencing in the 17th century CE up to the mid-20th century after which time it was superseded by electronic colonialism (pp.11-12). Interestingly, he maintains that "the second phase, the brutal Christian Crusades against Muslims and other religions, has reappeared" (p.303), thereby pointing to the 'entanglement' of race and religion in the modern/colonial world system briefly discussed earlier in the present work.

[115] McPhail (2014) maintains that "whereas mercantile colonialism sought to control cheap labour and the hands of labourers, electronic colonialism seeks to influence and *control the mind*. It is aimed at *influencing attitudes*, *desires*, *beliefs*, lifestyles, and consumer behaviour. As the citizens of peripheral nations are increasingly viewed through the prism of consumerism, influencing and *controlling* their *values*, *habits*, and purchasing patterns becomes increasingly important to multinational firms [emphasis added]." (p.13) I would suggest that this way of thinking only deals with 'one direction' of the electronic – or rather, *digital* – colonial project insofar as it fails to engage with more contemporary 'extractive' forms of digital colonialism associated with Big Data mining and 'surveillance capitalism' (Zuboff 2015), as well as that which arguably takes place as 'settler colonialism by technological proxy' via the Internet of Things (IoT).

would suggest that this approach suffers from drawbacks similar to those evinced by the postcolonial approaches discussed previously.

Part II

5. Decolonizing Internet Governance

In contrast to the aforementioned approaches, recent 'critical' engagements with Internet governance and policy have tended to be framed in terms of Foucauldian governmentality (Antonova 2014), Bourdieu's field theoretic conception of capital (social, economic and cultural) and/or Latourian actor-network theory (Pohle et al. 2016), the latter being a preferred framing within STS (Musiani 2015). Complementing such studies, in what follows, I shall attempt a preliminary decolonial computing critique of what has been described as the 'core' issue associated with Internet governance, viz. "the problem of alignment" (Mueller 2017, p.71). My critique is informed by a consideration of the body-politics and geo-politics of knowing (epistemology) and being (ontology) of dominant, if not hegemonic, discursive stakeholders articulating the 'nature' (what-ness, how-ness) of Internet governance alignment. In addition, it should be understood to be informed by an ethical commitment to embracing the 'decolonial option', viz. preferential orientation towards those sited at the margins or borders of the modern/colonial world system – the so-called 'developing', 'Third' or 'Fourth' (*sic*) world that is the 'Global South' – motivated by a concern to effect compensatory (reparational, corrective[116]) justice given coloniality, viz. the systemic regulatory structural logics informing the historical colonial project that are its persistent 'legacy system' effects in the contemporary era.

Granted that the Internet should be viewed sociotechnically as a network of networks (Daigle 2015) and that its structure and governance are indeed *contingent* phenomena (Clark 2016), it is crucial to appreciate that neither currently nor *originally* were these infrastructural phenomena decentralised in nature (Mathew 2016)[117]. Building on this

[116] For an exploratory account, sketching out the contours of what is meant by 'corrective', as contrasted with 'distributive', justice, see (Mills 2017).

[117] Contrary to the claims advanced by left-leaning proponents of the Internet such as Benkler (2016) as well as those of a more liberal persuasion such as Naughton (1999).

line of analysis, I aver that the *what* of the Internet cannot be separated from its *how* and that the latter needs to be understood in terms of settlement or 'sedimentation' of power manifested both through infrastructure (protocols, standards, commitments to openness, interoperability, end-to-end connectivity etc.), but also through dominant worldview or ideology, the focus of the present study. Thinking about *how* to decolonize Internet governance necessitates considering the dating / history of this phenomenon in relation to its location / geography. From a decolonial computing perspective, I maintain that dating the onset of Internet governance to the last 25 years in relation to an emerging governance of/by the Internet of Things (IoT) (Howard 2015), or dating its 'prehistory' to "the period from the mid-1960s to the mid-1990s before the Internet became the mass phenomenon it is today" (Ziewitz and Brown 2013), is problematic on account of a certain Eurocentric/West-centric occlusion of the causally-overdetermined and racially-inflected facilitating backdrop to the emergence of the Internet and its governance structure(s) as described in Part I. In short, whether 25 years or almost 60 years, I suggest that such mainstream 'core-centric' accounts present far too truncated a historical – *and* geographical – frame within which to understand the (racial) political-economy of Internet governance vis-à-vis the Internet and its governance as phenomena embedded within the 'horizon' of the modern/colonial world.

In what follows, I present a 'close' decolonial and critical race theoretical reading of some standard works on Internet governance, viz. those of Mueller (2010, 2017) and DeNardis (2014) with a view to disclosing – perhaps even 'unmasking' – the operation of colonial logics informing their discourse[118]. These works have been 'targeted' for critique on account of their authoritativeness and ostensible representativeness vis-à-vis 'mainstream' – that is, hegemonically-liberal – thinking about Internet governance in relation to the matter of political alignment[119]. However, before presenting my critique, it

[118] In this connection, I want to argue for the need to relate concerns about *governance* (rules, regulations, standards, institutions etc.) to *governmentality* – that is the logic of power – albeit not necessarily in Foucauldian localizing terms.

[119] Commenting on an earlier draft of this essay, an anonymous reviewer asked how Internet governance is a *colonial* construct, and how exactly *colonialism* is present in concepts such as net neutrality, openness, interoperability, etc.? I should like to argue that Internet governance is a *colonial* construct insofar as both the Internet and its governance emerge in the context of a world system whose knowledge structures continue to bear the imprint of a politics tacitly if not explicitly inflected with coloniality. If Mueller (2017) is correct in identifying the 'core' issue of Internet governance with (political) alignment, and insofar as the world system continues to be marked by coloniality and/or white supremacy as a political system (Mills 1997), then Internet governance's *de facto*, if not *de jure*, alignment is both racialized and colonial. In short, I want to suggest that if/when alignment is taken into consideration, and when alignment is understood in

is necessary to set the scene by presenting some illustrative examples of mainstream Internet governance discourse.

6. The What and/or Where of Internet Governance

According to DeNardis (2014), "the primary task of Internet governance involves the design and administration of the technologies necessary to keep the Internet operational and the enactment of substantive policy around these technologies. This technical architecture includes layer upon layer of systems including Internet technical standards; critical Internet resources such as the binary addresses necessary to access the Internet; the DNS; systems of information intermediation such as search engines and financial transaction networks; and network-level systems such as Internet access, Internet exchange points, and Internet security intermediaries." (pp.6-7) Crucially she maintains that "Internet governance scholarship has historically focused close attention on two areas: national regulatory frameworks and the governance role of ICANN and associated institutions that manage critical Internet resources" (p.22), and that it is enacted via various routes including technical design decisions, private corporate policies, global institutions, national laws and policies, and international treaties (p.23)[120].

According to van Eeten and Mueller (2012), "participants in the Internet governance field take a distinctively global governance perspective on the topic. They look at the Internet holistically as a globally interoperable system and think of governance as something characteristic of it *as a system* …" One consequence of this focus on the Internet as systemic is that

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long durée world systemic terms, the colonial nature of Internet governance readily becomes apparent. Regarding ostensibly 'technical' matters such as net neutrality, openness, interoperability, etc., I suggest that insofar as these technical issues are actually *sociotechnical*, interrogation of their *social* dimension necessitates interrogation of the social 'background' against which they operate. I would go further to suggest that viewing such matters as (purely) technical in nature results in obfuscation of the 'core' issue of alignment, regardless of whether such a move is intentionally motivated or otherwise, and a focus on the politics of technical infrastructure and commitments to certain long-standing principles which appear neutral yet are readily exposed as colonial when understood as 'entangled' with the issue of alignment. In this connection, DeNardis' (2014, 2015, 2016) ostensible 'bracketing' of alignment as a 'secondary' matter pertaining to *use* relative to 'primary' technical concerns is particularly problematic.

[120] In a later work, DeNardis (2015) asserts that "much attention to Internet governance focuses on the global institutions of Internet governance (e.g. ICANN), content regulations, the public interest implications of technical design, or, increasingly, the role of technology corporations in establishing public policy." (p.8) Crucially, her concerns centre on the stability, interoperability, security and resilience of the Internet, as well as fostering 'globally inclusive' discussions on the future of Internet governance (DeNardis 2016).

> Scholars who are habituated to thinking of governance and regulation as something that occurs at the national level may have trouble coping with the new global institutions, and vice versa. This disjunction is reinforced by the tendency to think of governance as being produced by, or taking place in, formal organizations with explicitly institutionalized rules and procedures … Thus, venues such as the ICANN, the Regional Internet Address Registries, the WSIS or the IGF become valorized as the key sites of Internet governance. The aggregate effect of decentralized decisions and adjustments made by ISPs, other organizations that operate networks and various jurisdictions, are not classified as part of the same process – even though the latter often have much more profound effects on the evolution and use of the Internet than the ICANN or IGF." (p.727)

For this reason van Eeten and Mueller are led to maintain that "the WSIS and IGF provide very little, if any, actual governance … most of the stakeholders with actual control over Internet resources are not participating in the IGF. The ICANN and the Regional Internet Registries (RIRs) are the main actors for which a plausible claim can be made that they shape the evolution and use of the Internet, but the governance of Internet identifiers has only a limited impact on such matters as content regulation, security, intellectual property and e-commerce." (p.728) In this connection, van Eeten and Mueller maintain that "the field assumes Internet governance to take place at these institutions and then asks questions about the institutions themselves, rather than conceptualizing Internet governance and studying where and how it is actually taking place" (p.729); further that "in most areas, governance of the Internet takes place under … low formalization, heterogeneous organizational forms and technological architectures, large numbers of actors and massively distributed authority and decision-making power." (p.730) Crucially, on their view, such conditions "usually point to market and network governance." (p.731)[121] Perhaps most significantly, they argue that "use of the label 'Internet governance' needs to be re-thought and changed. The field would benefit greatly from expanding to include innovative areas such as the economics of cybersecurity, network neutrality, content filtering and regulation, copyright policing

[121] In this connection, they maintain that "prices and markets, traditional hierarchical firms, hierarchical state power, interpersonal and inter-organizational networks and new, scaled-up forms of peer production are all present in Internet governance." (p.732)

and file sharing, and interconnection arrangements among ISPs." On their view, "we need a new conceptualization of governance that ... would accommodate the diversity of governance on the Internet, from centralized, formal global institutions such as the ICANN all the way to the emergent order that arises from the interactions among thousands of ISPs and their users." (p.730)

7. The 'Core' Problem of Internet Governance: A Decolonial Interrogation

Notwithstanding the brief account of the nature and location of Internet governance vis-à-vis identification of issues, stakeholders, institutions etc. as presented above, in what follows attention is focused on "the problem of alignment" which Mueller (2017) insists is "the *core* Internet governance question of our time" and "the arena for a world-historic struggle between established institutions of communications governance and the new societal capacity created by globally networked digital devices [emphasis added]." (p.71)[122] In this connection, I want to suggest that a logic of racialized coloniality is deeply embedded in this 'core' and subject 'the problem of alignment' to decolonial interrogation along three lines with a view to exposing (1) how certain phenomena are deferred and/or 'bracketed' from consideration through discursive framing and identification of actors in mainstream Internet discourse[123]; (2) the operation of shared, albeit tacit[124], ideological dispositions informing the worldview of those producing such

[122] It is interesting to note here the difference between Mueller's 'core' of Internet governance and DeNardis' (2014) reference to its 'heart' which she identifies with the following issues: "freedom of expression online, Internet infrastructure security and stability, the policy role of Internet companies, the efficacy of Internet protocols, globally coordinated Internet control systems such as the DNS, and the relationship between intellectual property rights enforcement and Internet architecture." (p.6)

[123] According to Mueller (2017), "to question alignment is to question key aspects of the geopolitical order that has been in place since the nineteenth century at least, and fully realized after World War II." (p.73) However, I suggest the need to think about the modern/colonial world system as operative at a *deeper* level than the Westphalian inter-state system. In the present work, I focus on Mueller's core issue of 'alignment', yet suggest that the way it is framed, viz. in terms of an opposition between statist and trans-statist network governance formations, is flawed, if not obfuscatory, from a decolonial perspective insofar as it obscures consideration of the world systemic backdrop to the Internet governance debate.

[124] Throughout this work, my use of 'tacit' should be understood in the sense of implied, inferred, unspoken etc., and as 'entangled' with phenomena of silencing (erasure, occlusion etc.) However, it must be emphasised that such 'silencing' should not be understood as necessarily intentional in the sense of conscious or wilful; rather, as social-psychologically *dispositional* and the result of embedded processes of historical enculturation. On the operation of the latter, see Brubaker et. al (2004), Sullivan and Tuana (2007) and Fricker (2007) among other works.

discourse; and (3) the need to interrogate the possibility of 'rhetorical overplay' in the invocation of 'network effects'[125].

Common to different mainstream accounts of Internet governance is the identification of essentially three types of actor and/or stakeholder, viz. states / governments, markets / corporations, and civil society participants (including NGOs), in both technical (setting of standards, maintenance of infrastructure etc.) and policy-making capacities. What tends to be obscured, intentionally or otherwise, in some of these accounts is a sense of the *close coupling* of hegemonic Western – more specifically, US – actors, both governmental and corporate, at a crucial stage in the 'developmental trajectory' of the Internet, viz. its transition from a communications technology built by the engineering and academic community against the backdrop of the Cold War, to a facilitator of commerce. Viewed in this light, Mueller's (2017) insistence on separating out issues of *alignment* (as political) from *fragmentation* (as technical) should be seen as problematic insofar as it indicates commitment to a liberal worldview vis-à-vis political economy, moreover one in which the liberal political-economic orientation of the Internet *as* a sociotechnical phenomenon is somewhat obscured (whether intentionally or otherwise). Contra Mueller, I want to suggest that hegemonic (US) motives behind the advocacy of non-state Internet governance were *not* historically rooted in concerns about co-option of the technology in pursuit of nation-statist political ends, but rather in concerns about how to most efficiently transition developmentalism to its next stage, viz. core-centric 'network capitalism' – or rather, network *colonialism*[126].

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[125] This line of critique is directed principally at Mueller (2017). For an account of how rhetoric can be intentional (in the sense of bearing traces of historically-sedimented prior intent) yet neither conscious nor wilful, see (Farrell 1995).

[126] In this connection, Singh (2009) and Carr (2015) present useful accounts of the Clinton-Gore administration's support for transitioning the Internet (and web) into a commercial platform operative along globalized, neoliberal lines. According to Singh, Clinton and Gore both "believed that the US government should avoid regulating cyberspace activities, and urged the *private sector to lead the way in transforming the digital world* ... In Europe, other states were similarly inclined ... Governments *entrusted* nonstate actors to set rules, fearing that the rigidity of their own institutions would *slow or obstruct the development of information technology* ... The private sector, with its free enterprise and competitiveness, was considered better suited to take the Internet to the next stage [emphasis added]." (p.212) Carr (2015) draws particular attention to this development in order to make the point that there is a *particular* political-economic logic at work here, viz. US-hegemony through US-dominated neoliberalism; however, I suggest thinking about this 'baton-passing' from state to non-state commercial actors in terms of the *militarized* logics of colonialism, viz. colonizing states opening up colonized territories for commercial exploitation. Singh, by contrast, is much more restrained in his analysis: "What led the US government to diffuse this technology throughout the world, which had its origins in the country's security apparatus? The clues to this can be found in the demands for networking and, especially since the Clinton administration,

7.1. Discursive Frame

Adopting a discourse theoretical position, Sayyid (2013) maintains that "given the discursive character of social life it follows that social actors do not pre-exist any discursive articulation but rather are products of it." (p.280) From a decolonial perspective, I suggest that this points to the need to disclose the tacit discursive 'background' operative within mainstream Internet governance discourse with a view to revealing 'silences' (and erasures), irrespective of whether intentional (conscious, wilful etc.) or otherwise, and the impact of such phenomena on the formation of actor / stakeholder identities and their concerns.

7.1.1. Governance and (Post-)Statism

Adopting a state-centric point of departure, DeNardis (2014) maintains that *governance* "is traditionally understood as the efforts of sovereign nation states to regulate activities within or through national boundaries" (p.11), and that it involves "the exercise of power to enact a certain set of public interest goals" (p.23). Yet in the context of Internet governance, she maintains that *privatized* forms of governance "directly delegated from government authorities to corporations" have emerged, and that "private corporations enact policy not only in carrying out their core functions but also as actors responding to events on a larger political stage." (p.12)[127] It is important to note here the tacit invocation

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in electronic commerce ... but *it's too early to tell if state control and electronic commerce are co-joined* ... *Electronic commerce and state control are moving in tandem for now but not because commerce is following flag or because the flag clearly understands its interest in electronic commerce terms* [emphasis added]." (p.220) Crucially, Carr (2015) maintains that "it was within this … context of the government taking initiative and 'leading the private sector to water', that Internet governance arrangements began to develop" (p.646) and that "synergy between the dominant US private sector and the US government serve to aggregate rather than balance or counter power in the multistakeholder process" (p.656); further, that "the [private] sector derives legitimacy in the context of Internet governance from ... its discursive alignment with civil society interests." (p.655) On the matter of state-market or government-corporation alignment, Howard (2015) maintains that Western governments and corporations have shown an increasing tendency to 'co-join' in pursuit of 'shared interests'. Yet what are these interests? Howard points to national security concerns and the threats of cybercrime and cyberwar among other issues; however, if the unit of analysis is shifted along decolonial lines, it might be argued that underpinning such 'shared interests' lies a possibly tacit commitment to maintaining, expanding and refining the operative racialized logics of colonial modernity. In this connection, consider Carr's (2015) assertion that "Internet governance does have some distinctive features but it is a subset of challenges defined by shifts in 'the character of global problems, the nature of actors, and the perceived limitations of international measures to govern the planet'." (p.644)

[127] Crucially, DeNardis (2014) maintains that a "confluence of issues – governmental privatization of some state functions, the increasing influence of industry on esoteric areas of regulation, and the ways multinational corporations have a de facto global policy making function – has called attention to corporations as forces of public policy interventions. Recognition of the governance effects of private

of a Westphalian state-centric[128] conception of governance wherein the background operation of modern/colonial world systemic *governmentality* remains undisclosed with respect to 'public interest goals' and the 'larger political stage'.

According to Muller (2010), governance refers to "the coordination and regulation of interdependent actors in the absence of an overarching political authority" (p.8), while "global governance suggests that some steering and shaping function exists, but is less hierarchical and authoritative. Thus, Internet governance is the simplest, most direct, and inclusive label for the ongoing set of disputes and deliberations over how the Internet is coordinated, managed, and shaped to reflect policies." (pp.8-9) Explicitly aiming to steer a course between cyber-libertarianism and state-centric political realism in thinking about Internet governance, Mueller (2010) argues that "the Internet puts pressure on the nation-state in five distinct ways. First, it globalizes the scope of communication … Second, it facilitates a quantum jump in the scale of communication … Third, it distributes control … Fourth, it grew new institutions … Finally, it changes the polity." (pp.4-5)[129] In relation to the last of these points, he goes on to argue that "by converging different media forms and facilitating fully interactive communication, the Internet dramatically alters the cost and capabilities of group action. As a result, radically new forms of collaboration, discourse, and organization are emerging. This makes it possible to mobilize *new transnational policy networks* and enables *new forms of*

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ordering has led some individual corporations and industry coalitions to develop voluntary and self-regulatory business practices that adhere to certain ethical standards and social values." (p.14) What is somewhat obscured here, unintentionally or otherwise, is the tacit *ideological* commitment to a liberal if not neoliberal worldview informing such ethical standards and social values – moreover, a liberalism that is de-raced / race-less and whose Eurocentric/West-centric orientation remains occluded.

[128] In this connection, DeNardis (2014) holds that "diffusion and privatization of governance, and private reactions to governance delegation, does not in any way suggest the demise of territorial states in regulating the Internet. Indeed, state control of Internet governance functions via private intermediaries has equipped states with new forms of sometimes unaccountable and non-transparent power over information flows." (p.15)

[129] Mueller (2017) criticizes state-centric approaches to alignment on the grounds that "it is not about defending territorial exclusivity, it is about eliminating barriers within a globalized virtual space." (p.87) On his view, the Internet "lowered the entry barriers to global power projection in the cyber domain. It created a public infrastructure that gives almost any well-organized actor the potential for transnational operations in cyberspace." (p.87) However, I want to suggest that this view is problematic insofar as Mueller does not consider that it is 'standard operating procedure' within colonialism to project developments originating locally / nationally onto the global stage; in addition, no attempt is made to engage with *economic colonialism* – or what McPhail (2015) refers to as 'electronic colonialism' – nor with the radical asymmetry in power between different actors. While Internet connectivity and access might facilitate 'upwards mobility' in *absolute* terms – and even this claim is contentious given recent reports of an expanding digital divide (Huawei 2017) – it is important to consider the possibility that such changes do nothing to narrow *relative* divides between historically dominant and subaltern actors and may, in fact, *exacerbate* such differentials.

governance as a solution to some of the problems of Internet governance itself [emphases added]." (p.6) On his view, "it is possible to conceive of a different kind of political space more suited to the politics of Internet governance. One's position in this space is defined by *where one locates oneself* in a space defined by two axes. The first pertains to the status of the territorial nation-state in communications governance. The second identifies the level of hierarchy one is willing to countenance in the solution of Internet governance problems [emphasis added]." (p.255)[130] What is absent from such post-statist framing is any recognition of, let alone engagement with, the pre-statist reality of world systemic colonial modernity as a long durée *transversal* racial factor informing and inflecting the policy of Western governments, corporations, NGOs and other emerging actors. While appreciating what is *new*, from a decolonial perspective, there is a need to consider what is *old* in the sense of persistent (re-iterated, reproduced) background structuring logics[131].

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[130] Consistent with his liberal / individualist worldview, Mueller refers to "where one locates oneself", thereby pointing to a certain decision power associated with identity-formation. Yet what about body-political marking and geo-political location as *given* in relation to the *a priori* structures of coloniality informing the modern world system? In this connection, I would suggest that Mueller's bi-axial framework is revealing insofar as global, transnational networking is framed as "denationalised liberalism" (p.256).

[131] Regarding the issue of network versus hierarchy (Mueller's second axis), I want to suggest that this binary occludes the emergence of hubs resulting from the 'entanglement' of prior extant networks based on asymmetric power relations and network effects operative in emerging networks, the latter of which Mueller (2017) refers to repeatedly. In short, while hierarchies are, by definition, not 'flat', it should not be assumed that networks are either. Mueller (2010) has argued that a "key factor affecting one's position in political debates is one's stance toward the competing values of liberty and equality. Because the freedom to exchange information and to associate with other network participants corresponds closely to [denationalised liberalism], and because all forms of egalitarianism require a hierarchical power to level differences and redistribute wealth, the liberty equality trade-off is to a large degree captured by the network-hierarchy axis." (p.259) Crucially, Mueller (2010) maintains that denationalised network "liberalism is not interested ... in using global governance institutions to redistribute wealth. That would require an overarching hierarchical power that would be almost impossible to control democratically; its mere existence would trigger organized political competition for its levers, which would, in the current historical context, devolve into competition among pre-existing political and ethnic collectivities." (p.270) In response to this, I suggest that insofar as networks are not flat, Mueller's argument falls flat (*sic*), viz. it is incorrect to map the liberty-equality trade-off onto network-hierarchy structure. On the contrary, I maintain that egalitarianism is only *contingently*-dependent on hierarchy and might be effected by other means including those that are network-based. In addition, I should like to draw attention to Mueller's rhetorical characterization of networks as 'peaceful' and formed on the basis of 'free association' (p.257), and his ideal 'denationalised liberalism' as involving "unilateral action in anarchic fields," or the "peer production of governance." Contrary to Mueller, I should like to argue that networks are far from being free associations: given network effects and power laws in the context of extant asymmetric power relations, networks *can* be – and under colonial modernity in fact *are* – coercive, but in a possibly more subtle way than hierarchies; on this point see Lake and Wong (2007).

7.1.2. Stability

According to DeNardis (2014), "Internet governance conflicts are the new spaces where political and economic power is unfolding in the twenty-first century" (p.1), and she points to "the rising privatization of global power and the embedded politics of technical architecture" maintaining that "questions of governance at these control points are questions of technical and economic efficiency but also expressions of mediation over societal values such as security, individual liberty, innovation policy, and intellectual property rights." (p.2)[132] Once again, what is somewhat obscured here, intentionally or otherwise, is tacit appeal to a *liberal* framework of values wherein individualist concerns are considered paramount while issues of social justice and egalitarian redistribution are either marginalised or completely absent[133]. In defense of this rather 'oppositional' critical race theoretical and decolonial reading of her position, consider DeNardis' assertion that "the preservation of the Internet's *stability* and *security* parallels other *global* collective action problems that have cumulative effects on all nations [emphasis added]" (p.16), which, I aver, points to a West-centric liberal prioritization of stability (or order) relative to justice (or compensation)[134].

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[132] DeNardis (2014) rightly argues that "arrangements of technical architecture [are] arrangements of power" insofar as they "embed design decisions that shape social and economic structures ranging from individual civil liberties to global innovation policy" (p.7), yet "the sometimes esoteric nature of these technical governance mechanisms that keep the Internet operational belies the substantive public policy decisions embedded in these mechanisms." (p.9)

[133] Against this claim, it might be argued that DeNardis (2014) *explicitly* states that "it is tempting to romanticize Internet architecture and governance as innately embodying democratic values of *equality*, participatory openness, and multistakeholder oversight but there are several problems with this narrative [emphasis added]." (p.15) However, I would suggest that the invocation of *equality* itself points to a liberal worldview insofar as an *egalitarian* commitment to reparations / compensation for the legacy system effects of colonialism remains unarticulated, the tacit assumption perhaps being that *illiberal* governments (among 'the Rest') are responsible for a lack of parity between Internet governance stakeholders under a multistakeholder arrangement. In support of this reading, consider that DeNardis goes on to state that "*in a significant portion of the world*, Internet governance control structures do not embody democratic values but involve systems of repression, media censorship, and totalitarian surveillance of citizens [emphasis added]." (p.15) Yet DeNardis goes on to concede that "in parts of the world that do privilege freedom of expression online, there are nevertheless all-pervasive systems of data collection, retention, and sharing that serve as the underlying business models enabling free email, search, social media, news, and other forms of complementary information intermediation. This digital shadow of trading privacy for free private goods serves as an agonistic check on notions of democratic online governance." (pp.15-16) DeNardis here refers to a 'digital shadow', but does not engage with the 'dark underside' of late capitalist modernity founded upon and reproductive of colonial logics. In short, what of the ostensible necessity of an *antagonistic* / 'oppositional' check arguably required by a commitment to reparations based on an understanding of the legacy system effects of racialized contractual global governance under colonial modernity?

[134] According to DeNardis (2014), "the local value of stable and secure global Internet governance is inestimable in contemporary societies dependent on networked technologies to handle basic business

7.1.3. Openness and Freedom

Similar to the way Mueller (2010, 2017) frames the issue of Internet governance in state-centric terms, DeNardis (2015) maintains that "beyond the intrinsic public interest implications embedded in keeping systems of Internet infrastructure operational, another feature of Internet governance involves the phenomenon of governments attempting to use the very infrastructure of the Internet for geopolitical objectives having nothing to do with Internet operations." (p.2) On her view, "exertion of state power by seeking modifications to Internet architecture must be accompanied by concern for the implications of these technical alterations for Internet stability and security and the characteristics necessary to preserve or promote a free and open Internet." (p.9) DeNardis (2014, 2015, 2016) makes repeated appeal to the importance of Internet 'stability', 'freedom' and 'openness', yet her rhetoric, informed by a commitment to STS-based analysis, avoids any serious engagement with the West-centric nature of Internet governance vis-à-vis the tacit embedded geopolitics of Internet operations including both earlier technical and later civic and commercial operations which occur against the backdrop of a hegemonic and West-centric neoliberalism[135]. In short, no attempt is made to interrogate the colonial, let alone racialized, nature of the 'free' and 'open' sociotechnical space that is the Internet (web and social media).

7.1.4. Universality

DeNardis (2016) maintains that "the *economic and social promise* of bringing the next billion people online usually assumes the ongoing growth and availability of a universal Internet. But the Internet of the future has many possible trajectories. One twenty-first-century Internet policy debate concerns whether cyberspace will continue to expand into a universal network or fragment into disjointed segments based on geographical borders or proprietary ecosystems. *Tensions between network universality*

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transactions, the movement of currency, and the exchange of financial securities ... No less than economic security, modern social life, culture, political discourse, and national security are at stake in keeping the Internet globally operational and secure." (p.17) From a decolonial perspective, I would suggest that what is somewhat obscured here is the role of Internet *stability* in maintaining global West-centric hegemony at the expense of global justice. For a useful discussion of the tension between prioritizing 'order' over justice in the context of the legacy system effects of racialized coloniality, see Pasha (2017b).

[135] As she states, her concern is with developing a proposal for "the technological characteristics and policy frameworks necessary for affording the Internet with a sustained capacity for *ongoing global growth and openness* [emphasis added]." (DeNardis 2016, p.1).

and enclosure reflect conflicts among public-interest values in cyberspace, such as national security versus individual rights, and freedom of expression versus privacy [emphasis added]." (p.1) Commenting on proposals to locate data within nation-state boundaries, DeNardis (2015) argues that "'holding' data in a fixed location is incompatible with engineering principles like reducing latency, load balancing, and basic traffic engineering. It is also incommensurable with *business models predicated upon global customer bases and workforces*. As civil society advocates have expressed, it moves the Internet from a de facto *universal* network to a world with country-specific 'Internets' that don't connect with each other to form today's global network [emphases added]." (p.5)[136] While conceding that "a world with access divides, language barriers, and economic disparities hardly constitutes a universal Internet" (p.8), it is crucial to appreciate (1) that the 'digital divide' is here being framed in somewhat reductive terms of *access* (rather than *use*, not to mention *control* and *ownership*), and (2) that an economic backdrop of neoliberal globalization is tacitly being invoked, the implication being that the 'universality' of the network is universally universal rather than 'Eurocentrically universal' (Wallerstein 2006) – that is, hegemonically West-centric[137]. In

[136] DeNardis (2015) goes on to maintain that "the desire for a consistent and universal system in which any device could reach any other device has always been a given for the public Internet." (p.8) On her view, "data localization laws could result in the 'Balkanization of the Internet' and constitute a challenge to the 'free and open Internet that we benefit from today'." (p.5) However, it is unclear whether such a 'desire' is as *universally* held by Internet governance stakeholders / actors as implied; in addition, and returning to the theme of 'openness' and 'freedom', this is a liberal, perhaps even neoliberal, narrative that obscures the asymmetric nature of openness vis-à-vis who *can* (actually) benefit from the Internet. According to Carr (2015), "despite the US government emphasis on Internet Freedom, the US private sector has arguably done more to 'Balkanise' the Internet than any other actor through the promotion and enforcement of digital rights management and it has been able to rely upon US government support throughout. The overlay of a sovereign map on top of the Internet has most effectively been established through a combination of location based services, intrusive software applications that exploit user privacy in return for services and the promotion of international norms that allow for the control of information on commercial but not cultural or political grounds." (p.655) On the matter of 'Balkanization', Mueller (2017) rejects the use of this term in relation to the technical fragmentation of the Internet which he considers a near impossibility given network effects. An important issue to consider in relation to the invocation of 'Balkanization' concerns rather widespread Western tendencies to frame it in relation to oppositions between 'Western democratic' and 'non-Western autocratic' (or authoritarian) state formations; in this connection, see (Sayyid 2005).

[137] In this connection, Mueller (2017) points to "the principle that the Internet should be unified and unfragmented" (p.4) which sat alongside commitments to 'RESILIENCE' and 'STABILITY' in the NETmundial outcome document from 2014 (pp.4-5). For Mueller, "NETmundial was only one of the many manifestations of *a world-embracing universalism or globalizing tendency* that has always been present in the technical vision of the Internet [emphasis added]." (p.5) What is obscured here, intentionally or otherwise, in the focus on universalism and globalism in relation to *technical* vision is the *social* dimension of the Internet as sociotechnical system, viz. an 'entanglement' with asymmetric power relations.

addition, I would suggest that framing the issue in terms of universality versus *enclosure* involves recourse to the historical experience of European feudalism while obscuring historical colonialism and the persistence of racialized coloniality in core-periphery relations. While not wanting to suggest any intent (conscious, wilful) on her part, I suggest that such a move has the consequence of deterring the possibility of enclosure (or protectionism) being seen as a temporary, tactical *resistant* response on the part of non-Western nations to the ongoing operation of the racialized political economic logics underpinning Internet (web and social media) operations.

7.1.5. Connectivity

Regarding the issue of 'connectivity' as an intrinsic good, DeNardis (2016) maintains that "while the digital realm is still in its infancy, this capacity to connect ubiquitously to the Internet, regardless of location or access device, has become an implicit assumption of the twenty-first century." (p.1)[138] Yet is this assumption ontological (factical) or deontological (normative)? In short, *is* inter-connectivity an intrinsic good, and if so, why is this held to be the case and by whom?[139] Is this view 'universally' held? Given the racialized colonial nature of the global political economy, is it not possible that reference to 'capacity to connect' masks (obscures, occludes), albeit unintentionally, the possibility of being connected by a hegemonic other – that is, to be colonized through connectivity? [140]

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[138] In this connection, Carr (2015) maintains that "the fact that the Internet *works* on a functional level so very consistently is a significant triumph of global collaboration over competition" (p.643), yet insists that "interpretations of what it means for the Internet to 'work' are subjective and this in itself is a question that should be opened up for debate." (p.643) Further, that "beyond the most basic intent that the network functions in a reliable manner, there are many competing ideas about what constitutes a 'good' or 'open' or 'secure' Internet. For example, an Internet that is secure for the producers of intellectual property is primarily of interest to those who produce it, not those who consume it." (p.652) It should be noted that Mueller's (2017) entire discourse ostensibly pivots around issues of *access* and *consumption*, issues of production and hegemony tending to be ignored.

[139] DeNardis (2016, p.2) presents a graphic summarizing the results of an international survey into "How much do you agree or disagree with the following statement? 'Affordable access to the Internet should be a basic human right.'" It is interesting to note that all countries who *strongly* agreed rather than merely *somewhat* agreed with the notion of affordable access being a basic human right are located in the Global South. Does this indicate a colonized mentality vis-à-vis internalization of the idea of the intrinsic goodness of access and connectivity along with embrace of progressivist and developmentalist logics, or might it point to attempts at 'levelling' the playing field through participation? Either way, I would suggest a certain failure to understand the racially colonised nature of Internet governance as hegemonically West-centric is likely manifest.

[140] I aver that a similar line of critique applies regarding issues of 'empowerment' and 'inclusion' where "policy makers and entrepreneurs investing in information and communication technologies assume that

7.1.6. Multistakeholderism

According to Carr (2015), one key area to analyse in terms of the operation of discursive framing is "the multi-stakeholder model of global Internet governance [which] has emerged as the dominant approach to navigating the complex set of interests, agendas and implications of our increasing dependence on this technology. Protecting this model of global governance in this context has been referred to by the US and EU as 'essential' to the future of the Internet." (p.640)[141] While critical of multistakeholderism on account of its tendency to obscure persistent asymmetric power relationships between different stakeholders, Mueller (2010, 2017)[142] and DeNardis (2014, 2015, 2016)[143] nonetheless embrace some form of qualified commitment to this paradigm. This is significant when considered in light of Mueller's (2010, 2017) arguments for corralling the role of the nation-state in Internet governance, ostensibly with a view to minimizing the prospects for politicization of the Internet[144]; however, adopting "a Gramscian approach to

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building the necessary infrastructure is not only possible, but will empower citizens to participate in the global digital economy, access knowledge and engage in lawful communication with others, regardless of location or type of device." (DeNardis 2016, p.1)

[141] According to Carr (2015), "multi-stakeholderism has become almost synonymous with global Internet governance" (p.641), and "the discursive power of ... concepts [associated with multistakeholderism] is as significant and as interesting as the power that is generated through the actual functions and practices they refer to." Crucially, Carr maintains that "multi-stakeholder Internet governance serves largely to reinforce existing power relations rather than disrupt them. Specifically, the multi-stakeholder model in Internet governance privileges the interests of those actors that were instrumental in establishing it – the US government *and those whose interests align with a US agenda* [emphasis added]." (p.642)

[142] Mueller (2010) maintains that "at worst, it offers a simple-minded communitarianism that implies that all political, economic, and social conflicts can be resolved if everyone involved just sits down and talks about them together. By focusing almost exclusively on the interaction or dialogue among stakeholders, it tends to evade or ignore issues of rights, access, power, and related issues of institutional design." (pp.264-265)

[143] According to Carr (2015), "DeNardis argues that the decentralised and diverse nature of multi-stakeholder Internet governance is its strength and indeed, she regards it as a major factor in the 'resilience, stability and adaptability of the Internet' ... [Yet] one of the fundamental problems with the current arrangements is that rather than disperse power to a wide range of actors, multistakeholderism reinforces existing power dynamics that have been 'baked in' to the model from the beginning. It privileges north-western governments, particularly the US, as well as the US private sector." (p.658) In this connection, it should be noted that DeNardis concedes that "global Internet choke points do exist. Despite the decentralized physical geography of the Internet and the diversity of institutions overseeing this infrastructure, *there are centralized points of control*. Some are virtual; some are physical; some are virtually centralized and physically distributed. All are increasingly recognized as points of control over Internet infrastructure [emphasis added]." (p.11) This view arguably contrasts somewhat with that of Mueller (2010) for whom "most of the real-world governance of the Internet is *decentralized and emergent*; it comes from the interactions of tens of thousands of network operators and service providers – and sometimes users themselves – who are connected through the Internet protocols [emphasis added]." (p.9)

[144] In this connection, Carr (2015) points to "a persistent concern that involving states in Internet governance practices and processes will see the Internet mired in politics." (p.652) Yet I would suggest that

hegemonic power [which] focuses on controlling narratives, setting the agenda and defining the terms of reference in order to minimise (or delegitimise) dissent" (p.642), Carr maintains that "the narrative about the need to limit government involvement in multi-stakeholder Internet governance does not impact on all states to the same extent. Because the US has been so successful in embedding its view in multi-stakeholder Internet governance practices, functions and norms, it and states aligned ideologically with its 'Internet Freedom' approach can afford to promote a view of limited government involvement. Essentially, this serves to limit *oppositional* government input." (p.653)[145] Moreover, "limiting government involvement relative to other stakeholders however, is essential to *maintaining the status quo* in Internet governance – an outcome that is most favourable to those actors that helped establish it in the first place [emphasis added." (p.651) While it might be argued that Mueller (2010, 2017) explicitly rails against US-centrism, it is crucial to appreciate that his criticism is directed at US-centrism in the *statist* terrain of government, not at the US-centric 'free market'[146].

Adopting a position informed by feminist and postcolonial thought, Franklin (2009) argues that "translocal, transnational, and supraterritorial trajectories and alliances overlay domestic–international demarcation lines as multilateral institutions broker 'multi-stakeholder' meetings" and that "the terrain (the whereabouts), the actors (the ''who''), the stakes (what is it all about), and the means, are *increasingly multi-sited and multidimensional rather than vertically integrated, geographically contained, analogically disseminated* [emphasis added]." (p.223) On this basis she insists that "reducing everything to a Manichean battle between the State and its Discontents … can also mean missing crucial nuances, opportunities, and moments for resistance and change as the script, casting, location, and final production are finalized." (p.225)

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the Internet is, and always was, politicized; further, it is a liberal conceit to assume that the site of politics lies with states to the exclusion of markets.

[145] Crucially, Carr (2015) maintains that "diplomatic leveraging is very much a part of global Internet governance", drawing attention to "the diplomatic power of the US and its supporters like Australia and the EU" (p.654). I would suggest that what is missing here is recognition of a 'factor' that *transversally* informs and inflects alignment in the modern/colonial world system, viz. race; in this connection, see Lake and Reynolds (2008). In short, notwithstanding the importance of her Gramscian line of critique, Carr (2015) arguably shares the same de-raced / un-raced understanding of the world system as liberal commentators such as Mueller and DeNardis in referring to "the dominance of liberalism in the last quarter of the 20th century" (p.643), yet failing to appreciate *actual* historical liberalism as fundamentally racialized.

[146] In this connection, Carr (2015) holds that "attempts to limit government involvement in the multi-stakeholder process ... serve to preserve the status quo by actually limiting *oppositional* government influence that might promote views counter to those held by the 'north-west' states." (p.654)

Granted, yet if the decolonial framing of the issue as presented herein is accepted, insofar as decoloniality is only contingently framed in *state*-centric terms, it might be that such a line of argument does not hold true in respect of the world system *per se*[147]. I should also like to suggest that such 'postcolonial' framings, maked by a focus on the *local*, viz. 'the State and its Discontents', tend to obscure the possibility of thinking about non-Western statist interventions in relation to a decolonial project aimed at *globally* decentering West-centric domination of the Internet[148].

7.1.7. Identity and the Digital Divide

According to DeNardis (2014), "the study of Internet governance is a much narrower scholarly field of inquiry within the realm of Internet research just as the practice of Internet governance is narrower than the broader area of information and communication technology policies. *To draw these boundaries*, it helps to explain what the field addresses versus what it typically does not address [emphasis added]." (p.19) Crucially, on her view, "these boundaries are narrower than the capacious topics addressed in some venues, such as the United Nations Internet Governance Forum (IGF), which have included topics on *the digital divide*, digital education, and how the Internet is used generally [emphasis added]." (p.20) DeNardis goes on to assert that "Internet governance questions address technological design and administration, issues generally distinct from questions about content" (p.20) and that "examples of content-related topics generally *outside the field of Internet governance* include … *societal usage* issues including *digital equality*, *social media communities*, or *identity formation* and human interconnectedness … Global Internet governance concerns generally do not address patterns of Internet usage by various constituencies [emphasis added]." (pp.20-21)[149]

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[147] As should be apparent at this point in the presentation, I suggest that state-centric readings fail to adequately theorize – and 'name' – global hegemonic power, viz. racial coloniality, and that Franklin is 'guilty' of such a failure.

[148] Adopting a similar post-structuralist position to Franklin, Singh (2009) has argued that "if interactions change actor identities and meaning of the issues they pursue, actor preferences cannot be taken as constant as do structural analysis where power structures determine preferences prior to any interaction." (p.220) I am inclined to think that this line of argument affords too much agency to non-statist resistant formations and occludes the operation of historically-sedimented dispositional logics, which are non-determinative yet structurally-biasing in the *global* context of core-periphery relations under colonial modernity. In addition, and as will be argued in Section 7.3, network effects operative in the Internet (web and social media) mean that while the *location* of hegemonic power – and thereby its *identity* – might shift/morph into a more diffuse formation, such power *remains* core-centric and racialized.

[149] According to DeNardis (2014), "the objects of Internet governance inquiry are technical architecture, the private and public entities and rules that control this architecture, and policies about this architecture.

Mueller (2017) is even more emphatic about the need to exclude the digital divide from Internet governance discourse arguing, in the context of a discussion about Internet fragmentation, that "while it is certainly true that those who have no access to the Internet are not able to communicate over the Internet, it is *absurd* to bundle this problem – *which is both undesired and unintended* – with intentional decisions to block users from accessing services or content that they are fully equipped to reach. Access limitations caused by a lack of development constitute a *limited* Internet, but not a fragmented one [emphasis added]." (pp.32-33) Yet from a decolonial and critical race theoretical perspective, I would suggest it is far from clear that the digital divide was 'both undesired and unintended' given its 'entanglement' with prior 'divides' under colonial modernity, and the goal, whether tacit or explicit, of maintaining Eurocentric/West-centric hegemony under contestation[150]. Beyond this, there is Mueller's reference to a 'lack of development' to consider in terms of its appeal to developmentalist logic and rather unfortunate ostensible framing as a 'blame the victim' narrative.

While accepting that Internet governance is "a complex matrix of technical standard setting, resource allocation, legal arrangements and the control of access and information online" (Carr 2015, p.645)[151], and ostensibly targeting DeNardis (2014, 2015, 2016), Carr goes on to state that "very often in debates about global Internet governance, the *focus* is on *technical* coordination which is much easier to agree upon. This is obviously a significant element of Internet governance but very often, technical decisions and standards have political implications that cannot and should not be ignored. Framing Internet governance as 'technical' provides a discursive mechanism for inoculating the issues from important and inescapable political debates [emphases added]." (p.644)[152] From a decolonial perspective, I want to argue that excluding – or

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Studying Internet governance generally does not address the effects of Internet use or the meaning of content but does address the technologically mediated control of content or the rights of users in accessing this content." (p.21)

[150] In this connection, I should also like to draw the reader's attention to the earlier discussion of the Cold War origins of the Internet and the shift in roles of state/government and market/commerce vis-á-vis maintaining U.S. hegemony as the Global North entered a purported 'information age'.

[151] I would suggest that focusing on *access* serves to occlude, albeit unintentionally, issues of usage, ownership and control.

[152] From a decolonial perspective, such debates would involve interrogating commitments to stability, universality, interoperability, network neutrality, openness etc. in terms of their complicity with – if not conduciveness for – the maintenance and expansion of racialized colonial West-centric capitalism.

'bracketing out' – the digital divide from Internet governance is a pivotal move in terms of setting – and 'policing'[153] – the boundaries of what constitutes *legitimate* Internet governance discourse from a tacitly liberal, if not neoliberal, perspective. DeNardis' drawing of boundaries is a tacitly *political* move in that the decision to separate concerns about content and issues to do with the promotion of digital equality – not to mention a commitment to reparations (compensation, corrective justice) for the legacy system effects of colonialism – from Internet governance results in maintenance of the status quo and its reinforcement via network effects[154]. Crucially, this way of framing the contours of Internet governance *discourse* – or terms of the 'language game'[155] – functions to determine the identities[156] of Internet governance stakeholders / actors insofar as excluding consideration of the digital divide / digital inequality results in deterring and deferring decolonial interrogation of the racialized ontology of Internet governance actors[157].

7.2. Ideological Assumptions

According to Mueller (2010), "to make sense of our environment we must be able to name phenomena, come up with explanations, and develop guidelines about how to respond. In such an environment it is not only discrete ideas, but also ideologies that become important. Ideologies are systems of ideas that strive to provide coherent explanations

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[153] Such 'policing' might be understood in Foucauldian terms, viz. as the disciplining effects of the knowledge/power regime of Internet governance discourse.

[154] In this connection, and in the context of the WSIS, Abu Buiyan (2014) draws attention to the fact that "the global south opposed the ICANN model of Internet governance and proposed to *expand the rubric of the Internet governance framework by including measures related to the digital divide*, multilingualism, Internet security, and intellectual property rights. It opposed unilateral US control of the Internet root and demanded equal participation [emphasis added]." (p.18)

[155] According to Murphy (2002), "different groups will make different rules that will structure the use of a technology. These rules become policies governing the networks. People with an opportunity to gain access to a network must accept the rules by which the system is structured." (p.30) While accepting that such rules will emerge as outcomes of struggle / contestation for hegemony, it is important to appreciate that in the case of the Internet, many of these systems – or layers – of rules (protocols, standards) have already become sedimented.

[156] Mueller (2017) maintains that "there is no denying the linkage between group identities and state formation"(p.138), yet goes on to ask whether "the community connected via cyberspace [is] capable of the kind of solidaristic identity sufficient to forge a political unit" (p.139). I would suggest this is a state-centric reading of the relationship between statism and identity-construction and that it is quite possible to conceive of political identity in alternative terms, for example, in relation to body-political marking and geo-political situatedness in a racialized world system.

[157] Carr (2015) might argue that DeNardis' framing is West-centric and hegemonic in the Gramscian sense of structuring discourse in such a way as to prevent the articulation of alternatives to liberal capitalism; however, this reading fails to engage with the racialized coloniality of liberal discourse.

across a wide range of social, economic, and political phenomena. Political ideologies tend to fuse the normative and the positive; they provide a framework for analysing events and evaluating or recommending specific courses of action in line with a set of values." (p.254) Crucially, and as stated earlier, what is obscured here, intentionally or otherwise, is the role of ideologies in occluding (blocking, deterring, deferring) other discursive possibilities[158], corralling discourse within specific limits (boundaries, borders)[159].

7.2.1. (Not-so) Veiled Orientalism and Racialized Developmentalism

In the context of discussing whether we are in a digital cold war, Mueller (2013) asks whether "there [is] an ideological division in the world comparable to the capitalism/democracy vs. socialism/communism dichotomy", arguing that "in the Internet sphere, yes there is – partially. But a vitally important historical distinction is that this division is not led or defined by states." On his view, "there is an ideological division around two distinct issues. The first is the appropriate institutional form of Internet governance, the other pertains to the substantive aspects of communications policy." Crucially, in relation to the issue of governance forms, he maintains that "*younger* states and *authoritarian* states favour a pre-eminent role for sovereigns in communications policy, and would rely on the negotiation of intergovernmental

[158] In this connection, and expounding on the Lacanian psychoanalytic idea of 'foreclosure', Hesse (2014) maintains that "foreclosure refers to the preemptive exclusion of possible references and their locutions from the realm of the symbolic, the field of representation or discourse. Although foreclosure is a structural feature of all discourse, of interest are the hegemonic effects of specific strategies, since what is foreclosed is the possibility of particular representations. Hence certain redacted themes or objects become unsayable, lacking in referentiality because they are routinely prohibited by the conventions or rules of what can be formulated in a particular discourse. Foreclosure makes certain expressions impossible, insofar as the locutions that would allow that expression have already been denied any existence within the valorized discourse ... Foreclosure makes it possible for some things to be formulated in what is said, written, or represented and others not. The 'action of foreclosure' is repetitive and quotidian because its proscription of particular discursive terms, themes or questions is never finalized; the conventional, hegemonic or normalizing discourse remains ever threatened by what has in effect been constitutively foreclosed. This suggests that political and hegemonic strategies can be invested in seeking to secure particular repetitions of the conditions of impossibility and possibility in what is thinkable and sayable." (p.290)

[159] Significantly, Epstein (2010) holds that historical factors "can be constitutive of concepts themselves ... not just causes for why concepts have arisen." (p.14) Consider, in this connection, Mueller's (2017) statement that "not until the US-imposed post-WW2 postcolonial order was in place can one clearly say that the international system was based on a society of sovereign nation-states." (p.153) Decolonially-speaking, this statement is problematic insofar as the postcolonial era is marked by the persistence of globally structuring colonial logics (economic, cultural, political etc.). On this basis, it might be argued that Mueller is endorsing, albeit unintentionally, a 'colonial post-colonial' worldview.

agreements for global governance. The other side, which is led not by specific states but by private sector actors in the technical community, business, and to some extent civil society, supports the organically developed Internet institutions (Mueller, 2010), which represent transnational governance and more open, bottom-up, participatory institutional mechanisms [emphasis added]." Somewhat provocatively, I want to suggest that there might be a certain tacit Orientalism at work here in 'bracketing' reference to *younger states* with *authoritarian states*[160]; perhaps even more controversially, that the adjective 'younger' might not be used here simply to mean 'newer' but also in the sense of 'less mature', thereby indicating tacit, albeit possibly unintentional (in the sense of unconscious, not wilful etc.), invocation of a *developmentalist* conception of racialized coloniality. I suggest that this argument is supported by Mueller's assertion that increased nation-statist intervention vis-à-vis Internet governance should be viewed as a *retrograde* step, viz. "the *younger* nation-states – the ones that only just emerged in the post WW2 period – seem to be the most strongly committed to a *backwards-looking*, sovereigntist or neo-Westphalian approach to Internet governance [emphasis added]." (Mueller 2013) In this connection, it should be noted that McPhail (2014) provides the basis for quite a different reading, arguing that "two major changes occurred during the late 1950s and early 1960s that set the stage for the fourth and current era of empire expansion … [1] the rise of nationalism and decolonization, centred mainly in developing nations, and [2] the shift to a service-based information economy among core nations. The service economy relies substantially on satellites, telecommunications, and computer technology to analyse, transfer, and communicate information. It renders obsolete traditional national borders and technological barriers to communication." (p.12)[161] In short, just as the periphery was entering into a period of nation building, the

[160] Against this, it might be argued that Mueller (2013) maintains that "in many respects, the battle over the vision of Internet governance cannot be characterized entirely accurately as between *authoritarian, undemocratic* states and *liberal, freedom-loving* states, but also and more centrally as a conflict between long-established, cosmopolitan states and newer states still insecure about their sovereignty [emphasis added]". Notwithstanding this statement, I would suggest that recourse to the idea of 'cosmopolitanism' coupled with a certain tacit commitment to developmentalist logic arguably speaks to the contrary.

[161] Crucially, McPhail (2014) maintains that "cultural reproduction theorists view international media initiatives as a means of reproducing and socializing students in peripheral nations into knowledge systems that make them more compatible with Western ideals and, equally important, Western consumer values." (p.28) I suggest this extends to the knowledge system that pertains to the discourse on Internet governance which is dominated by 'Northern' voices tacitly committed to liberal, neoliberal and/or libertarian capitalist political-economic paradigms. However, it should be noted that from a decolonial perspective, McPhail's account falls short in framing the issue in terms of 'cultural domination' insofar as this tends to occlude considerations of racial political economy.

core transcended nationalism to transnational globalization, viz. an 'iterative' shift within the developmental logics of a 'programmatic' racialized coloniality that I suggest was intended to perpetuate – if not widen – a relation of 'parallel development' between core and periphery[162].

7.2.2. Rhetorical (Racial) Liberalism

Mueller (2010, 2017) explicitly[163], and DeNardis (2014, 2015, 2016) somewhat more implicitly, champion a commitment to political and economic liberalism. For example, in the context of a critique of the notion of cyberwar, again framed in relation to concerns about a possible digital cold war, Mueller (2013) claims that "cybersecurity threat-mongering actually militates against the Internet freedom agenda of the liberal democratic states. It leads to the concentration and centralization of power (both political and economic) not to its decentralization and diffusion." In addition to the need to problematize the centralization–decentralization argument[164], I want to suggest that Mueller's rhetorical appeal to liberal democracy obscures, albeit unintentionally, the historical fact that liberalism as a political and economic philosophy was conceived in the European cum Western core *in relation to* illiberal colonial practices carried out by core states in the periphery; further that *actual* liberalism as opposed to *ideal* liberalism was – and arguably remains – thoroughly racialized in nature. Contrary to Mueller, I maintain that liberalism was *never* about 'global diffusion and decentralization of

[162] Crucially, I want to insist that this view should not be seen as belonging to the genre of 'conspiracy theory'; rather, that it should be understood as a historically-informed decolonial and critical race theoretical analysis of *possible* responses of/by hegemonic white colonial formations to contestation.

[163] Mueller (2010) states that his "normative stance is rooted in the Internet's early promise of unfettered and borderless global communication, and its largely accidental and temporary escape from traditional institutional mechanisms of control. The expectations and norms created by the early Internet were *radically liberal* in nature, and gave new vitality to ideals of freedom of expression in politics and culture, and to concepts of freedom of exchange and open, competitive entry into information and communication markets in the economic sphere [emphasis added]." (p.5) He goes on to assert that he is "using the terms *liberal* and *liberalism* the way Europeans use them (i.e., in their correct, historical sense). *Liberalism* means policies and philosophies that favour individual liberty and choice." (p.262) Mueller (2010) criticises US-centric right-wing market liberalism (pp.262-263), yet ostensibly fails to appreciate that *actual* liberalism operative in the world was – *is* – structurally-informed by racism, and how this racial factor might function as a dispositional factor in relation to preferential attachment operative within scale-free networks such as the Internet, web and social media.

[164] See Section 7.3 of the present work.

power', but at most its *partial* diffusion *locally* among core states along a 'racial gradient' of whiteness[165].

According to Mills (1997), during colonialism, "the polity was usually thought of in racial terms, as white ruled, and this perspective would become global in the period of formal colonial administration. Political theory is in part about who the main actors are, and for this unacknowledged polity they are neither the atomic individuals of classic liberal thought nor the classes of Marxist theory but races." (p.113)[166] More recently, Deneen (2018) has argued that liberalism is built on a foundation of contradictions: it trumpets equal rights while fostering incomparable material inequality; its legitimacy rests on consent, yet it discourages civic commitments in favour of privatism; and in its pursuit of individual autonomy, it has given rise to the most far-reaching, comprehensive state system in human history. However, following Mills and others, I would suggest that it is not so much a case of *contradictions*, implying oppositions *within* a shared 'horizontal' space, viz. society, but rather a case of 'structurally-relational' oppositions operating *between* racialized 'vertical' zones[167]. Crucially, Mills maintains that "racial liberalism" is the central ideological formation of the modern Western political tradition, global white supremacy's self-legitimating master narrative, and that *ideal* liberalism is an *idealised* fiction grounded in *actualised* violence towards what it designates as the illiberal 'other', the subject of colonialism, genocide, slavery and war[168].

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[165] For detailed accounts of the racialized origins and operations of liberalism, see Mills (1997, 2015, 2017) and Losurdo (2011); for a more general critique of Western culture as racist, Western state formations as racial, and the operation of racialized logics under neoliberalism, see (Goldberg 1993, 2002, 2008).

[166] Mills (1997) goes on to state that: "the absence from most white moral/political philosophy of discussions of race and white supremacy would lead one to think that race and racism have been marginal to the history of the West. And this belief is reinforced by the mainstream conceptualizations of the polity themselves, which portray it as essentially raceless, whether in the dominant view of an individualist liberal democracy, or in the minority radical Marxist view of a class society." (p.121) However, "black activists have always recognized white domination, white power (what one writer in 1919 called the 'whiteocracy,' rule by whites), as a political system of exclusion and differential privilege, problematically conceptualized by the categories of either white liberalism or white Marxism." (p.131)

[167] Seminal decolonial theorist Frantz Fanon describes this in terms of 'the line of the human' separating the zone of being or whiteness (which Mills describes as the space occupied by 'persons') from the zone of non-being or blackness (that is, the space occupied by those racialized as sub-persons / non-persons).

[168] I should point out, for the record, that Mills (2017) is not dismissive of liberalism *per se*. On his view liberalism "has been *complicit with* rather than *condemnatory of* group subordination", yet "black radical liberalism reverses these normative priorities and makes corrective justice its central concern. Marxism is accurate in seeing exploitation as central to the polity but weak on normative theorization (Marx's original dismissal of 'rights' and 'justice' as bourgeois concepts). Hence the need for a synthesis with liberalism." (p.209) Yet is such a black radical synthesis with liberalism consistent with the latter's commitment to the autonomy of the individual, minimal state interference and a 'free-market' economy? In short, arguments against essentialism notwithstanding, is it ultimately coherent to invoke the signifier liberalism in opposition

If Mills and others are correct about the history (and contemporary reality) of *actual* liberalism, how should one view – and, more daringly, attempt to explain (or make sense of) – Mueller's explicit and DeNardis' implicit commitment to mainstream – that is, racialized – versions of the liberal project? Perhaps the answer to this question has to do with the tacit operation of what Mills (1997) refers to as the 'epistemology of ignorance', which he refers to in a later work, more specifically, as the phenomenon of 'white ignorance' (Mills 2007, 2915b). According to Mills (1997), a 'very limited number' of (racial) differences were *intentionally* selected by those responsible for establishing the modern racial world system[169]; however, subsequent to its establishment, the system has been maintained by what he refers to as an "inverted epistemology, an epistemology of ignorance, a particular pattern of localised and global cognitive dysfunctions (which are psychologically and socially functional)" that involve "white misunderstanding, misrepresentation, evasion, and self-deception on matters related to race" (pp.18-19)[170]. Crucially, white ignorance "should be seen as a particular optic, a prism of perception and interpretation, a worldview [and] whatever the overarching theoretical scaffold, 'whiteness' needs to be playing an appropriate causal role in explaining the generation of mistaken cognitions; it cannot be merely a matter of ignorance among people who are white. The possible causal factors are multiple (and not at all necessarily mutually exclusive): *socialization into a racist belief-set* or *a Eurocentric normative starting-point*, *inherited culture and tradition*, inculcated social amnesia, typically skewed inferential pattern, deficient conceptual apparatus, *material group interest*, or epistemically

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to such liberal principles, not to mention the failure resulting from the successful application of those principles?

[169] Invoking contractarian thinking, Mills *methodologically* (as opposed to literally) describes this in terms of the putative 'signing' of a 'Racial Contract'.

[170] Importantly, Brubaker et al. (2004), along with others, have shown that perception is conditioned by conceptual categories and classifications that are socially-informed which means that what and how things are perceived will, to some extent, reflect the power relations existing in a given society. According to Mills (2007), it is this fact of social cognition (conception, perception) that helps to explain what was previously described as an 'epistemology of ignorance' under conditions of systemic racism or white supremacy. It is important to appreciate that Mills' approach is fundamentally *epistemological* and *normative*, focusing on 'white ways of knowing' in which racialized cognition is characterised as 'ignorant' and 'misinformed', whether passively and actively. In this connection, I suggest that his account contrasts somewhat starkly with poststructuralist decolonial readings which see racism as both *rational* and *normative* relative to the project of maintaining white supremacy (Goldberg 1993), thereby indicating, against Mills, the absence of a universal, 'foundationalist' vantage point from which to determine the moral / ethical correctness or otherwise of racism. In addition, there is a need to question Mills' focus on issues of epistemology vis-à-vis alternative approaches that are more ontological in orientation.

disadvantaged social-structural location [emphases added]." (Mills 2015b, p.218)[171] On this basis, I want to suggest that an inherited, sedimented background of Eurocentrism / West-centrism informs the 'material group interests' and shapes (bounds, limits) the discursive 'horizons' of mainstream Internet governance commentators such as Mueller and DeNardis[172].

Regardless of whether the above 'explanation' is correct and accepted as such or otherwise, I would suggest that Mueller's and DeNardis' advocacy of liberalism vis-à-vis Internet governance is decolonially untenable, and that their appeal to a multistakeholderism that includes state/government, market/corporations, NGOs and various other organizations including those concerned and charged with maintaining the technical operation (stability, openness, connectivity, interoperability etc.) of the Internet must be viewed as suspect in that it fails to take into consideration the fundamental 'entanglement' of states and markets (and other actors) within the overriding and underpinning systemic logic of racialized liberalism[173].

7.2.3. A (Racialized) Network Nation

Consistent with the critique of statist alignment of Internet governance outlined in (Mueller 2010), Mueller (2017) presents four main arguments in favour of a shift to

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[171] Put simply, Mills (2015b) maintains that "the political economy of racial domination required a corresponding *cognitive* economy that would systematically darken the light of factual and normative inquiry [emphasis added]." (p.217)

[172] Mills (2015b) maintains that "the successful whitewashing of [the colonial] past is manifest ... not merely in particular proscribed belief-sets but in the way *competing conceptual frameworks and their related categories now appear odd*, perhaps even bizarre, to us. It is hard for us even to grasp them because of the deep cognitive naturalization of Eurocentrism and whiteness in our outlook. The very space and time of the polity – what could be more fundamental? – are being challenged insofar as the nation-state seems the 'natural' political unit, located in a sequential temporality of antiquity/medievalism/modernity, with modernity marking the advent of moral egalitarianism in the West ... But alternative categorizations of both space and time are possible that would bring to cognitive salience the existence of *larger supra-national political entities of domination and subordination*, which are normatively characterized by the inequality of most of the world's population under 'modern' Western racial rule [emphases added]." (pp.222-223) To what extent does the decolonial critique of mainstream Internet governance presented herein, which points to white supremacy as a 'large supra-national' polity formation *transversally* informing and inflecting multistakeholder configurations (nation-statist, corporate, non-governmental etc.) of Internet governance, appear 'odd', perhaps even 'bizarre'?

[173] In this connection, I concur with Mills (2015b) who maintains that "the overcoming of past and present white ignorance would require a systematic excavation of the shaping by racial ideology and racial liberalism of both past theory (the social sciences and humanities; the relevant natural sciences, such as biology and physical anthropology) and practice (law, public policy, government), and an uncompromising investigation of *what the purging of its legacy in the contemporary world would require of us, both nationally and internationally* [emphasis added]." (pp.221-222)

transnational network liberalism: "[1] communications globalization is, on net, an overwhelmingly good thing for humanity …Its benefits, however, accrue only if it is subject to the discipline of end user choice, which creates a congruence between the costs and benefits of the filtering and the entity doing the filtering" (p.18)[174]; "[2] the threats of technical fragmentation are overblown. The Internet is not breaking apart. The network effects and economic benefits generated by widespread connectivity — the sinews that hold the Internet together — are powerful and growing" (p.18); "[3] the rhetoric of fragmentation can be used to camouflage the more important issue, which is the question of alignment, the perceived need to re-align control of communication with the jurisdictional boundaries of national states … [Hence, there is a need to consider] the problem of network-state alignment" (pp.18-19); and "[4] there is a need to challenge] the equation of free, open, globalized communications with the supremacy of the US government. Given the dominance of US firms and the stated objectives of American policy, it is, I admit, easy and tempting to view things that way. But that viewpoint is based on obsolete, state-centric assumptions. It fails to recognize the degree to which cyberspace is creating its own polity with its own interests, one that is not conjoint with the interests of specific states. Indeed, if all we can see in the struggles over Internet governance is the question of which state comes out more powerful than its rivals, then our mentality has advanced little from seventeenth-century mercantilism." (p.19) On this basis, Mueller (2017) maintains that "if national alignment is the problem [the solution must be] a move away from national sovereignty and towards popular sovereignty in cyberspace" (p.19), raising the question as to whether there can be "a cyber-version of nationalism, an Internet nation so to speak, that forges its own political identity and provides the impetus for transnational forms of Internet governance" (p.20)[175].

[174] I suggest that the claim that globalized communications is an 'overwhelming good for humanity' is largely rhetorical in nature and that its liberal (if not libertarian) framing obscures the fact that the Internet is embedded in a racialized modern/colonial world system, such racialized coloniality both informing and manifesting itself through network effects, and that it is not a level playing field of 'end users', but rather an asymmetric terrain dominated by West-centrism and global white supremacy.

[175] But what is the nature (or constitution) of this populous ('the people'), and what of prior asymmetries borne of persistent legacy system effects that inform and inflect this emergent network popular sovereignty? Interestingly, Mueller (2017) recognizes the need to consider the differential composition of 'the people', citing the US Commerce Department's National Telecommunications and Information Administration (NTIA) "transferring oversight of the IANA functions to 'the people' of the Internet, and providing the institutional mechanisms through which any of those people with the awareness and capacity

Yet if the above critique of liberalism as racialized is sound, where does this leave Mueller's proposal for aligning – and devolving – Internet governance matters to a global 'net nation'? Mueller (2010) argues that transnational networked liberalism "moves decisively away from *the dangerous, conflict-prone tendency of other ideologies* to build political institutions around linguistic, religious, and ethnic communities. Instead of rigid, bounded communities that conceal domination with the pretence of homogeneity and a 'collective will,' it offers governance of communication and information through more flexible and shifting social aggregations [emphasis added]" (p.269); on his view, "globalizing the capabilities of social democracy *without tempering it with liberalism*, and without bringing into being a wide-ranging public sphere that transcends territorially limited cultures and language communities could be *quite dangerous* [emphasis added]" (p.261). Accordingly, he insists that "there can be no *cyberliberty* without a political movement to define, defend, and institutionalize individual rights and freedoms on a transnational scale [emphasis added]." (p.271) However, if Mills (2017) is correct in arguing that *actual* liberalism, both historically and in the contemporary era, is racially-inflected[176], it would appear that Mueller's proposal for an Internet governance regulated by a post-Westphalian 'net nation'[177] subscribing to 'transnational

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to participate could construct the new order." On his view, "the global multistakeholder community was, in the end, any group *sufficiently mobilized* around Internet governance issues to weigh in" (p.134), yet he concedes that "of course, there were imbalances and biases in the composition of this community. There is no need to be naive or romantic about the construct 'the people' ... [However,] it does mean that the process was open to anyone and that those who did participate were *sufficiently inclusive* of the affected stakeholders to make the output an acceptable basis for governing [emphases added]." (pp.134-135) I would suggest that Mueller's articulation in terms of groups sufficiently mobilized obscures, perhaps unintentionally, the fact that openness to participation was determined by *ability* to mobilize which is arguably informed by legacy system effects vis-à-vis power; to paraphrase Orwell: "*Ideally* all people are participants; *actually*, some people [can] participate more than others (and some might not be able to participate at all)." In addition, it is unclear what criteria of 'inclusive sufficiency' is operative here since Mueller concedes that it was not determined by demographic factors: "It does not mean that the geographic origins, ethnicities, languages, and religions of the involved population exactly matches their distribution in the world population." (p.135) Mueller refers to 'affected stakeholders', but given that different stakeholders are affected differently depending on their body-political marking, geo-political situatedness and alignment with power in the modern/colonial world system, I would suggest that this points more to *differentiation within* 'the people' rather than their *identity* as a 'net-nation'.

[176] In short, what of the historical legacy situation informing an emergent 'cyber nationalism'? And what if this cyber-nationalism turns out to function as a network-based mask for sedimented world systemic identity formations operating in a diffuse transnational informational space? Once again, I want to suggest that such a line of questioning should not be seen as belonging to the paranoid genre of 'conspiracy theory', but rather as *decolonially-prudent* speculation informed by the historical experience of the past 500 years of colonialism, imperialism and Eurocentric racism endured by 'the wretched of the earth'.

[177] I suggest that the hegemonic racial composition of this 'net nation' needs to be understood in relation to network effects preferentially favouring 'early adopters', 'front runners', 'pioneers' (*sic*) etc., and that the

network liberalism' is at best inappropriate for, and at worse stands in oppositional relation to, an Internet governance in/for the Global South[178]. At a minimum, I suggest the need to ask Mueller for *whom* is a commitment to globalized social democracy 'dangerous'?

7.3. Network Effects

In order to understand how racialized coloniality informs and inflects Internet governance vis-à-vis appeal to 'network effects', both in terms of possible 'rhetorical overplay' as well as possible 'strategic concealment'[179], there is a need to clarify the structure – or rather, *topology* – of the Internet (web and social media) and its governance. According to Zapata Rioja (2014), "the Internet carries itself a non-hierarchical, decentralized and distributed participation of users and developers" while there are "points of centralized control and key gatekeepers in the Internet governance field" (p.77). Drawing on the work of feminist cyborg-theorist Donna Haraway, and using an STS-based analytical framework, Mathew (2016) appeals to the notion of situated knowledges and contestation in order to present a similar view, framing the Internet as a distributed and contested, rather than 'flat' and decentralised, socio-technical space[180]. According to Mathew, while "the early Internet did appear decentralised to its users ... the experiences of apparent decentralisation and control are

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following observation of Turner (2006) on the 'countercultural' roots of Silicon Valley cyber-culture is particularly insightful in this connection: "Race relations echoed patterns found elsewhere in the counterculture … what kind of world would this new [countercultural, cyber-cultural] elite build? To the extent that the Whole Earth Catalog serves as a guide, it would be masculine, entrepreneurial, well-educated, and white. It would celebrate systems theory and the power of technology to foster social change. And *it would turn away from questions of gender, race, and class, and toward a rhetoric of individual and small-group empowerment* [emphasis added]." (p.97)

[178] As stated previously, Mills (2017) suggests that liberalism is politically, economically and morally irretrievable *unless* radically transformed along 'black radical' lines thereby effecting redistribution (of wealth, power, personal worth etc.); yet according to Mills (2015b) "a reconstructed and racially sanitized past is crucial for the pre-emptive blocking of the question of the dependence of current white wealth and privilege, both nationally and globally, on the historic racial exploitation of the labour, land, and techno-cultural contributions of people of colour." (p.223) Once again, I want to suggest that it is unclear whether such a *transformed* liberalism ultimately remains 'liberal' in orientation.

[179] In referring to 'strategic concealment', I should point out, once again, that this is not necessarily conscious or wilful, but rather quite possibly motivated and effected by the operation of tacit dispositional logics that are of a social-psychological and 'background' nature.

[180] On his view, a "shift in perspective, from decentralised to distributed, is essential to understand the past and present Internet, and to imagine possible future Internets which preserve and support the public good." (p.1) Yet *what* is 'the public good' and *who* gets to define it? To what extent does this position invoke, albeit unintentionally, an abstract universalizing concept masking asymmetric power relationships between differently-marked actors?

both constructed over an underlying infrastructure which was never decentralised, nor designed with decentralisation as a goal." Supporting his argument with an analysis of a key technology of the Internet, viz. the BGP (Border Gateway Protocol)[181], Mathew maintains that "the Internet is better conceived of as a distributed system – rather than a decentralised system – with varied centres and concentrations of power in its construction [and that] *decentralisation was not a design goal*, nor the actual outcome, in the creation and subsequent operation of BGP, and by extension, of the Internet [emphasis added]." (p.2) Mathew's argument is important in terms of thinking about the topology of the Internet, viz. as distributed[182] rather than decentralized, and is consistent with empirical findings demonstrating that the Internet is a scale-free network (as are the web and some social media networks) (Barabási and Bonabeau 2003) (Barabási 2003) (Guadamuz 2011)[183]. Mathew "take[s] topology as a central problem in the analysis of governance, to understand how coordination, collaboration, and power relationships function through topological positions and structures"; more specifically, "how the topological forms of Internet infrastructure *interact with the practices and social formations involved in operating Internet infrastructure*; and how these interactions structure the governance of Internet infrastructure [emphasis added]." Crucially, on his view, "the power and authority required to engage in governance *flow from* topology [emphasis added]" (p.4), yet "the structure of the networks in which infrastructure is deployed ... interact with the development of practices, standards and political economy of infrastructure." (p.4) In this connection, Mathew has drawn attention to "changing forms of governance across different periods in the history of the Internet, through

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[181] Mathew (2016) describes three phases in "the evolution of the relationships between technological form, control and topology which were required to govern Internet routing", viz. (1) centralised control, (2) hierarchical control, and (3) poly-centric control (pp.2-3).

[182] 'Distributed' should be understood here in the ostensibly paradoxical sense of 'decentralised centralization', and not in the sense that Baran used this term in his seminal 1962 paper, "On Distributed Communications Networks" (RAND Corporation Papers, Document P-2626), viz. in contrast to centralised and decentralised.

[183] According to Barabási and Bonabeau (2003), "many networks [including the web] are dominated by a relatively small number of nodes that are connected to many other sites. Networks containing such important nodes, or hubs, tend to be what we call 'scale-free,' in the sense that some hubs have a seemingly unlimited number of links and no node is typical of the others." (p.52) Crucially, they maintain that while random networks are 'deeply democratic' in that "most nodes will have approximately the same number of links." (p.52), scale-free networks follow a power-law distribution: "In contrast to the democratic distribution of links seen in random networks, power laws describe systems in which a few hubs ... dominate." (p.53) However, it is not just the web and social networks that are scale-free, but the physical infrastructure / connectivity of the Internet itself: "the routers connected by optical or other communications lines" have a network topology that is scale-free (p.53).

distinct articulations of technological form, control and topology." (p.3) While concurring with the importance of adopting a *historical* approach to the political economy of infrastructure (and beyond to higher layer network phenomena including those associated with the web and social media), I want to suggest, on the basis of earlier arguments, the need to consider a geographically wider and historically *longer durée* historical background to the one engaged by Mathew and the role of ideological dispositions – specifically, coloniality and the 'legacy system' effects of racialized liberalism – informing practices vis-à-vis emergent network topology and its relationship to prior extant world systemic network formations[184]. In this connection, Franklin (2011) has argued that "Internet governance, despite its being based on a functional form of geographical distribution rather than central location … is nonetheless culturally and geopolitically concentrated." (p.14) While concurring with this assessment, I want to suggest that this concentration needs to be unpacked in terms of how racialized coloniality *diachronically* connects different network formations, and how network effects involving preferential attachment mobilize liberal dispositions that are racially inflected.

For example, Mueller (2017) both demonstrates an awareness of and makes explicit reference to the importance of network effects in arguing against the possibility of Internet fragmentation. On his view, "network benefits exist when the value of a product to its users increases as other users adopt the *same* system or service … Once a certain threshold of other users is attained, however, there will be enough benefit to keep users there – and to start attracting others … [This] process of achieving critical mass is path-dependent … A model of network growth will exhibit multiple equilibria, depending on who joins *and in what sequence* [emphasis added]." (pp.44-46) What is not engaged here, despite the tacit appeal to temporality in acknowledging the importance of 'sequence', path-dependency and 'critical mass', is any consideration of the possibility of *diachronic* / historical 'entanglement' of such network effects with prior extant network formations[185]. While recognizing the importance of preferential attachment and the

[184] While Mathew (2014, p.20) is cognizant of the importance of the 'race factor' vis-à-vis thinking about infrastructure, he does not engage with this issue at length, nor along critical race theoretical and/or decolonial lines – that is, in relation to colonial modernity as a racialized global phenomenon of long durée.

[185] In this connection, consider the following important remark made by Lake and Wong (2007): "There is, we suspect, an important "life cycle" in networks, missed by those who study only well-developed or already successful networks. Self-enforcing networks based on reciprocity may well reflect *earlier*, more power-based structures and, in crisis, may manifest the power that remains latent in central nodes

power laws operative in scale-free networks resulting in a 'rich get richer' situation (Barabási and Bonabeau 2003), Mueller frames this effect in economistic terms, thereby failing to situate this phenomenon in relation to the legacy system effects of colonialism – that is, the racialized structural logics of coloniality informing and inflecting social networks – which persist into the postcolonial era[186]. Consider, in this regard, preferential attachment. How might this be informed in the context of social networks? I would suggest that the deferential standing afforded those situated in the core of the world system and racialized as white might count as factors. I further suggest that this point is of crucial significance in thinking about the role of long durée historical factors and the identity of socio-political actors in network formation: insofar as the Internet was a Cold War technology emerging in the global context of a racialized modern/colonial world system and the local context of a racial-liberal state – the US – in which white (male) individuals, institutions and collectives were 'front-runners' / pioneers / 'frontier colonists' (Sardar 1996) in an emerging constructed 'cyberspace', power-laws and the 'rich get richer' phenomenon associated with preferential attachment occurred[187]. In this sense, the Internet and subsequently the web and social media – all of which were and continue to be globally-dominated by white (male) front-runners who 'got in front' by virtue of the legacy system effects of colonialism and

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[emphasis added]." (p.11) On their view, there is a need to consider a political model "of both network creation and diffusion ... focus[ing] on the widespread activation of a particular set of beliefs with differential costs and benefits from within a larger universe of existing beliefs that, in turn, creates a network where none previously existed." (p.14) What is missing here, I aver, is consideration of how a prior extant scale-free network might inform the scale-free structure of a posterior emerging network, although I concede that this might be implicit in Lake and Wong's reference to the role of "earlier, more power-based structures" in relation to network life-cycles. Put simply, I want to suggest that the emergence of the Internet needs to be understood as a sociotechnical 'iteration' within the long durée 'programmatic' onto-logic of racialized modern/colonial domination.

[186] In short, no attempt is made to engage with *constitutive* (generative, productive) historical relations between different network formations, nor with racial hegemony as a factor in the structuring of such relations vis-à-vis network effects.

[187] In this connection, Lake and Wong (2007) observe that "agenda-setting power is particularly crucial – and, in fact, most clearly evident – at the network *formation* stage and may become less overt subsequently as it attains the status of a *norm* within a *stable* network ... both power and norms are emergent properties of networks. They are not given by external forces, but arise from the self-interest and practice of the members of the networks themselves." (p.17) In this connection, consider DeNardis' (2014) liberal *celebratory* invocation of network effects, viz. "many coordinating efforts have produced the *overall salutary network effects of interoperability, economic competition and innovation, relative security, and freedom of expression* [emphasis added]." (p.24) On her view, "successful global Internet governance functioning is necessary for *localities* to reap the network effects of Internet architecture [emphasis added]." (p.18)

white supremacy which involved holding 'The Rest' back[188] – should be seen as phenomena that emerge through processes 'entangled' with a tacit yet embedded racialized colonial logic[189]; in this connection, Guadamuz (2017) has recently argued for the need to consider network effects in relation to the phenomenon of 'digital colonialism'[190].

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[188] The phenomenon referred to by dependency-theorists as 'the development of underdevelopment'.

[189] Lake and Wong (2009) argue that political power can be an emergent property of networks, found most likely in scale-free structures; further, that central (or more connected) nodes can influence a network directly or indirectly and thereby shape the ends towards which the nodes collectively move: ""Both distributed and small world networks possess little potential for power differentials, given the redundancy of connections and the equitable distribution of links in both types of structures. Highly connected nodes in scale-free networks, on the other hand, are likely to be the most powerful. Because of their critical role and the likely dissolution of the network should they be eliminated, central nodes can exploit the value created by the network to gain influence over other members. When distributional conflicts arise, these hubs are more likely to be able to impose their preferences on others. More directly, they will be able to move the network in directions they prefer and extract a relatively greater share of the network's value. The differential power of nodes emerges from the pattern of interconnections within the network. Central nodes can also capitalize on that "structural" power by making the network more efficient and valuable to its members, further enhancing the power of the central node. The emergence of power within networks is a dynamic and self-reinforcing process." (p.10) Crucially, however, they maintain that "over time, the power of [a] central node may appear to recede. Once the innovation has diffused broadly, and a network is created around selected principles, the network appears to become self-sustaining. As the network matures, the original innovation is 'normalized' such that nodes within the network can barely imagine that it could have been otherwise. Nonetheless, even though it is seldom made manifest, the power of the central node still resides in the background and, indeed, grows ever stronger with the success of the network." (p.16) I would suggest this applies to the longe durée 'diffusion' of white supremacy – and the desirability of (proximity to) whiteness – as a global system in its various political and economic incarnations including the Westphalian interstate system and the neoliberal economics associated with globalization.

[190] Guadamuz (2017) maintains that "Western digital dominance ... has various explanations. The Internet itself started as a US military research network, so US-based services and developers had a starting advantage. For a large period of time, Internet governance relied on US-centric ICANN (which has since undergone internationalisation efforts). Furthermore, early venture capitalists invested mostly in US companies, and this dominance carried forward. Network theory teaches that early advantages are often difficult to overcome, and the network favours winner-takes-all from an architectural perspective. Furthermore, the US was able to convert this early advantage in expertise and funding into large corporations. Finally, potential competitors have been more inward looking, and not intent on global dominance. China has developed hugely successful companies like JD, Tencent, Baidu, and Alibaba which rival US counterparts in size, but these are mostly directed towards the internal market. The same happens with other successful companies such as Flipkart (India), B2W (Latin America), and Odigeo (Europe). The result is a US-centric Internet from the perspective of infrastructure and content. From the infrastructure level, the largest hosting, domain name, storage and content delivery networks are US companies. In content, Google and Facebook stand alone in their dominance of what people see and read around the world. The problem is that the content dominance becomes a self-fulfilling prophecy, as these companies use their already strong dominant position to maintain the market dominance in what is often called the 'rich-get-richer' effect. Newer content providers in developing countries are competing with companies that have considerable resources, infrastructure, and consumer recognition." From a decolonial perspective, I would suggest that his analysis falls short in terms of its rather truncated history, and failure to situate the military origins of the Internet against the backdrop of an attempt to maintain Western

Mueller also maintains that "after nearly all users have converged on a single network, *inertia* or *lock-in* tends to set in … Inertia is created by the participants' general unwillingness to give up the network benefits achieved once everyone else has converged on a common platform. Just as a user's decision to join the network was dependent upon the decision of others to also join, so a user's decision to abandon a network for an incompatible alternative will be strongly affected by the level of network benefits he might have to sacrifice by moving to a new network." (p.47) Crucially, in the context of discussing the issue of 'alignment', Mueller maintains, against a Westphalian-centric backdrop informed by a commitment to political and economic liberalism, that a state's "limit[ing] the cross-border movement of … data [creates] an island that destroys the network effects and efficiencies of the global Internet." (p.93) Here we ostensibly find a prizing of network effects and Internet efficiency in and of themselves. Yet what if these are subjected to other, overriding concerns? I would suggest that a tacit 'Eurocentric universal' (Wallerstein 2006) narrative of technological progress and free-market capitalism under neoliberalism is at work here, along with a certain 'rhetorical overplay' in the appeal to 'inertia' that, intentionally or otherwise, results in deterring and deferring decolonizing efforts that might be enacted by non-Western governments[191].

Finally, attention should be drawn to the fact that network effects are 'entangled' with, if not generative of, the global digital divide, the latter of which both Mueller (2017) and DeNardis (2014) have argued should not be seen as an Internet governance issue as shown earlier. Crucially, according to a 2017 GCI (Global Connectivity Index) Report

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hegemony and (white) world supremacy in the Cold War context following WW2. Thus, while Guadamuz points to the relationship between network effects and digital colonialism, he fails to relate both to the long durée history of colonialism, the core-periphery network that is the modern/colonial world system, and how persistent colonial logics operative in prior extant networks have contributed to the emergence of the Internet itself. In short, no attempt is made to engage with the 'iterative' racialized historical relationship between network formations.

[191] I would suggest that this occurs through a tacit depoliticisation involving appeal to network effects as 'natural' phenomena; in this connection it is important to note that according to Barabási and Bonabeau (2003), "knowledge of a network's general topology is *just part of the story* in understanding the overall characteristics and behaviour of such systems." (p.59). Regarding the issue of 'naturalization' of network phenomena, Sholle (2002) maintains that "the cultural and political struggles that set in place the functions of ... new media have been to a large extent settled, and these cultural and political formations are now embedded in these technologies; they form the 'unconscious' of the new technology which tends to become invisible. As a result, the new media have taken up the appearance of nature." (p.14) While concurring that such technologies have become sedimented, I draw attention to Sholle's reference to 'political struggle' and the 'appearance of nature' in order to point to the *persistent contingency* of the Internet and the possibility of it being opened up / unsettled / de-sedimented as a site for decolonial struggle.

(Huawei 2017), due to network effects, the digital divide has become "a digital chasm". The report goes on to state that 2017 "could conveniently be characterized as a meeting of 'digitally-developed and digitally-developing' nations – an evolution from the 'digital have and have-nots' of previous years." (p.2)[192]

In the following, penultimate section, I present an extended decolonial reflection on NWICO and WSIS with a view to drawing attention to power-relational shifts in Internet governance discourse that resulted in deferral of the decolonization project preparatory to concluding in the final section with some brief recommendations about how to *resume* and proceed with decolonizing Internet governance, targeting the issue of alignment and its 'entanglement' with concerns about a possible future 'fragmentation' of the Internet.

8. 'From NWICO to WSIS': Decolonial Reflections[193]

During the 1960s and 1970s, "Southern countries called for a New International Economic Order (NIEO) to end economic imperialism and a New World Information and Communication Order (NWICO) to eliminate cultural colonialism" in order "to create a balanced flow of information and cultural resources in the world and ... be economically and culturally self-reliant. They placed their demands at UN forums, mainly UNESCO and the International Telecommunication Union (ITU). However, they could not achieve the goals." (Abu Buiyan 2008, pp.110-111) According to Carlsson (2005), "the new international information order rested on four cornerstones, the 'four Ds': *democratization* of the flows of information between countries; *decolonialization*, i.e. self-determination, national independence and cultural identity; *demonopolization*, i.e. setting limits on the activities of transnational communications companies; and *development*, i.e. national communication policy, strengthening of infrastructure,

[192] The report further states that: "a three-year observation of the GCI data reveals a widening S-curve, indicating deepening inequality. The numbers tell the story: In GCI 2017, Frontrunners pulled far ahead, improving their GCI scores by 4.7 points, and Adopters by 4.5 points. But the Starters lagged farther behind, improving their GCI score on average by only 2.4 points. We are witnessing an ICT version of sociology's 'Matthew Effect,' where the 'rich get richer and the poor get poorer' *based on accumulated advantage over time*. Policy makers in the Adopters, and especially in the Starters, must consider the growing inequality as it will have continued consequences on their ability to compete and sustain economic growth. The Frontrunners' *growing advantage* is based on a head start in ICT Infrastructure deployment as well as expertise in five core technologies: Broadband, Datacenters, Cloud, Big Data and IoT. The GCI data show that investment in ICT Infrastructure initiates a chain reaction leading to Digital Transformation, with Cloud as a catalyst for that reaction [emphases added]." (pp.3-4)

[193] For extended historical analyses of the political shift from NWICO to WSIS as well as the earlier background of UNESCO involvement, see Carlsson (2005) and McPhail (2014).

journalism education, and regional cooperation." (p.197) In this connection, McPhail (2014) presents a slightly more nuanced analysis of NWICO, drawing attention to the *racialized* factor associated with colonialism: "*Colonial domination*, *neocolonialism*, *racial discrimination*, apartheid, media images, cultural imperialism, chronic imbalances, Western hegemony, and violations of human rights were all subject to severe criticism [emphasis added]."[194] However, he maintains that "the anti-colonial rhetoric of the [proposed] new order was harsh [and] although the goals of the new order were lofty, its real objective was to *shift international power from Western core nations to a loose coalition of peripheral regions*, Arab OPEC regions, non-aligned nations, and socialist countries (namely, the USSR). The next goal was to effect a change in sociocultural priorities under the protection or guidance of NWICO [emphases added]." (p.54) Yet *was* this the case? Was the 'real objective' of NWICO about shifting power relations from 'the West' to 'the Rest', or was it (merely) about decentering the former in order to create a polycentric world order? Notwithstanding the answer to that question, it is important to appreciate that NWICO was ultimately abandoned on account of Western pressures which included the withdrawal of substantial financing to UNESCO, the original sponsor of NWICO[195]. According to Carlsson (2005), "the efforts of third world countries to bring about thoroughgoing reform of the information and communication order within the framework of UNESCO, the principal norm-setting international forum in this area, failed. A political idea had to be sacrificed for the sake of development assistance." (p.203) Crucially, in this connection she maintains that during the 1980s "the West put development and aid issues squarely on the agenda and managed to *turn the focus away from their own roles* and onto conditions in the third world countries. The international dimension was diluted, as it had been in the MacBride Commission's work. In this we can perceive a crossroads for UNESCO on the horizon, a

[194] McPhail (2014) insists that "historically, the debate [on NWICO] was about aspects of electronic colonialism that the core nations did not want to hear about, deal with, or come to terms with. (p.62)

[195] Western governments and their media openly opposed NWICO. Carlsson (2005) maintains that UNESCO was "criticized for inefficiency and for having become 'politicized'. *The prominence and influence of third world countries* in UNESCO in the early 1980s, a result of Director-General M'Bow's policies, *was a source of constant irritation* [emphasis added]." (p.203) According to McPhail (2014), on their view – and it is a view, I argue, that continues to be upheld by Internet governance theorists such as DeNardis (2016) and Mueller (2010, 2017) – "only an open and free flow of information is viewed as being fully consistent with the goals of a truly free [society]." However, consistent with the position argued herein, McPhail states that "critics maintain that the free flow is really a one-way flow – from core nations to other regions of the world, with little or no reciprocity." (p.9)

point at which the organization would have to choose between continued work on a new information order and a more decided focus on development and aid issues [emphasis added]." (p.201)[196] From a decolonial perspective, I want to suggest that this was, in fact, a strategic move on the part of 'the West', diverting the Global South from focus on NWICO in order for the Global North to consolidate its hegemony in the next 'iterative phase' within a (racialized) developmentalist trajectory – the transition to a global information order. In this connection, it is imperative to consider the 'entangled' histories of the shift from economic liberalism to neoliberalism commencing in the 1980s[197] with the shift in use of the Internet as a purportedly libertarian communications medium originally built by researchers to a vehicle for commercial exploitation[198].

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[196] According to Carlsson (2005), "the [MacBride] Commission's thinking alternated between the modernization and dependency paradigms; the concept of neocolonialism confronted decolonialization. But, above all, the recommendations suggested a third, alternative concept of development." (p.212) While correct, Carlsson appears oblivious to the various critiques of dependency theory vis-à-vis the decolonization project mounted by contemporary decolonial scholars described earlier, yet appears to concede the link between modernity/coloniality and development, viz. "even if the points of departure and terms of reference used today are quite different from those [articulated in the proposal of a NWICO] in the 1970s, 'development' is still bound up with the modernist project of the Western world" (p.213).

[197] See Bessis (2001) for a useful account of the shift from economic liberalism to neoliberal 'free-trade' globalization commencing in the 1980s in the context of a long durée history focusing on the triumph of 'Western supremacy'. Bessis' account is relevant in the context of the decolonial reading of the modern/world system presented herein insofar as it engages with a range of issues that need to be taken into consideration when thinking through the nature of the present including the conquest of the Americas, the Trans-Atlantic slave trade, the growth of 'scientific' racism, imperialism and the scramble for Africa, 'The White Man's burden' and 'Manifest Destiny', decolonization and the rise of 'The West', the ideology of development, and structural adjustment programmes associated with the IMF and World Bank. Crucially, according to Milanovic (2005, p.50), during the period 1960-1978, the mean unweighted income of 'the Rest' relative to 'the West' increased; this corresponded to the period following the anti-colonial independence struggles when economic liberalism and development were on the agenda. However, during the period 1978-2000, the mean unweighted income of 'the Rest' relative to 'the West' decreased. This corresponds to the onset of neoliberalism and globalization, a period in which the Internet transformed into a communications for commerce (or economic exploitation) medium driven by West-centric capitalism.

[198] Carlsson (2005) maintains that "the development of innovative information technologies and the ongoing processes of deregulation and concentration of ownership have spurred the pace of globalization." (p.204) According to Clark (2016), "there is one set of actors that has faded from view: the federally funded research community that designed and built the Internet. From one point of view, this trajectory is proper: they did their job, the commercial world has taken over, and the Internet is now an engine of economic innovation." (p.16) I want to argue for reinterpreting this somewhat *apolitical* techno-centric narrative in terms of the 'operational logic' of colonialism, viz. *military* intervention as facilitating precursor to/for *commercial* exploitation. While it might be argued that the
Internet was not *imposed* on the periphery through military intervention, this argument fails
to appreciate the *broader* Cold War context within which the Internet emerged as described earlier, and the possibility that 'the net' (web, cyberspace) was opened up as a 'frontier' from a US-dominated core that was later extended to the rest of the world through neo-liberal informational capitalism; on this point, see Sardar (1996).

Yet the issue of transitioning to a more equitable information order remained on the agenda. In this connection, the World Summit on the Information Society (WSIS)[199] was a two-phase United Nations-sponsored summit on information, communication and, in broad terms, the information society that took place in 2003 in Geneva and in 2005 in Tunis. One of its chief aims was to bridge the global digital divide separating rich countries from poor countries by spreading access to the Internet in the developing world[200]. According to Abu Bhuiyan (2014) the WSIS should be seen as "a triumph of neoliberalism in global communication policymaking, as it did not make any efforts to critique the existing neoliberal political and economic environment within which decisions about ICTs are made" (p.3), the focus of WSIS being inclusion[201] (into the neoliberal order) and development as a means by which to bridge the digital divide[202]. Carlsson (2005) maintains that "among the fundamental ideas behind the WSIS is an ambition to create a more inclusive Information Society and to bridge the digital divide in a North-South perspective." (p.213) However, McLaughlin and Pickard (2005) maintain that "in allegedly offering a venue in which all stakeholders were welcomed, the WSIS process would unfold in such a way that, with few exceptions, *everyone would remain in*

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[199] According to Abu Bhuiyan (2014), "the WSIS in global communication [is] the third attempt of the UN system to deal with communication. The other two events [being] the codification of the Universal Declaration of Human Rights (UDHR) in 1948 and the movement for a New World Information and Communication Order (NWICO) which took place throughout the 1970s." (p.2)

[200] In its Declaration of Principles, 'Building the Information Society: A Global Challenge in the New Millennium', the following statement was issued: "We, the representatives of the peoples of the world, assembled in Geneva from 10-12 December 2003 for the first phase of the World Summit on the Information Society, declare our common desire and commitment to build a people-centred, inclusive and development-oriented Information Society, where everyone can create, access, utilize and share information and knowledge, enabling individuals, communities and peoples to achieve their full potential in promoting their sustainable development and improving their quality of life, premised on the purposes and principles of the Charter of the United Nations and respecting fully and upholding the Universal Declaration of Human Rights." From a decolonial and critical race theoretical perspective, the demand for reparations for the persistent legacy effects of colonialism, not to mention the Trans-Atlantic slave trade and its role in 'kickstarting' the Industrial Revolution, is notable for its absence.

[201] McLaughlin and Pickard (2005) concur with this view, seeing the WSIS as a manifestation of the neo-corporate mode of governance at the global level. On their view, "the price for inclusion ... has been the erosion of an oppositional civil society" and 'corporatist' – that is, stable, co-operative integration – adoption of / assimilation into neoliberalism (p.357). However, like Abu Bhuiyan, McLaughlin and Pickard frame the issue in economistic terms, thereby occluding the operation of racialized colonial logics.

[202] Regarding this divide, Carlsson (2005) maintains that "the relationships between the wealthy countries and the poor countries of the world that the MacBride Commission described at the end of the 1970s still seem to prevail, essentially unchanged, albeit some of the terminology is new. Today we speak of 'the digital divide' which ... actually consists of several 'divides': *a technological divide* ... *a content divide* ... *a gender divide* ... and *a commercial divide*." (pp.204-205) Once again, I would suggest that what is omitted here, intentionally or otherwise, is the embeddedness of such divides within the divide that is 'the global colour line', viz. the long durée racialized 'divide' operative within and underpinning colonial modernity.

their place [emphasis added]" (p.367); on their view, "pluralistic approaches [such as multistakeholderism] eventually corrode into the marginalization of groups whose aims do not coincide with the demands of the neoliberal economic imperative." (p.368) Yet if the tacitly racialized logic of development remains unexplored and uncontested, to what extent is the digital divide *bridgeable* given the 'iterative' and relational nature of both development and the divide? Insofar as the WSIS agenda is tied to Millennium Development goals etc., I want to contest more mainstream readings of the 'failure' of the development project and argue instead that development has been *successful* for 'the North' if and when understood as a means by which to retrench hegemony under contestation[203]. Insofar as multi-stakeholder co-option – framed somewhat economistically along Eurocentric lines by McLaughlin and Pickard (2005) as 'neo-corporatism' in the service of neo-liberalism – and an ongoing commitment to the development paradigm continue to inform Global South engagements with Internet governance, I want to suggest that such stances will continue to reproduce asymmetric power relationships[204]; in this connection, consider that the discussion of Internet governance issues reported in the WSIS Forum 2017 Outcome Document (WSIS 2017) is framed in terms of multistakeholderism, ICT4D and sustainable development, with no reference to the persistent structural legacy effects of colonialism – that is, coloniality – in the proceedings[205].

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[203] According to Padavani and Nordenstreng (2005), "information systems, communication gaps, development divides and the role and responsibilities of national and international actors have been keywords in both processes [i.e. articulation of a NWICO in 1976 and the WSIS in 2005]. Yet it has been surprising to notice how the WSIS developed in the absence of any historical perspective. The present communication context, with its globalizing dynamics, trends towards an 'informational paradigm' and emerging transnational actors, is profoundly different from that of the 1970s. Yet most of the developments we have witnessed in recent years find their roots in technological, societal and political changes that can be traced back to the time when proposals for a NWICO were debated." Crucially, they go on to assert that "this 'historical gap' is a major constraint ... *It is not just an innocent neglect but a deliberate omission*. In any case, lack of historical depth in facing contemporary communication challenges reflects a dubious tendency to understand such challenges as novelties on the world scene, inviting public institutions to respond with a short-sighted political approach … by looking at the political dimension of international debates ... we can better understand similarities and differences in the contexts within which issues have been and are debated. We can identify *the continuity in problematic aspects of communication as a central element in societal organization*. And we can identify *specific interests and power relations that underline contemporary priorities in the shaping of policies* [emphases added]." (p.265) I want to suggest that 'iterativity' in the sense of discursive re-articulation of racialized onto-logics should be understood as at work here.

[204] On this point, see Sachs (2010, pp.1-5).

[205] It is interesting to note that no mention of the legacy system effects of colonialism, not to mention the necessity for compensation / reparations in respect thereof, appears in the NETmundial Multistakeholder Statement (NETmundial 2014). In this connection, Zapata Rioja (2014) argues that "the innovations in the

Padavani and Nordenstreng (2005) maintain that "WSIS [was] predominantly built on an information technology approach, and this is naturally too narrow and shallow for any serious analysis. NWICO was quite the opposite, with predominantly a political approach. However ... we should not reduce the issues to either politics or technology but aim for a balanced analytical approach where politics and technology have their proper place along with other relevant factors ... too much politicization tends to both reduce critical understanding and hamper practical action. The NWICO story shows that a promising beginning may turn into a fruitless political shadow play which effectively blocks even small reforms." (pp.268-270) Regarding the point about 'relevant factors', as I have attempted to argue herein, these need to include those that operate *transversally*, both geographically and historically, such as racialized colonialism; on the matter of 'over-politicization', I would suggest, to the contrary, that 'under-politicization' – or rather, non-disclosure of that which is *already* politicized – and a focus on *reform* rather than *reparations* will not provide the necessary orientation to effect the decolonization of Internet governance[206].

According to McPhail (2014), "the peripheral nations still cling to NWICO in the face of greater core nation media pressure to adopt Western philosophies, products, and practices ... Yet for the most part NWICO is a dead issue." (pp.62-63)[207] Can that which is ostensibly 'dead' be brought back to life? Interestingly, McPhail appears to concede such a possibility[208] and consistent with this position, I argue for the need to forge a

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manners of participation of NETmundial, that is a broader and inclusive MSM [Multi-Stakeholder Model], do not solve the power differences when it comes to the struggles to govern the Internet at the global level. Indeed, the São Paulo statement displays its weakness because despite its innovations, the core of the document was much influenced by the holders of central Internet governance apparatus, that is, the US government through NTIA, ICANN and the 1NET institutions." (p.84)

[206] Going further, and building on a line of critique initiated by Andrejevic (2013) vis-á-vis postcolonial and post-structuralist tendencies towards localism as blocking (deterring, deferring) more structuralist and globalist analyses and calls for transformation, albeit 'extended' to incorporate critical race theoretical and decolonial concerns, I should like to suggest that such 'small reforms' should be viewed as obfuscatory, albeit unintentionally.

[207] Consider, in this regard, the following remarks from Mustapha Masmoudi, a NWICO actor: "The challenges of the past are still with us. Nowadays, the global flow of information is neither freer nor more balanced ... The tendency towards monopolistic Internet governance has not decreased, while the digital divide is growing more acute. The reflections about the New World Information and Communication Order certainly inspired the drafters of the WSIS resolutions. According to the ICSCP report, this new order was but a step in a long journey, aiming at establishing new bases of communication in all societies and between all peoples. This accounts for the renewed questioning of the current world order by South participants at the Summit." (Masmoudi 2012, p.28)

[208] In this connection, McPhail (2014) states that "despite the fact that some proponents still champion this vision, many believe that NWICO can no longer be taken seriously. Even UNESCO, where much of the

'post-NWICO' – or 'NWICO 2.0' – agenda along post-economistic and post-developmentalist lines consistent with the broader decolonial project – a project that was forestalled following decolonization and formal independence in the 1960s.

9. Concluding Decolonial Recommendations

McLaughlin and Pickard (2005) maintain that "the 'information society' is a label suggesting a brave new world marked by new dynamics and radical breaks with past relations – an ideological assumption connected to earlier post-industrial and neoliberal rhetorics that privilege easily commodified information over communication processes ... At a time when it is not practicable for governments to de-link from neoliberal globalization, visions based in technocratic and market-led approaches to development arrive packaged in the language of emancipation." (p.366) While broadly concurring with their analysis, I want to problematize their rather economistic (that is, class-based) interpretation of 'de-linking', which goes back to Marxist economist Samir Amin, and consider alternative understandings of de-linking in relation to a topical issue within Internet governance discourse, viz. concerns over possible Internet 'fragmentation' due to increased statist action by non-Western governments – specifically, China, but also Russia and to a lesser extent Iran – as expressed by DeNardis (2015, 2016) and others. While some commentators such as Mueller (2017) are dismissive of such concerns on the grounds that network effects make *technical* fragmentation almost impossible and that the 'real' problem is (statist) *alignment*, I want to suggest that such assertions are perhaps most usefully understood as rhetorical moves resulting in deferral of the decolonial project[209], that the issue of fragmentation is far from settled, and that it is productive to think about the issue in terms of a *decolonial* conceptualization of 'de-linking'[210]. For Mignolo (2010b) this means engaging with a 'border thinking' that

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debate took place, has abandoned it. *Yet NWICO may be born again because of the deep divisions which emerged from the World Summit on the Information Society (WSIS)* ... NWICO's ultimate goal was a restructured system of media and telecommunication priorities in order for LDCs to obtain greater influence over their media, information, economic, cultural, and political systems. *For LDCs, or peripheral nations, the current world communication system is an outgrowth of prior colonial patterns reflecting commercial and market imperatives. NWICO was promoted as a way to remove this vestige of colonial control* [emphasis added]." (p.9)

[209] On this point, I again refer the reader to Farrell's (1995) discussion of the possibility of rhetoric as intentional (in the sense of 'directed') yet unconscious / not wilful.

[210] Mueller (2010) contrasts the 'cyberimperialism' of those committed to nationalist hierarchical control "who would globalize governance through the extraterritorial application of one state's laws and power" (p.258) with denationalised network "economic and social liberalism" (p.259). However, I would suggest

leads to a "de-colonial epistemic shift [that] brings to the foreground other epistemologies, other principles of knowledge and understanding and, consequently, other economy, other politics, other ethics" (p.307) By way of a decolonial recommendation, I want to suggest taking seriously a de-linking extended from the epistemological realm into ontological terrain – more specifically the socio-material space of the Internet[211]. More concretely, it might be *necessary* to oppose a commitment to Internet 'universality' and 'openness' in favour of statist alignment as a temporary tactical maneuver within a strategic decolonial 'horizon'. Following Mignolo (López-Calvo 2016a, 2016b), I should like to suggest that moves by non-Western nation-states to exert local governmental control over the Internet – perhaps even its limited 'fragmentation'[212] – might better be understood as *de-Westernizing* 'decentering'

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this framing in terms of the opposition between a single 'cyberimperial' state and a transnational liberal network obscures the possibility of a collection of states creating a transnational network bloc opposed to the continued operation of racialized liberalism.

[211] I would suggest that such an extension is fully consistent with the aforementioned decolonial conception of delinking and might even be latent within it insofar as Mignolo (2010b) states that "if delinking means to change the terms of the conversation, and above all, of the hegemonic ideas of what knowledge and understanding are and, consequently, what economy and politics, ethics and philosophy, *technology and the organization of society* are and should be, it is necessary to fracture the hegemony of knowledge and understanding that have been ruled, since the fifteenth century and through the modern/colonial world by what I conceive here as the theo-logical and the ego-logical politics of knowledge and understanding [emphasis added]." (p.313)

[212] In the context of discussing the Domain Name System (DNS), Mueller (2017) maintains that "if an alternative DNS root was adopted by a significant portion of the world's Internet users and could stay in existence for a long period of time, it would meet all the criteria for technical fragmentation ... But how likely is this to happen?" (pp.58-59) He considers "defection from the ICANN root for political reasons", conceding that it "is conceivable that a national government with a large population, *or a coalition of them*, could establish an alternate DNS root and coerce their national ISPs to point at it. But even in these cases, network effects would trump the desire to split [emphasis added]." (pp.59-60) In short, any such attempt at fragmentation is doomed to failure on account of network effects: "the network effects and economic benefits of global compatibility are so powerful that *they have consistently defeated, and will continue to defeat*, any systemic deterioration of the global technical compatibility that the public Internet created. The rhetoric of 'fragmentation' is in some ways a product of confusion, and in other ways an attempt to camouflage another, more inflammatory issue: the attempt by governments to align the Internet with their jurisdictional boundaries. The fragmentation debate is really a power struggle over the future of national sovereignty in the digital world. It's not just about the Internet. It's about geopolitics, national power, and the future of global governance [emphasis added]." (p.3) Once again, the issue is framed in state-centric terms, viz. as a power struggle between national governments and proponents of transnational network liberalism. Yet to what extent might this be a rhetorical strategy designed to maintain the status quo in the face of de-Westernizing, if not decolonizing, contestation by non-Western national governments? Is it not possible that Mueller is, albeit unintentionally, leveraging the argument for network effects for *political* purposes? According to Barabási and Bonanbeau (2003), network effects are *not* fully determinative of structural outcomes. Is it possible that Mueller is here *overplaying* the power of network effects, viz. engaging power laws along Foucauldian 'disciplinary' lines with the (possibly unintended) consequence of forestalling resistance to the modern/colonial order including alleged emerging 'post-Westphalian' transnational liberal network nation formations? According to Mueller (2017), "the inertial power created by

moves within a terrain governed by the operation of neoliberal logics[213]. While these do not constitute *de-colonial* moves *per se*, I would suggest that transitioning to a decolonial orientation is not precluded; rather, the possibility of *facilitating* a decolonial shift presents itself, viz. de-Westernization as decolonial precursor condition[214].

In closing, and somewhat ironically borrowing from Mueller's (2010) articulation about 'cyberliberty' discussed earlier yet repurposing it in pursuit of a decolonial project[215], I should like to argue that there can be no *cyberjustice* without a decolonial movement to advance and secure redistribution of wealth and power – and personhood (that is, personal worth) – more generally on a global scale, thereby effecting the necessary compensation and reparations in respect of the legacy system effects of five centuries of European colonialism[216]. In short, I insist that it is imperative to embrace the 'decolonial

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two decades of convergence on the ICANN root is enormous." (p.60) Granted, yet is it *insurmountable*? Would this not be to naturalize and thereby depoliticize the ontology of the Internet, rendering it something beyond / outside of history? Is this not tantamount to endorsing socio-technical determinism? I would suggest that Mueller's entire argument against fragmentation – or rather alignment – turns on a defence of globalized liberal 'free-market' information capitalism as *a fait accompli*. Yet as argued previously, in the modern/colonial world system, this also amounts to an argument for digital *colonialism*.

[213] In a study aimed at attempting to articulate Internet governance 'from a Global South perspective', Zapata Rioja (2014) concludes by proposing a "heterarchic broad Multistakeholder transnational model for Internet governance, with bodies that act like imagined centers [which] could be one of the fundamental innovations the Global South can bring about to the Global Internet governance of the 21st Century." (p.89) While well-intentioned, it is unclear *how* the shift from a hegemonically – and thereby *hierarchical* – core-centric / West-centric multistakeholderism to a *heterarchical* distribution of power is to be effected.

[214] Of course, the possibility of indefinite *deferral* of the decolonial project by such non-Western, non-West-centric statist entities also presents itself.

[215] Mueller (2010) maintains that "calling for sustainability, the elimination of poverty, and social justice is one thing; it is quite another to have an ideology that provides a political movement with pragmatic guidance on how to deliver those things to a global polity." (p.260) Going further he argues that he considers the possibility of social democrats being "even more radical and mobiliz[ing] for the creation of a completely new, transnational sector specific redistributive *state* for communication-information technology [emphasis added]" (p.261), yet against this asks "what kind of a global polity would effectively combine the populations of North and South America, Europe, Africa, Russia, India, and China into a cohesive public?" (p.261) I would suggest that critical race theory and decolonial thought indeed provides the requisite *ideology* to effect social justice and that decolonial computing, with its embrace of the 'decolonial turn' and preferential option for the peripheralised, provides the required *orientation* for thinking about how to effect compensatory / reparative action in a global Internet governance context (Mueller's reference to "global polity" is problematic insofar as it does not focus on the differential positioning of body-politically marked and geo-politically situated actors within the global racialized political sphere, viz. core and periphery.) Mueller (2010) maintains that "contemporary social democrats involved in Internet governance ... continue to articulate high-sounding norms and political goals and do not worry much about how to deliver them." (p.262) Granted that the matter of identifying appropriate *institutional means* by which to effect compensatory social justice remains outstanding, does Mueller really mean to suggest that such goals should not continue to be articulated *a fortiori*?

[216] In this connection, Zapata Rioja (2014) argues that "the crisis of the liberal and representative democracy in our times, visible in the deficits of credibility and legitimacy, has given space for diverse democratic experiments and initiatives where the tensions between democracy and capitalism, and

turn' and preferential option for the racialized periphery[217]. In this connection, Mills (2015b) has argued that "achieving a new world will require an admission of the white lies that have been central to the making of our current unjust and unhappy planet. Global justice demands, as a necessary prerequisite, the ending of global white ignorance" (p.225), and what he has referred to elsewhere as the 'unwriting and unwhitening of the world' (Mills 2015a). In the context of the present study, I conclude by asserting that this needs to extend to mainstream white ignorance concerning the discourse on Internet governance.

The decolonial writing is on the wall.

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between distribution and recognition have generated new social contracts that intend to be more comprehensive, inclusive and just." (p.86) Drawing on the work of Portuguese decolonial theorist Boaventura de Sousa Santos, he maintains that "one fundamental difference between the transnational political struggles of our times with the traditional Western modern paradigms of social transformation – that is revolution, socialism and social democracy – is that the former are submerged in the logic of politics of equality (redistribution) and politics of difference (recognition)." (p.85)

[217] In this connection, it is crucial to bear in mind the following observation of Carlsson (2005) regarding the UNESCO MacBride Commission Report, *Many Voices, One World. Communication and Society, Today and Tomorrow* (1981), viz. "unless the necessary changes [to the global information order] were made *in all parts of the world*, it would not be possible to attain freedom, reciprocity or independence in the exchange of information worldwide [emphasis added]." (p.199) In this light, it is imperative to make a concerted effort to translate the 'decolonial turn' and 'decolonial option' into institutional forms, *both* within periphery / 'Rest' *and* within the core / 'West'.

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Do Século XX para o Século XXI: da Revolução Mundial do Cidadão Comum para a Revolução Informacional do Capital Humano

Alexandre Arns Gonzales

Introdução

Este texto busca sistematizar um conjunto de reflexões com o objetivo geral de contribuir para a construção de uma perspectiva do Sul Global sobre os fenômenos da sociedade contemporânea, sobretudo relacionados à "governança da Internet". Por governança da Internet considero a distinção, no nível de análise, mas não necessariamente no nível prático, de uma noção ampla e uma noção estreita da própria governança, trabalhados por Wolfgang Kleinwächter (2015).

A compreensão estreita de governança da Internet encampa aspectos técnicos de funcionalidade da Internet, como a autoridade de atribuição de nomes e números da Internet, cuja coordenação busca mantê-la enquanto uma rede única, não fragmentada em múltiplas redes sem interoperabilidade. A compreensão ampla que encampa as discussões referentes aos direitos humanos, comércio, finanças, segurança, defesa, entre outras questões, mas tratadas como distintas das questões técnicas e, em partes, alheia.

O objetivo deste texto, a partir da esquematização dessa sintética apresentação de noções de governança da Internet, é analisar um elemento que perpassa ambas compreensões e, de certo modo, as produz como elementos separados, integrantes de um mesmo fenômeno, mas distintos. Em suma, o objetivo desse texto é compreender a ideologia que confere significado a essa noção compartimentada, entre técnica e não-técnica, da governança de um recurso como a Internet. Ademais, cabe neste objetivo, além da compreensão desta ideologia, a compreensão sobre quem é o ser, o sujeito, o agente que sustenta-a.

O conceito de ideologia neste texto tem referência na definição do sociólogo estadunidense, Immanuel Wallerstein (2011, p. 02–03), enquanto um "metaestratégia

política", assumindo determinados pressupostos que estruturam uma compreensão do mundo, a dinâmica de suas transformações e as condições para que elas ocorram. Para melhor organização da análise desta ideologia, ela será definida o espírito da ideia da "revolução informacional" (DYER-WHITEFORD, 1999, p. 26) contida no trabalho de Nick Dyer-Whiteford (1999). Em seu livro *Cyber-Marx*, Dyer-Whiteford (1999) coloca em evidência a evolução do pensamento que deu forma à "revolução informacional" a partir do embate epistêmico sobre o papel das inovações tecnológicas no conflito entre capital e trabalho.

A definição de Whiteford (1999, p. 26) de "revolução informacional" sistematiza um conjunto de ansiedades e expectativas sobre o futuro da sociedade, que "os teóricos dessa revolução consideram que o conhecimento tecnocientífico cristalizado em computadores, telecomunicações e biotecnologia está desencadeado uma permanente e irresistível transformação civilizacional" (Idem, tradução do autor)[218]. O que para Whiteford (Ibidem) consiste em um conjunto de "ansiedades e expectativas (Ibidem), equivale ao que Wallerstein (2011, p.02) definiu como metaestratégia política.

Quando Wallerstein (2011, p. 1) analisa as implicações da Revolução Francesa de 1789 sobre o século XIX, ele comenta que "*locus* da soberania deslocou-se, na mente de mais e mais pessoas, do monarca e mesmo da lei para algo mais elusivo, o 'povo'" (Idem, tradução minha)[219]. A implicação deste deslocamento, referido por Wallerstein (Idem), imprimiu nas mentes a perspectiva, antes ausente, de possibilidade de mudança e alteração da ordem social. A fonte da legitimidade da soberania do monarca é questionada, na sua origem divina e, com isso, a fonte de legitimidade torna-se a soberania popular. A partir destas mudanças Wallerstein (2011, p. 11) identifica a formação de três ideologias que tornaram-se comuns no pensamento e ação política a partir de 1815 até 1848: o conservadorismo, o liberalismo e o socialismo. Ainda assim, para Wallerstein (2011, p. 18–19), o século XIX foi, centralmente uma disputa de hegemonia entre as ideologias conservadora e liberal. O socialismo toma forma em meados deste século, mas sua constituição somente terá forma de disputa no século XX. Em cada uma destas ideologias há diferentes composições e, entre elas, interseções

[218] Texto original em inglês: "[A]ccording to the theorists of this revolution, the technoscientific knowledge crystallised in computers, telecommunications, and biotechnologies is now unleashing an ongoing and irresistible transformation of civilisation".

[219] Texto original em inglês: "[T]he locus of sovereignty had shifted in the minds of more and more persons from the monarch or even the legislature to something much more elusive, the 'people'".

comuns. Dentre os elementos comuns identifica-se o esforço de interpretação das transformações da modernidade e reconhecimento do novo agente soberano, o povo. A disputa entre elas residiu sobre a definição desse sujeito "povo", agente executor de suas metaestrategias políticas.

A reivindicação da "soberania popular" implicava, no debate político, necessidade a implementação de seu conceito e a limitação política de sua aplicação. O século XIX até a primeira metade do século XX será marcado pelas lutas sociais alimentadas desse ideário, cuja síntese foi, dentre outras, a evolução da ideia governo representativo. A constituição de governo representativo acompanha, desde o século XIX as reverberações da noção de "soberania popular". A universalização do sufrágio e a formação de partidos de massa são, para Bernard Manin (1997, p. 194), sintomas de abertura de uma visão aristocrática do sistema representativo, resistindo a uma configuração mais democrática. Embora, como afirma Ellen Meiksins Wood (2011, p. 199) tenhamos a noção de governo representativo como a forma possível de democracia – que a própria Wood (2011) discorda –, convém ressaltar que o governo representativo acompanhou, na sua concepção original, uma noção antagônica ao governo democrático.

A centralidade da disputa ideológica sobre o sistema de governo, desde o final do século VIII, era a garantia da propriedade privada (WOOD, 2011, p. 180) que assumia diferentes papeis, dentro de cada metaestratégia. A ideologia socialista, segundo Wallerstein (2011, p. 77) se diferencia do liberalismo, justamente, com a ascensão dos movimentos de trabalhadores e a definição de uma outra democracia, alguma que fosse não-burguesa. Ainda assim, ocorrerá que o liberalismo, durante o século XIX até meados do século XX, se estabelecerá como hegemônico (WALLERSTEIN, 2002, p. 240, 2011, p. 78) e assim, consolidando-se como o "consenso liberal" no período pós-guerra, em 1948.

A emergência da "revolução da informação", portanto, também precisa ser inserida em seu determinado período histórico. No caso específico, o período em questão ocorre após o "consenso liberal" e se estabelece sob um aparente "consenso neo-liberal", segundo Webster (2010, p. 74). Não que não seja possível que outras matrizes ideológicas desenvolvam vertentes estratégicas que partilhem das "ansiedades e expectativas sobre o futuro da sociedade" (DYER-WHITEFORD, 1999, p. 26) a partir da inovação tecnológica. Contudo, a definição do período de formação da revolução informacional enquanto um período de "consenso neoliberal" decorre justamente da derrocada de uma das principais

referências políticas do socialismo no século XX, a dissolução da União das Repúblicas Socialistas Soviéticas (URSS).

Sob as condições do final do século XX, portanto, que a análise da formação da "revolução informacional" deve assumir como ponto de partida. Para auxiliar na identificação do sujeito da "revolução informacional", este texto tomará como base o trabalho de Wendy Brown, *Undoing the Demos* (2015). A análise de Brown (2015, p. 33–34) consiste em compreender as implicações da racionalidade neoliberal sobre o esvaziamento de significado da noção de "demos" nas primeiras décadas do século XXI.

Pois bem, a partir dessa breve introdução, este capítulo estará organizado em duas seções. A primeira consiste em analisar a formação da ideologia da "revolução informacional", considerando os embates epistêmicos dela com o pensamento marxista. A segunda seção, por sua vez, analisará, a partir do trabalho Karatalsi et al. (2015), as sublevações sociais que ocorreram no ano de 2011 à luz do que foi discutido até então nesse texto.

Em suma, analisar a formação da ideologia da "revolução informacional" atualmente é somar esforços em uma questão que Beverly Silver e Giovanni Arrighi (2012, p. 78) levantaram sobre "[c]omo podemos dar sentido a esta frenética alteração de percepções sobre a era da história do mundo em que estamos entrando?". A atualidade está caracterizada pela permanente emergência do "novo", promovido pela inovação tecnológica e, devido a ela, faz-se necessário compreender quais as transformações nas relações sociais que elas engendram. Entretanto, José de Souza Martins (1994, p. 11–12)[220], em *O Poder do Atraso*, ponderou acerca do apego excessivo em compreender as mudanças e a expectativa sobre o *devir* das transformações sociais, que no caso brasileiro nunca chegam. Esta expectativa sobre o novo, que nunca nasce, menospreza aqueles elementos que são antigos e que permanecem constantes, adaptando-se às mudanças e limitando-as à superficialidade da sociedade. Considero, portanto, que a constante percepção das mudanças em torno das potencialidades das tecnologias digitais vela os elementos já existentes, de opressão, exploração e violência. Estas permanecem valendo-se do anúncio do novo para restringir as mudanças na superfície da sociedade.

[220] Agradeço ao professor Antônio Brussi pela referência ao professor José de Souza Martins, reiterando a advertência sobre a relevância de se enfocar, não apenas nas mudanças percebidas e as pretendidas, mas naquilo que permanece constante e que reage a estas mudanças.

Cabe reiterar que essa ponderação não implica uma filiação à tese da "revolução informacional", nem que o ponto de partida deste texto desconsidera a possibilidade de transformações profundas, que as aparentes mudanças sinalizam como oportunidade. Afinal, há uma percepção, segundo Frank Webster (2010), desde a década de 1970 que ocorre uma "transformação histórica sem precedentes em escala e escopo" (Idem, 2010, p.69) e que ela está relacionada a um conjunto de transformações na sociedade, dentre elas o desenvolvimento das tecnologias digitais.

A "Revolução Informacional"

Segundo Silver e Arrighi (1999, p. 194), Vladimir Lenin, o revolucionário soviético, define o século XX, ainda no contexto da Primeira Guerra Mundial, como o "vestíbulo da revolução proletária mundial" (TROTSKY, 2000, p. 96) e do momento de "solidariedade do proletariado" (BARRACLOUGH, 1967, p. 121) contra o imperialismo entre os povos. Em seu contraponto ideológico, mas sob princípios similares, Woodrow Wilson, presidente estadunidense, define o século XX como o "século do homem comum" (Idem). Apesar de tanto Lenin como Wilson partirem de ideologias distintas, ambos têm uma base comum em suas proclamações: o reconhecimento da soberania popular e, portanto, da legitimidade das lutas sociais que atravessaram o século XIX, perpassando a Primeira Guerra Mundial, e, assim, demandaram uma outra ordem internacional. Em analogia provocativa, cabe indagar se o início do século XXI pode ser definido como o século da "revolução informacional" (WHITEFORD, 1999) e do "capital humano" (BROWN, 2013; FEHER, 2009)?

Em *Information, capitalism and uncertainty,* Frank Webster (2010, p. 70) buscou analisar as mudanças na década de 1990. O ponto de partida da análise de Webster (Idem) foi contextualizar historicamente o seu presente, isto é, historicizar o como e o porquê sua atualidade era definida, no final do século XX, como o momento do "triunfo do capitalismo" (Ibidem) e prenúncio de sua expansão sobre a ideia de "revolução da informação (Ibidem, p.78). Desta contextualização, Webster (Ibidem) reconhece uma série de transformações em curso, mas que, em sua análise, representam a continuidade do capitalismo enquanto sistema socioeconômico dinâmico.

A análise de Webster (2000) reconhece a importância de vincular "o capitalismo, sua evolução e seus meios, a uma história geral do mundo" (BRAUDEL, 1987, p. 52). Expressa, portanto, a preocupação em historicizar o capitalismo para que possamos apreciar as

características que ele assume em seus distintos momentos, mas, sobretudo, em nosso presente (WEBSTER, 2000, p.71).

Devido à dinâmica do capitalismo, enquanto um sistema socioeconômico que, dialeticamente, permanece constante, mas em transformação, podemos identificar, como fez Giovanni Arrighi (2009), em sua obra *O Longo Século XX*, padrões que sejam recorrentes, evolutivos ou anômalos, em relação aos ciclos de acumulação sistêmicos anteriores deste sistema. O que caracteriza um ciclo sistêmico de acumulação[221] e o que os diferenciam entre si são os modelos de desenvolvimento da economia capitalista. Em outros termos, os ciclos são os regimes de acumulação que o capitalismo assume, cuja acumulação de capital decorre da forma como que agentes político-econômicos orientam a expansão e reestruturação da economia capitalista, cada um em seu ciclo específico. Consistem, portanto, em "ciclos compostos de fases de mudanças contínuas, que seguem uma via única, alternando-se com fases de mudanças descontínuas, que vão de uma via para a outra" (ARRIGHI, 2009, p. 9)[222].

Quando a expansão material de um ciclo de acumulação encontra seus limites para continuar expandido, devido as suas contradições, o capital busca outras fontes de receita, não conectadas a produção de bens e serviços. Esse momento é o momento de expansão financeira do referido ciclo de acumulação sistêmico, o momento, também, de prenúncio do seu declínio enquanto modelo capaz de perpetuar a lógica de acumulação do capital. Esse momento, de acordo com Arrighi (2009, p. 09–10, 30–31) reflete para os agentes políticos e econômicos um quadro de aparente caos sistêmico e, também, sinaliza uma oportunidade para os agentes político-econômicos "bem-posicionados [na economia capitalista mundial] para tirar proveito das conseqüências não pretendidas dos atos de outros agentes" (ARRIGHI, 2009, p.10) em disputar uma nova ordem hegemônica. Para tanto, estes mesmos agentes devem reorientar a organização da produção capitalista sob outro modelo de desenvolvimento.

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[221] O estudo da origem e evolução do capitalismo, a partir de uma perspectiva da longa duração dos movimentos históricos e políticos, juntamente com desenvolvimento do sistema de Estados nacionais é o que constitui a análise de sistema-mundo do capitalismo, para Arrighi (2009), ao longo de quatro ciclos sistêmicos de acumulação, quais sejam: o ciclo de hegemonia genovês, do século XV ao XVII; o ciclo da hegemonia Holandesa que vê seu auge no período da assinatura dos Tratados de Westfália, em 1648; o ciclo da hegemonia Britânica que foi predominante sobretudo durante o século XIX, com seu auge no Congresso de Viena (1815) até o início das Grandes Guerras; e por fim, o ciclo da hegemonia dos EUA que se fortalece de maneira definitiva por volta do pós Segunda Guerra Mundial, no ano de 1945.

[222] Para ler mais sobre os ciclos de acumulação sistêmico do sistema-mundo capitalista, ler Arrighi (2009)

A década de 1990 foi o momento, segundo Silver e Arrighi (2012, p. 80) da *belle époque* da hegemonia americana, o momento de bonança que antecede a crise. A "bolha ponto-com" foi um dos sintomas do início do declínio do ciclo de acumulação sob hegemonia estadunidense. A crise "ponto-com", juntamente com a crise no Leste Asiático, refletiu os limites da expansão material do capital no presente ciclo de acumulação e, ao mesmo tempo, formou as condições de um outro modelo para dar continuidade a acumulação do capital. Segundo Shoshana Zuboff (2016, p. 05–06), a crise "ponto-com" foi o momento de formação embrionária de uma "nova lógica de acumulação" (ZUBOFF, 2015, 2016) protagonizada pelo modelo de negócios da Google sobre publicidade orientada conforme o comportamento do público. Essa nova lógica de acumulação é definida por Zuboff (2015, 2016) como "capitalismo de vigilância", uma lógica que busca, através da coleta massiva de dados de atividades cotidianas das pessoas e das atividades produtivas, prever o comportamento futuro, tendências econômicas e, ao tentar fazê-lo, mercantilizar o comportamento humano.

Para prever as tendências econômicas o capital precisa fazer o mesmo com o comportamento humano. Dessa forma, o capital passa, de acordo com Zuboff (2015, p.82-83), a acreditar que por acumular um grande volume de dados da vida cotidiana, por meio da tecnologia da informação, é capaz compreender a realidade em sua totalidade complexa e, então, comercializá-la. Para tanto, a dinâmica decorrente dessa lógica de acumulação coloca em movimento um processo de eliminação das fontes de incertezas sobre as decisões econômicas. Entretanto a fonte de incerteza, para Zuboff (2015, p. 78), é, justamente, a autonomia humana. As instituições liberais e consequentemente a democracia liberal, se caracterizam pelo domínio da lei como forma de garantir a manifestação autonomia humana, delimitando mecanismos de compensações e punições para determinados comportamentos. Portanto, o capitalismo de vigilância, para atender a própria promessa de mercantilização da vida cotidiana, precisa dirimir essa autonomia para poder prevê-la (ZUBOFF, 2015, p.82).

Contudo, a manifestação dessa promessa não é propriamente fruto original do final do século XX. Para Whiteford (1999, p. 36–37), a "revolução informacional" decorre de uma revisão da tese do "fim da ideologia" de Daniel Bell (1961) que considerava que a sociedade estadunidense, nos primeiros meados do século XX, rumava a formação de uma "sociedade pós-industrial". Esta sociedade seria caracterizada pela transição para

uma sociedade onde as descobertas científicas e a aplicação tecnológica seriam o principal combustível do seu "progresso" (WHITEFORD, 1999, p. 30).

O momento em que Bell (1961) discute estas ideias ocorre no contexto do pós-guerra, onde os Estados Unidos se estabelecem como o *hegemon* do ciclo de acumulação sistêmico do capitalismo. Neste ambiente, com constituição do Estado de bem-estar, segundo Whiteford (1999, p. 31), Bell busca dialogar com as ideias de Karl Marx e apresentar, conforme sua interpretação, os equívocos do prognóstico marxista. A harmonização social do Estado de bem estar fragilizou, segundo Bell, as condições para o processo revolucionário marxista emergir, isto é, a intensificação do conflito de classes no capitalismo e a crise econômica.

Logo, para Bell, a primeira metade do século XX representa o término do conflito de classe e, consequentemente, o "fim da ideologia". A condição harmônica da sociedade industrial permitiria, conforme a tese *belliana*, o desenho de outro prognóstico. A estrutura organizacional das corporações estadunidenses, bem como a constituição de um segmento médio da população, produziria como síntese uma nova classe, cuja autoridade não decorreria da posse da propriedade, como foi as bases da sociedade industrial, mas do domínio do conhecimento. Esta classe seriam engenheiros, administradores, cientistas, entre outros e estes seriam os agentes "revolucionários" para a "sociedade pós-industrial". Pelo conhecimento o trabalho manual seria automatizado e a tecnologia garantiria elevação nos padrões de vida da população. Com a automatização, sob a direção da nova classe portadora do conhecimento, não haveria, na "sociedade pós-industrial" de Bell, as condições para a reprodução da classe revolucionária de Marx, o proletário (WHITEFORD, 1999, p. 29–32). "Como pode a visão de mudança social de Marx ser mantida?" (BELL, 1961 apud WHITEFORD, 1999, p. 32).

Entretanto, a harmonia prevista por Bell não chegou a se concretizar pelos desdobramentos do seu próprio tempo histórico. Conforme haviam anunciado Lenin e Wilson, o século XX demonstrava-se um período de intensas manifestações e mobilizações por direitos civis, por parte das classes não proprietárias nos países Ocidentais; e sublevação de movimentos nacionalistas e de independência, por parte dos povos não Ocidentais. As mobilizações de classes não-proprietárias e povos não-ocidentais condizem com a definição da "revolução mundial", de Lenin, e da caracterização do século XX como o "século do homem comum", por Wilson (SILVER; ARRIGHI, 1999, p. 194; WHITEFORD, 1999, p. 32).

A partir da década de 1980 a ideia de "sociedade pós-industrial" é revisada e assume a dimensão de "revolução informacional" propriamente dita (WHITEFORD, 1999, p. 44). Dentre os pensadores da atualização da tese, Whiteford (1999, p.34-35) destaca o papel do casal Alvin e Heidi Toffler[223], além do próprio Daniel Bell. Em sua revisão do prognóstico *belliano*, o casal Toffler relaciona o desenvolvimento da microeletrônica, a convergência das tecnologias de comunicação com a computação – denominada de 'telemática' – e, com ela, a noção que a inovação tecnológica é o elemento que conduz a transformação histórica da humanidade, sob a luz da experiência da economia japonesa, no modelo *toyotista*. A inovação tecnológica, neste caso, representa a materialização do conhecimento, isto é, a informação dotada de significado. A máquina mecânica é substituída pela máquina digital, o metal que caracteriza o progresso não é o ferro ou o aço, mas o silício e a expressão do desenvolvimento não são mais redes de ferrovias mas redes de telecomunicações (WEBSTER, 2010, p. 74; WHITEFORD, 1999, p. 35–36).

Inserido no espírito do momento, sob as experiências neoliberais dos governos estadunidense e britânico de Ronald Reagan e Margaret Thatcher, respectivamente; a figura da "classe do conhecimento" de Bell dilui-se frente as críticas da figura do burocrata, dos pesados aparelhos de Estado e das organizações empresariais de hierarquia vertical e centralizada. A "revolução informacional" *toffleriana* substitui a "classe do conhecimento" enquanto agente revolucionário pela própria informação que, via tecnologia, é capaz de organização humana e cujo horizonte é a criação de "máquinas inteligentes" (WHITEFORD, 1999, p. 36).

Extingue-se, assim, a dimensão do conflito das classes e, inclusive, a emergência de uma terceira classe social de tecnocratas, conforme previsto por Bell (WEBSTER, 2010, p. 74; WHITEFORD, 1999, p. 35–36). Enquanto que o marxismo enfatiza o desenvolvimento dos meios de produção como decorrentes do conflito entre as classes e para o desenvolvimento delas mesmas; para o 'tofflerismo' a inovação tecnológica é o condutor do desenvolvimento dos meios de produção e perpetuação da própria inovação. "O moinho-de-mão confere a sociedade com o senhor feudal; o moinho a vapor com o

[223] O casal Toffler é definido "futuristas da era moderna", cujo legado são os efeitos sobre o rápido desenvolvimento de tecnologias sobre pessoas, negócios e governos (TOFFLER ASSOCIATION, 2017, s/p).

capitalista industrial"[224] (TOFFLER, 1984, p.195 apud WHITEFORD, 1999, p. 44) a microeletrônica formaria a sociedade da informação.

Na perspectiva dos Tofflers, o pensamento marxista não estaria capacitado para perceber transferência da força motriz das mudanças na sociedade, que se desloca da luta de classes para a tecnologia. Esta incapacidade epistêmica do marxismo, por sua vez, decorre da forma que o marxismo estruturou seu pensamento materialista em reação à filosofia hegeliana. O binarismo que configura a relação da "base" - a organização da materialidade da vida e da sociedade – e da 'superestrutura' - compreendida enquanto espaço das "ideias" - no pensamento marxista direciona, segundo a crítica dos Tofflers, maior sobrepeso a análise da "materialidade". Esta a razão pela inadequação do marxismo para perceber as mudanças baseadas na tecnologias de informação, muito menos para compreender a sociedade que se formará a partir dela. "[É] o conhecimento que dirige a economia, não a economia que dirige o conhecimento"[225] (TOFFLER, 1990, p.421-422 apud WHITEFORD, 1999, p.47). A "revolução informacional" estaria, então, 'desmaterializado' o materialismo histórico (WHITEFORD, 1999, p.47).

Diante desse novo prognóstico forma-se a metaestratégia da "revolução informacional" no final do século XX, com uma promessa antiga, a utopia de libertar o corpo do trabalhador da exploração e extenuação do trabalho (ZUBOFF, 1988, p. 26). Nesse sentido é interessante apresentar duas reflexões, decorrentes das implicações desta ideologia, segundo Webster (2010). A primeira reflexão problematiza a centralidade da "informação" como elementos de ordenação da sociedade (Idem, p.76). Na medida em que o "conhecimento move a economia" e, com isso, o desenvolvimento econômico é mensurado em termos de inovação tecnológica, a "educação torna-se peça central na estratégia de competição" (Idem, tradução minha) entre países e entre indivíduos.

A educação, então, torna-se o motivador de todo programa político. Webster (2010, p.76) exemplifica pela corrida eleitoral de Tony Blair, em 1997, cuja palavra de ordem era "educação, educação, educação". Complementarmente, podemos inserir dois casos sul americanos, mas que não se limitam a eles. O próprio caso brasileiro é um deles, onde a ex-presidenta Dilma Vana Rousseff, em seu discurso de Compromisso Constitucional perante o Congresso Nacional brasileiro remete que "[s]omente com avanço na qualidade

[224] Texto original: "(…) the handmill gives you society with the feudal lord; the steam-mill with the industrial capitalist."

[225] Texto original: "it is knowledge that drives the economy, not the economy that drives knowledge".

de ensino poderemos formar jovens preparados, de fato, para nos conduzir à sociedade da tecnologia e do conhecimento" (ROUSSEFF, 2011), assim como em seu programa eleitoral em 2014 remete à "economia do conhecimento" (PT, 2014, p. 19). O outro caso sul-americano é o empreendimento da cidade universitária de Yachay, a Cidade do Conhecimento, no Equador, em 2014.

> O desenvolvimento da agricultura converteu a humanidade nômade em sedentária, a revolução industrial a transformou de rural para majoritariamente urbana e, mais recentemente, **o avanço espetacular das tecnologias de informação** transformou as sociedades industriais em **sociedade do conhecimento** (CORREA, 2014, p. 4, tradução do autor)[226]

Apesar dos elementos estarem no discurso dos dois ex-chefes de Estado, não implica, por parte deles a filiação ontológica ou mesmo epistemológica à ideologia da "revolução informacional". Contudo, o estabelecimento destes elementos como constituintes de seus discursos oficiais e políticas de Estado evidencia a presença do "espectro" da "revolução informacional" sob um "consenso neoliberal".

A segunda reflexão pode ser, também, introduzida pelo próprio Webster (2010, p. 77) e relaciona-se à dimensão do trabalho na sociedade da informação. Para Webster (Idem) a ideia de "informação" carrega em si uma noção de capacidade de "adaptabilidade e maleabilidade do trabalho informacional" (Idem, tradução do autor). Em outros termos, o trabalho na "sociedade da informação" caracteriza-se pela sua capacidade de "aprender a aprender" (Ibidem, tradução minha). Sob uma perspectiva mais crítica, trata-se da "tese da corrida para o fundo" (SILVER, 2016) que, diante da globalização, enquanto "triunfo do capitalismo" (WEBSTER, 2010) no final da década de 1980, a classe trabalhadora seria colocada a competir entre si de modo mais intenso que com relação a períodos passados, pressionando para a deterioração das próprias condições de sua reprodução.

Segundo Brown (2015), a competição entre os trabalhadores se insere no desenvolvimento da própria racionalidade neoliberal na sociedade. Nesta nova razão "todo desejo ou necessidade humana é convertido em um empreendimento lucrativo"

[226] Versão original em espanhol: "El desarrollo de la agricultura convirtió a la humanidad de nómada en sedentaria, la revolución industrial la transformó de rural en mayoritariamente urbana, y, mucho más recientemente, el espectacular avance de las tecnologías de información transformó a las sociedades industriales en sociedades del conocimiento."

(Idem, p.28). Essa racionalidade transforma a noção de "cidadão", que embalou o “consenso liberal”, na noção de "capital humano", que compreende sua emancipação exclusivamente como um agregado de valor sobre si mesmo. O "capital humano" estabelece classificações de índices para atrair valor estimulante do investidor sobre um “eu”, como "através dos seguidores das redes sociais", "gosta" e "retweets" (Ibidem: 33-34). A mercantilização da vida cotidiana tornam-se os parâmetros para toda conduta e preocupação. O “confinamento pela necessidade” (MARX apud BROWN, 2015, p.43), isto é, a vida voltada a preocupação com sobrevivência por meio da aquisição material, a condição em que se encontram segmentos da classe trabalhadora, torna-se a referência para emancipação humana. A racionalidade neoliberal elimina da concepção subjetiva a noção do “verdadeiro reino da liberdade” (Idem), que não significava luxo, lazer ou indulgência, mas, sim, cultivo e expressão das capacidades distintamente humanas para a liberdade ética e política, criatividade, reflexão ilimitada ou invenção. Eis a transfiguração do “cidadão comum” em “capital humano”.

Os Frutos da “Revolução Informacional”: as Manifestações de 2011

Ao tratar de um conjunto de mobilizações que ocorreram em 2011, nesse texto, incorremos no risco de simplificar e errar uma série de aspectos desse episódio. Dentre seus aspectos, o fato de tratar o conjunto de mobilizações que percorreu Tunísia, Egito, Líbia, Iêmen, Espanha, Grécia e Estados Unidos como um único episódio é, por si, uma destas simplificações

As mobilizações na Tunísia, que captaram atenção da mídia internacionalmente, em dezembro de 2010, resultaram na deposição do chefe de Estado, Ben Ali, em janeiro de 2011. A eleição indireta do presidente interino Moncef Marzouki, em 2011, levou o confronto entre setores sunitas – um grupo em específico dos sunitas, os salafistas – com a polícia. Em fevereiro de 2011 iniciam mobilizações sociais e do Exército egípcio que depuseram o presidente Mubarak. Mobilizações em outubro de 2011 tem como desdobramento a deposição e morte de Muammar al-Gaddafi, na Líbia; e, em fevereiro de 2012, a deposição de Ali Abdullah Saleh no Iêmen (NETTO, 2013). Na periferia da Europa, concomitantemente às mobilizações árabes, ocorrem manifestações contrárias à política de austeridade e ao desemprego na Grécia e na Espanha; na praça financeira, nos Estados Unidos, com o Occupy Wall Street.

O ano de 2011 ficou marcado por esta série de manifestações concatenadas em diferentes partes do mundo. De antemão convém pontuar que não interessa aqui as especificidades de cada manifestação, embora isso – como já foi mencionado – incorra em risco para análises por perder especificidades de cada caso. Entretanto, considero que para analisar os frutos da revolução informacional em uma abordagem sistêmica – a formação do capital humano – esse risco é atenuado justamente pela enfoque relacional dos referidos casos com o conjunto do sistema capitalista.

Como ideologia que busca conferir explicações às contradições do próprio capitalismo, convém apresentar algumas das contradições. Para Savas Shan Karatalsi et. al. (2015) as análises relacionadas ao ciclo de manifestações que marcaram 2011 caracterizam-se por três formas. A primeira delas desconsidera o caráter de classe de seus manifestantes e, assim, centram-se sobre a análise das "*novas* figuras de subjetividade" (Idem, p.186) que as viabilizaram, criadas pelo triunfo e crise do neoliberalismo[227]. Nessa primeira forma, talvez, se insira a interpretação que identifica o desenvolvimento das tecnologias digitais, sobretudo o Facebook e Twitter enquanto aplicações na Internet, como importante elemento na constituição dessas manifestações. Ainda assim, importante salientar, as mídias sociais não são colocadas como o elemento que *causou* os protestos, nos países árabes, europeus e outros (ANDERSEN, 2011; GERBAUDO, 2012), mesmo assim, coloca-se sobre elas o questionamento, em aberto, se elas potencializam a inauguração de uma nova forma de ação coletiva (KARATALSI et al., 2015, p. 185–186).

Sobre a discussão de uma nova ação coletiva que Paolo Gerbaudo (2012, p. 19-21), em *Tweets and Streets,* reflete sobre as implicações analíticas de considerar que essa suposta nova forma de ação coletiva se sobrepõe como dominante sobre as organizações sociais de séculos passados. Esse pressuposto, os mesmos que baseiam a ideologia da "revolução informacional", reside sobre outro que assume a possibilidade de desenvolvermos relações individuais flexíveis, dinâmicas, de modo a viabilizar uma ação coletiva sem a necessidade da expressão de unidade ou coordenação central.

Por isso que torna-se interessante fazer referência à revista *Time*, de 2011, neste texto. A revista escolheu, como a "pessoa do ano" de 2011 "o manifestante" (ANDERSEN, 2011). Na capa a ilustração de uma pessoa, com uma touca sobre a cabeça e parte do rosto coberto por um pano. Cabe referência a este fato porque ela demonstra a percepção de parte da

[227] Dentre as análises que os autores fazem referência sobre essa abordagem, eles indicam Alain Baidou; e Michael Hardt e Antonio Negri.

mídia Ocidental quanto ao episódio, mas, sobretudo, fortalece a noção do indivíduo, na imagem do "manifestante" como o protagonista graças à Internet.

> Denominar as sublevações árabes de revoluções do Facebook e Youtube e Twitter não é, como demonstra, apenas *glib,* desejosa declaração americana. No Oriente Médio e Norte da África, na Espanha e Grécia e (sic) Nova Iorque, mídias sociais e celulares não substituíram os laços sociais de rosto-no-rosto e confrontação, mas auxiliaram em possibilitá-los e tonificá-los, permitindo manifestantes mobilizarem-se mais agilmente e comunicativamente um com o outro e com o mundo mais amplo de modo mais efetivo que antes. E em Estados policiais com elevada penetração – Tunísia de Ben Ali; Egito de Mubarak; Síria de Bashar Assad – uma massa crítica de gravações de vídeos de celulares, mais YouTube, mais Facebook, mais Twitter tornou-se realmente uma imprensa nativa livre. Ao longo do Oriente Médio e Norte da Africa, novas mídias e blogueiros são quase sinônimos de manifestação e manifestante (ANDERSEN, 2011, p. 7, grifo do autor)[228].

O estabelecimento do "manifestante" como a "pessoa do ano" é interessante porque corrobora a percepção do agente individual, engajado no processo de mudança da sua sociedade, mas anônimo em meio a multidão. Reitera o fenômeno de individualização, supostamente decorrente das tecnologias digitais, cujas implicações são a sociedade assumindo formatações de "enxame sem colmeia" (GERBAUDO, 2012) ou "rede sem centro" (Idem), isto é, ações individuais, atomizadas, mas articuladamente organizadas e hierarquicamente horizontais. Narrativas em sintonia com a ideologia da "revolução informacional" que encontra constatação material dessa individualização, segundo Gerbaudo (Ibidem), na configuração do espaço cotidiano urbano: a privatização do

[228] Versão original em inglês: Calling the Arab uprisings Facebook and YouTube and Twitter revolutions is not, it turns out, just glib, wishful American overstatement. In the Middle East and North Africa, in Spain and Greece and New York, social media and smart phones did not replace face-to-face social bonds and confrontation but helped enable and turbocharge them, allowing protesters to mobilize more nimbly and communicate with one another and the wider world more effectively than ever before. And in police states with high Internet penetration — Ben Ali's Tunisia, Mubarak's Egypt, Bashar Assad's Syria — a critical mass of cell-phone video recorders plus YouTube plus Facebook plus Twitter really did become an indigenous free press. Throughout the Middle East and North Africa, new media and blogger are now quasi synonyms for protest and protester.

espaço público como a enclausuramento em condomínios fechados, repletos de serviços e equipamentos, formando soluções privativas para enfrentamento de questões comuns, como mobilidade e violência.

A segunda forma de analisar as manifestações de 2011 é em considerá-las uma reação de uma "burguesia assalariada" (ZIZEK, 2012, p.05 apud KARATALSI et al., 2015, p. 187), um segmento de classe média que resiste às reverberações da crise financeira de 2008 para não tornarem-se "proletárias". A terceira, por fim, pela qual Karatalsi et al. (2015, p.187) propõe desenvolver sua reflexão, insere essas manifestações como um novo momento, na sociedade capitalista, de reação ao avanço de mercadorização de novas dimensões das relações sociais, da vida cotidiana, em um processo de reorganização do capitalismo cujo início remonta a ascensão do neoliberalismo na década de 1980. Na análise de Karatalsi et al. (Idem), com referência à Karl Polany, assim como o cercamento dos campos, enquanto mercadorização da terra resultou na formação de organizações sindicais no século XIX; essa nova onda de mercadorização pode, de fato estar constituindo um novo fenômeno, demandando novos instrumentos analíticos para perceber a dinâmica do capitalismo atualmente.

Corroborando com a preocupação analítica de Karatalsi et al. (2015), o presente texto complementa que a análise sobre a formação de uma nova lógica de acumulação, como a trabalhada por Zuboff (2015, p.75) possui importante relevância para interpretações das mudanças que ocorrem nas relações internacionais e nas sociedades capitalistas em geral. Entretanto, torna-se imprescindível, além de compreender a nova lógica de acumulação, entender o que está sendo feito da classe trabalhadora nessa reorganização da acumulação capitalista. Para Karatalsi et al. (2015) o ritmo com o qual a lógica de acumulação capitalista se desenvolve, ela desconstrói os cotidianos da classe trabalhadora já formada, sem lograr integrar novos segmentos à classe trabalhadora, construindo novos cotidianos.

Nesse sentido, os conceitos de Silver (2016) sobre os tipos de classe trabalhadoras são um interessante ponto de partida para esta análise. Ao estudar a história dos movimentos da classe trabalhadora, Silver (2016) considera a existência de dois tipos, um "tipo-Marx" (Idem) e um "tipo-Polany" (ibidem) de classe trabalhadora. A classe "tipo-Marx" de trabalhadora ocorre quando ela está, em determinada localidade, formando-se enquanto classe a partir da própria luta contra o capital. Neste caso, poderiam ser exemplificadas pela formação de sindicatos nos países Asiáticos, atualmente, ou na América Latina na

década de 1980. A classe "tipo-Polany", por sua vez, consiste na classe trabalhadora cuja luta direciona-se para manutenção de suas conquistas já estabelecidas. Seriam a classe trabalhadora estadunidense e a europeia, por exemplo, resistindo às políticas de austeridade decorrente da crise financeira de 2008 (KARATALSI et al., 2015, p.190; SILVER, 2016, s/p).

Ao buscarmos analisar as mobilizações de 2011, nesse esforço analítico de categorização da classe trabalhadora, seriam, convenientemente, um terceiro tipo. Estes seriam o equivalente à "população estável em excesso relativo" (KARATALSI *et al.*, 2015, p. 192), nos termos do próprio Marx. Consiste na população desempregada, em empregos formais precarizados ou em empregos informais que atende o interesse do capital, estruturalmente, servindo de reserva de força de trabalho.

Segundo Karatalsi et al. (2015, p. 194) as manifestações nos países árabes e europeus continham, de fato, esse segmento da classe trabalhadora que nunca foram integradas no sistema formal de empregos da economia, logo, não se caracterizam pela formação enquanto classe trabalhadora na conquista de direitos ou na resistência para não perdê-los. Entretanto – e este considero ser o elemento distinto com relação a mobilizações da classe trabalhadora em outros tempos – havia, também, dentre aqueles excluídos do sistema de empregos da economia setores da classe trabalhadora, sobretudo jovens, que foram integrados ao sistema de ensino e formação. Para Brunkhorst (2014, p. 435) o sistema educacional se expande e aprimora em distintos níveis, com diferentes equipamentos econômicos e, portanto, com diferentes velocidades e sob diferentes culturas. Ainda assim, o fenômeno é similar, tanto no centro quanto na periferia do capitalismo, o sistema de ensino se expande e forma uma classe acadêmica precarizada. Sua condição de precarização, para além das condições de supressão do bem-estar daqueles empregos, decorre pela exclusão do sistema formal de empregos.

Na Tunísia, o vendedor de rua, Mohamed Bouazizi que ateou fogo no próprio corpo demarcando o estopim da "revolução" (ANDERSEN, 2011, p. 1) foi, segundo Karatalsi et al. (Idem) um jovem tunisiano precarizado e sem ensino médio, um dos perfis da "população estável em excesso relativo" (Ibidem). Contudo, com a ascensão das mobilizações, em um primeiro momento, majoritariamente trabalhadores desempregados ou em empregos precarizados, integraram-se às manifestações jovens com formação em ensino superior, universitária, desempregados ou precarizados (KARATALSI et al, 2015, pp.194-195). Ora, estas manifestações indicam, aparentemente, a sublevação, dentre outras, de um

segmento da classe trabalhadora que Hauke Brunkhorst (2014, p. 435) denomina de "acadêmico precariado" (*academic precariat*).

Entretanto, essa nova classe, segundo Brunkhorst (Idem) pode inaugurar um novo tipo de conflito de classe no capitalismo do século XXI. As manifestações de 2011 podem ter indicado a formação de classes trabalhadoras de novo tipo, coexistindo a classe identificada por por Brunkhorst (2014) – o "acadêmico precariado" – ou por Karatalsi et al. (2015) – o trabalho não absorvido para uso do capital. Esta nova classe – majoritariamente jovens, com ensino superior, desempregado ou precarizado – pode vir a ser o fruto da "revolução informacional".

A maior disseminação de formação universitária, em descompasso com a capacidade do capitalismo em absorvê-lo – sobretudo diante da crise financeira de 2008 – é implicação direta da influência da ideologia da "revolução informacional" sobre a política de competição das economias capitalistas pelo horizonte da "sociedade da informação", conforme pontuou Webster (2010). A condição de precarização e desemprego, por sua vez, decorre do sucesso da dinâmica do próprio capitalismo atual em desfazer os meios de subsistência desta classe trabalhadora por, entre outros motivos, automatização do trabalho e pelo insucesso em absorvê-los.

Considerações Finais

Esse capítulo apresentou uma sistematizações de reflexões sobre fenômenos da sociedade contemporânea relacionados à "governança da Internet". Mais especificamente, este capítulo apresentou um ensaio sobre a constituição de uma metaestratégia política, a ideologia "revolução informacional" e, resumidamente, o debate epistêmico que lhe formou. Esta metaestratégia política tem, como corrente predominante, bases da racionalidade neoliberal. A base material sob a qual ela se estabelece é, em potencial, toda a economia capitalista, mas cabe atenção para a maturação da lógica de acumulação baseada na vigilância.

Nesse sentido, este texto considera possível realizar a provocação contida no próprio texto: o século XXI inicia com o anúncio da possibilidade da "revolução informacional" cuja principal promessa é, sob outras bases, a antiga utopia de libertar o corpo do trabalhador da exploração e extenuação do trabalho e, assim, superar o conflito de classes na sociedade capitalista. A base material sob a qual essa "revolução

informacional" se ancora foi bem identificada como a reorganização da lógica de acumulação pela vigilância massiva do cotidiano.

A partir da crença que o capital, pelo desenvolvimento e aprimoramento das tecnologias de informação, seria capaz de cumular um grande volume de dados da vida cotidiana e comercializar a realidade na forma de previsões de comportamento, o sujeito da "revolução informacional" toma forma. O "cidadão comum" de Wilson e o "proletário" de Lenin são, diante da nova metaestratégia de reorganização do capitalismo, "capital humano". A "revolução informacional", na medida em que orienta para o desenvolvimento do "capitalismo de vigilância", demanda por parte da classe trabalhadora que compreenda que seus desejos e necessidades precisam ser convertidos em um "empreendimento lucrativo" (BROWN, 2015, p.28). Em outras palavras, os desejos e necessidades são a vida cotidiana comercializada, na forma dos índices de classificação que o capital humano precisa desenvolver para atrair valor de investimento sobre si, como "seguidores das redes sociais", "curtidas" e "retweets" (Idem: 33-34).

Em uma sociedade que coloca o conhecimento como principal força motriz do crescimento da economia. Afinal, "o conhecimento que dirige a economia, não a economia que dirige o conhecimento" (TOFFLER, 1990, p.421-422 apud WHITEFORD, 1999, p.47), a titulação escolar torna-se um importante ativo na constituição do "capital humano" no século XXI.

Por isso, de certa forma, torna-se muito interessante o fato que o perfil da classe trabalhadora, envolvida da onda de manifestações de 2011 seja, justamente, a figura do "precariado acadêmico" (BRUNKHORST, 2014). O precariado acadêmico é, provavelmente, a materialização melhor constituída do sujeito do "capital humano" da "revolução informacional". Contudo, o papel que essa classe terá na orientação do capitalismo de vigilância não está definida. Sua melhor compreensão reside, justamente, na demanda de análises mais elaboradas e aprofundadas sobre o tema, que levem em conta as contradições da própria "revolução informacional", do capitalismo que ela se baseia e riscos dela eliminar a construção de modelos de sociedades alternativas.

Por fim, o ensaio analítico deste capítulo espera poder ter contribuído na elaboração de uma perspectiva do Sul Global sobre a governança da Internet, destacando a preocupação em considerar em sua construção a reflexão sobre a evolução do capitalismo, enquanto sistema socioeconômico dinâmico e constante, para alcançar, conforme referido por Martins (1994), o *devir* que nunca chega. Ao inserir a análise da governança da Internet

em um escopo mais amplo, abarcando o capitalismo, pode-se melhor captar o que é, definitivamente, a mudança nova, sem menosprezar dinâmicas antigas da própria evolução capitalista e, quem sabe, sinalizando para oportunidades, inclusive de oportunidades que possibilitem a superação do modelo capitalista de sociedade, sobretudo em um contexto como o presente, de "fim do longo século XX".

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PART II

Contemporary Debates

ICANN, New gTLDs and the Global South

Paul White

Introduction

The Internet Corporation for Assigned Names and Numbers (ICANN) has long claimed a commitment to geographical inclusiveness and to meeting the needs of stakeholders from the Global South. This chapter undertakes an empirical analysis of the extent to which the organisation lives up to these claims in reality. In exploring these questions, ICANN's New Generic Top-Level Domains (New gTLD) Programme will be utilised as a case study. As will be demonstrated, a study of this flagship ICANN programme offers some important insights into the organisation's priorities and the level of influence held by a range of different interest groups in its 'multistakeholder' decisionmaking procedures. The lessons from this case study are useful in assessing the merits of charges laid by ICANN's many critics, some of whom characterise the organisation as serving a 'neoliberal' agenda that heavily prioritises the interests of corporate stakeholders based chiefly in the Global North McLaughlin and Pickard (2007); Butt (2016); Chenou (2014).

Since 1998, ICANN has been the organisation responsible, at top level, for management of the Internet's core Domain Name System (DNS) and Internet Protocol (IP) addressing systems. These systems are crucial to the Internet's operation. While IP addresses are required for machine-to-machine communication, they are cumbersome and difficult to use for humans. DNS substitutes human-language text equivalents for IP addresses, allowing humans to access Internet resources using text strings such as google.com, un.org, or usp.br. While management of these systems may, on the surface, appear to be a mere technical function, ICANN actually makes significant public policy decisions that have the potential to affect the lives and prospects of individuals and groups worldwide. In today's globalised world, the Internet has become critical to business and trade, to political and social organisation, and for access to, and dissemination of, information and ideas. In this environment, control over the Internet's naming and numbering systems represents real public policy authority and coercive power. Domain names

represent online identities, without which an entity cannot be found. ICANN's policies directly affect which names are assigned to which person or entity, and, as such, have the potential to affect an individual's or an organisation's opportunities for freedom of expression, business opportunities, and abilities to reach a target audience online. Furthermore, ICANN's policies regarding issues such as which character sets and languages are supported by DNS have the potential to affect the ability of whole peoples to access and use the Internet. ICANN is thus not merely a technical caretaker, but very much a public policymaker at the global level. While ICANN is, in theory, a multistakeholder organisation that receives input from all interested parties and makes decisions according to 'consensus', in reality, the organisation must arbitrate between the needs and demands of multiple competing interest groups. ICANN makes policy decisions that ultimately determine which interests and groups will be successful in achieving their aims and which ones will not. Ultimately, therefore, ICANN decides who the 'winners' and 'losers' will be in the politics of DNS.

This chapter will explore the extent to which the present ICANN system is systemically biased towards the interests of particular groups from the Global North, and simultaneously fails to address the legitimate interests of groups from the Global South. The starting point for this exploration will be the claim, made by various scholars, that ICANN operates according to a 'neoliberal' ideology and agenda that is institutionally entrenched in the organisation (Palladino 2016: 6-7; Simpson 2004: 51). Such an agenda would favour the interests of large corporate entities mostly based in the Global North, to the detriment of other stakeholders. While the interest groups that may lose out as a result are not necessarily exclusively based in the Global South, they may be disproportionately represented there.

The New gTLDs policy area was chosen as a vehicle to explore some of these questions partly because it represents something of a 'flagship' policy for ICANN, being one of the organisation's most important and high profile policy programmes in recent years. It also presents an ideal case study for the purposes of the chapter, in that the policy is the result of a long development process in which multiple interests collided, and in which powerful corporate interest groups, based mainly in the Global North, had a significant influence on policy development.

The Politics of DNS

As suggested above, the politics of domain names revolves ultimately around their function as online identities. Domain names are, to some extent, a finite resource, as the nature of the technology means that every domain name must be unique. There can, for example, be only one 'apple.com'. The question of who will be assigned that name will ultimately be determined by the policies set by ICANN. However, there are multiple entities that could potentially stake a legitimate claim to the name. A few of those might include the giant technology company Apple Inc. (the current holder of the name), Apple Records, or perhaps the Apple Growers' Association. On the other hand, if someone had simply been the first to register the name many years ago, should their 'prior claim' be respected? Similarly, which entity has the best claim to united.com - United Airlines, United Carpets, United Movers, or a considerable number of football clubs?

The need for online coexistence of multiple entities that share the same name could be mitigated – to some extent – by the use of different top-level domains, for example, apple.com, apple.org, and apple.net could each be assigned to a different party. In many cases, however, trademark holders are not content to allow 'their' name to be registered by a third party, even if under a different TLD, and bitter disputes can occur. With regard to gTLDs, ICANN's Uniform Domain Names Dispute Resolution Policy (UDRP) allows trademark holders to challenge such registrations and, if successful, to take control of domain names registered by another. The policy has been controversial, since in many cases it has been seen to produce inconsistent or apparently biased decisions, and has even allowed corporate trademark holders to seize names that have apparently been registered in good faith by third parties (Thornburg 2002; Armon 2003; Woodard 2009).

While some critics focus on the perceived procedural failings of ICANN's trademark protection mechanisms, others oppose the basic principle that domain names can or should be linked to corporate trademarks at all. Besides corporations, numerous other groups, and indeed individuals, may seek to register an online identity in the form of a domain name. Some examples might include NGOs, other nonprofit organisations and civil society groups, cultural and language groups, political parties and movements, trade unions and professional associations, and many others. Given this context, equating domain names to commercial trademarks is questionable. This position is summed up by Mueller (2000: 152), who believes that conflicts over domain names are not a simple matter of 'wronged intellectual property holders versus sleazy

cybersquatters' but rather a complex social negotiation over the control of words and their function as messages, identifiers and locators in a globally networked space. The process of introducing many thousands of new gTLDs, which began with the first round of the New gTLD Programme and will be continued by future rounds, takes this struggle over online identities to the TLD level. Arguably, it actually exacerbates the problem. While there is no technical reason why multiple instances of the names 'apple' or 'united' cannot co-exist as second level domains (for example, apple.org, apple.net, and apple.com), there can only be a single instance of .apple or .united.

In summary, the creation of domain name policy represents a political arena in which multiple competing interests collide. The winners and losers of these struggles decide which groups will be able to secure their desired online identities, and which groups will not. The outcomes of the struggle for domain names can have real consequences, whether it be in terms of business opportunities, the establishment of group identities, or the opportunity to express an idea or view and communicate it to a wider audience. ICANN thus does far more than engage in mere 'technical co-ordination'; it is a public policymaker that cannot simply make policy by 'consensus', but must decide between these competing interests. It is therefore a matter of considerable public interest to ask whether ICANN is able to arbitrate fairly and with balance between these competing groups, or whether the organisation may in fact have been captured by a powerful minority of its stakeholders.

ICANN – Function and Structure

ICANN functions as a top-level manager of both the IP addressing and domain name systems. It does not deal with the assignment of individual IP addresses to end-users; instead, large blocks of IP addresses are assigned to Regional Internet Registries (RIRs), which in turn assign smaller blocks to ISPs and other organisations responsible for distributing the individual addresses to end-users. Similarly, ICANN is not directly involved with the assignment of second and third level domain names to end-users (though it does make policies that can impact on those end-users). ICANN authorises the creation of top-level domains (TLDs) in the root database, which are of three major types: generic top-level domains (gTLDs) such as .com, .net and .info; country-code top-level domains (ccTLDs) such as .uk, .us or .jp; and sponsored top-level domains such as .museum. Each TLD is assigned to a registry organisation responsible for the running of

the domain. Separate organisations known as domain name registrars deal with the 'retail' function of actually assigning second or third level domain names (such as microsoft.com or bbc.co.uk) to end-users.

Prior to the creation of ICANN in 1998, the domain name and IP addressing systems were managed on behalf of the US government (which controlled those systems as a legacy of the way the Internet developed from ARPANET, a US government-funded network) by the Internet Assigned Numbers Authority (IANA), a small organisation based at the University of Southern California. ICANN came into being as a result of a decision by the Clinton administration to 'privatise' management of those systems. From the outset, the new organisation was to be based on the principle of 'multistakeholderism'; the notion that policy would be decided by involvement of and co-ordination between the major 'stakeholders' in the industry. ICANN is formally incorporated as a nonprofit corporation under California law. The ICANN Bylaws (effectively the organisation's 'constitution') set out the following organisational structure (ICANN 2017a):

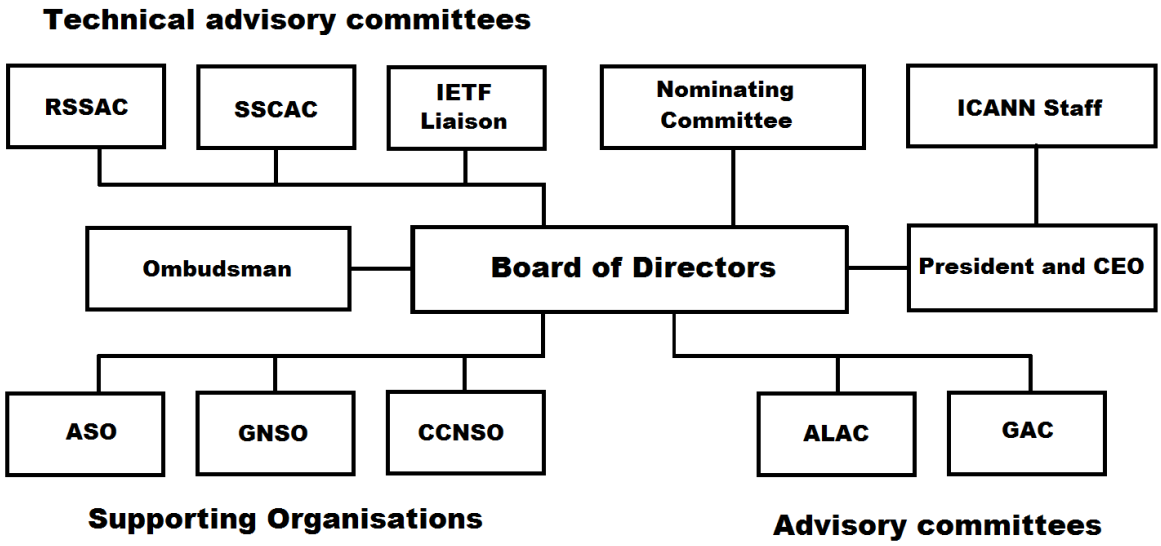

Figure 1: ICANN organisational chart

The Board of Directors, which has final authority in all areas of ICANN decisionmaking, is made up of sixteen voting members (Directors), including eight members selected by the Nominating Committee, six members selected by the Supporting Organisations, one member selected by the At-Large Community, and the President of ICANN. Prior to

reforms in 2002-03, a proportion of the Directors were directly elected by the global Internet-using community, but this mechanism was scrapped, with the Board citing concerns over "...the fairness, representativeness, validity and affordability of global online elections among an easily captureable pool of self-selected and largely unverifiable voters" (ICANN 2002a).

The three Supporting Organisations (SOs) are intended to represent the major stakeholders in the industry, and play a major role in development of policy proposals to be passed to the Board for approval. The Address Supporting Organisation (ASO) is made up of representatives of the RIRs, and deals with policy issues relating to the operation, assignment, and management of IP addresses. The Country Code Names Supporting Organisation (CCNSO) deals with policy relating to ccTLDs, and is made up of representatives of the ccTLD registries. The Generic Names Supporting Organisation (GNSO) deals with policy relating to gTLDs, and is made up of representatives from a number of stakeholder 'Constituencies'. In addition, there are a number of advisory committees. The Root Server System Advisory Committee (RSSAC) and Stability and Security Committee (SSAC) are technical bodies that provide advice with regards to the technical operation of the domain name system. The Governmental Advisory Committee (GAC) is made up of representatives of national governments, and is intended to "...provide advice on the activities of ICANN as they relate to concerns of governments, particularly matters where there may be an interaction between ICANN's policies and various laws and international agreements or where they may affect public policy issues" (ICANN 2011a: Article XI, Section 1).

It is widely agreed that the GAC's role has been considerably enhanced beyond its original designation as a mere 'advisory' body. In 2002, a provision was made in the ICANN Bylaws stating that, if the Board rejected a GAC recommendation, it must supply reasons in writing (ICANN 2002b: Article XI, Section 2). Kleinwächter (2003: 1121) contended at the time that the GAC had acquired "something akin to veto power" as a result of this new obligation. While this is not really the case, as the Board has on occasion showed itself willing to reject GAC advice, it does not do so lightly. The GAC's involvement in ICANN policymaking processes has continued to increase since the 2002-03 reform process, as governments have shown themselves increasingly willing to intervene in matters of Internet governance.

Besides the involvement of governments, there are also channels for direct public input into ICANN policymaking, despite the decision to end user-elected representation on the Board. These include a public comments system, which enables individuals and organisations to comment on any aspect of ICANN policy development. These comments are publicly posted on ICANN's website, arguably providing a certain degree of public scrutiny of ICANN's actions. The other key channel for public input is the At-Large system. The role of the At Large Advisory Committee (ALAC) is "…to consider and provide advice on the activities of ICANN, insofar as they relate to the interests of individual Internet users" (ICANN 2011a: Article XI, Section 4). It consists of ten members selected by Regional At Large Organisations (RALOs) and five members selected by the Nominating Committee.

ICANN's relationship with the United States government continued to evolve in the years after ICANN's foundation. The stated intention of the Clinton administration in 'privatising' the core systems was that the United States would retain an oversight role for a 'transition' period of up to two years, after which ICANN was to be released into full independence. However, the succeeding Bush administration showed a marked unwillingness to give up this oversight role, which as a result continued far beyond the initially planned two years. Throughout this period, the relationship between ICANN and Commerce was formalised in a series of Memoranda of Understanding (later known as the Joint Project Agreement). In 2009, the Obama administration moved ICANN closer to full independence, with the termination of the JPA and its replacement with an Affirmation of Commitments (AoC). This removed the requirement that ICANN would report to Commerce, and explicitly stated that ICANN was a private entity not under the control of any one authority (ICANN / US Department of Commerce 2009). In 2014, the Department of Commerce announced its intention to transfer its remaining oversight role to the 'global multistakeholder community'(US Department of Commerce 2014), and in October 2016 the contract between ICANN and Commerce was allowed to expire, formally marking the final transition of authority over the Internet's naming and numbering systems (ICANN 2016a).

ICANN, therefore, now exists as a fully independent global governance organisation. Some analysts have referred to it as a public-private partnership, in reference to the role played by the intergovernmental GAC (Kleinwaechter 2003; Antonova 2007). Others have interpreted it as a private regulatory agency (Bernstorff 2003; Koenig-Archibugi 2003;

Klein 2005). ICANN itself claims that its multistakeholder model is "...a community-based consensus-driven approach to policy-making" that "..treats the public sector, the private sector, and technical experts as peers" (ICANN 2017b). However, this 'private multistakeholder' model has been heavily criticised from some quarters.

Neoliberal Agenda and Corporate Capture

The private multistakeholder model that underpins current approaches to Internet governance has been seen as a form of neocorporatism (McLaughlin and Pickard 2007). Butt (2016) argues that this approach, designed to bypass oversight by the intergovernmental regulatory system in favour of a 'competitive market', results in some fundamental inequalities. Under what Butt terms the 'New International Information Order', actual freedom of information flow is denied to those groups and regions that do not possess the financial and technical resources to compete in this free-market system, and participation in the machinery of Internet governance is effectively reserved to a small group who emerge largely from the Euro-American technology sector. Defenders of the multistakeholder model argue that it represents a form of pluralism, whereby all affected groups are given a voice in the organisation's decisionmaking. However, as Chenou (2014: 206) points out, pluralists fail to explain how the institutionalisation of Internet governance actually granted some elite actors a dominant position in the field while excluding others. Similarly, Simpson (2004: 60) argues that the notion of ICANN as an open and potentially pluralist organisation in which all interests in the 'Internet community' are given representation, appears in practice to be "...at best concessionary and at worst somewhat illusory".

The doctrine of a private, commercially driven Internet was undoubtedly a strong element in ICANN's original design and reflects the 'reflexive government', neoliberal ideology of the Clinton administration, which promoted 'free market' principles and minimum governmental intervention. Furthermore, the Department of Commerce was at the time being actively lobbied by major US telecommunications and ISP companies to privatise the naming and numbering systems (Antonova 2008: 9). Palladino (2016: 6-7) argues that the decision by the US government to 'privatise' the IANA function, which led directly to the formation of ICANN, was a product of a "neoliberal discourse coalition" that had emerged between the US administration, other western governments, major American ICT corporations and some influential standards organisations. This

'neoliberal coalition' established an economic and market-driven rationality as a pivotal regulative mechanism of the Internet. Similarly, Simpson (2004: 51) identifies the emergence of a "broad and growing consensus", promoted by governments in leading industrial states, on the need to develop the Internet as a lightly regulated marketplace. This consensus, Simpson argues, ensured that the interests and requirements of business predominated. The desire to avoid 'overregulation' was a key reason for the decision to avoid placing the naming and numbering systems under ITU control (Goldsmith and Wu 2006: 41).

Over the course of ICANN's history, charges of corporate capture have been frequently leveled against the organisation. Huston (2005: 23), for instance, argues that ICANN has been largely captured by the 'names industry' (registries and registrars). Hunter (2003: 1153) similarly argues that the ICANN constituencies "...in practice have displayed all the worst features of regulatory capture." Klein (2005: 4) likewise argues that ICANN suffers from regulatory capture, mostly to the benefit of US-based corporations. He sees this as having begun with the process that led to the formation of ICANN in 1998, which, he argues, was dominated by powerful industry and technical stakeholders. The elimination of user representation on the Board confirmed the capture of that body.

Numerous governments, particularly from the Global South, have been heavily critical of ICANN, partly due to such perceptions of corporate capture and an organisation underpinned by a neoliberal mentality, as well as concerns that the organisation is ultimately a tool of US hegemony. ICANN has also been accused by governments from the Global South of gross unfairness in the allocation of IP addresses, as well as a lack of cultural sensitivity (McLaughlin and Pickard 2007: 125). The favoured solution of many of these governments, as was revealed at the World Summit on the Information Society (WSIS) and in the years since, would be a shift towards an intergovernmental oversight model under the auspices of the UN system, but such a solution is heavily opposed by the US and most key governments from the Global North. While the contractual and oversight link between ICANN and the US government has now been broken, which may ease some of the concerns around US hegemony, concern over corporate capture remains, and various governments still argue for greater intergovernmental oversight of the organisation. For example, Brazil and several other South American states recently reiterated such calls for UN / ITU oversight of ICANN as a consequence of the organisation's handling of a dispute over the proposed .amazon TLD (Filho 2017).

An examination of ICANN's structure and stakeholder membership would appear to support some of the charges of corporate capture, and of domination by business interests from the Global North. The GNSO, in particular, is dominated mostly by commercial entities of various types, notwithstanding the existence of a Non-Commercial Stakeholder Group. Three quarters of the voting power in the GNSO is held by corporate entities of various kinds, including the Commercial Stakeholder Group, the Registries Commercial Stakeholder Group and the Registrars Commercial Stakeholder Group. The Registries and Registrars (representing the 'names industry') hold equal voting power to the rest of the stakeholder constituencies combined, and these Groups are dominated by companies based in the Global North (Figures 2-5). Within the Commercial Stakeholder Group, the Business Constituency (representing business users and customers of Internet services) is also dominated by members from Europe and North America (Figure 6). Membership of the Internet Service and Connection Providers Constituency (ISPCP), which represents Internet backbone operators and major Internet service providers within the Commercial Stakeholder Group, has become somewhat more globally balanced in recent years (Figure 7), though it too was historically dominated by companies from Europe and North America. The Intellectual Property Constituency, which represents the interests of intellectual property owners and forms the third element of the Commercial Stakeholder Group, has a membership overwhelmingly from the Global North (ICANN 2018a).

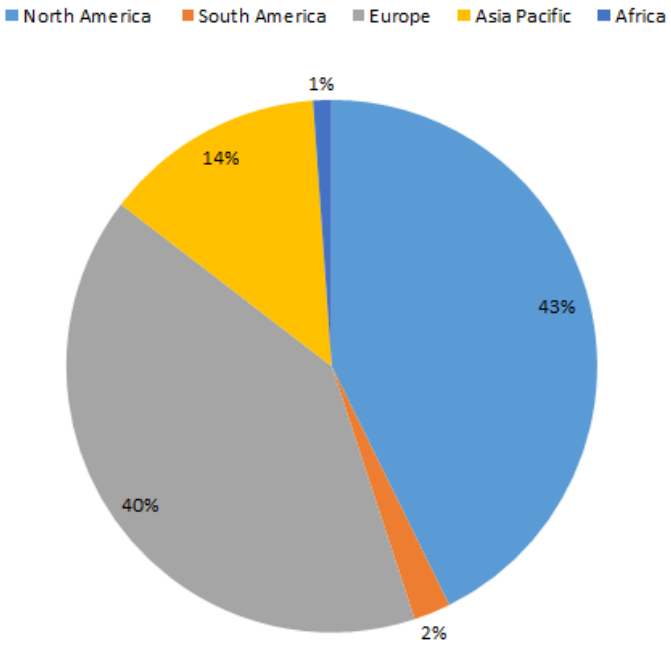

Figure 2: Registry Stakeholder Group membership by region - December 2017 (ICANN 2018b)

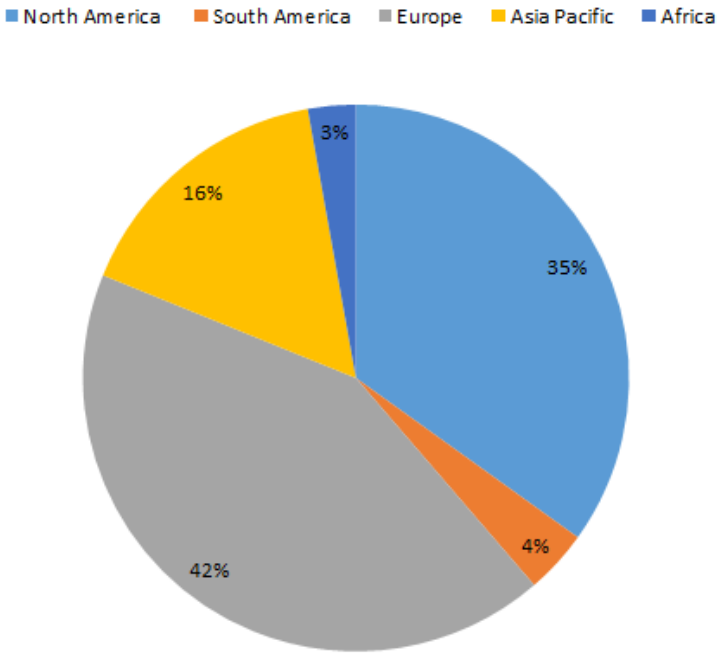

Figure 3: Registrars Stakeholder Group membership by region - December 2017 (ICANN 2018c)

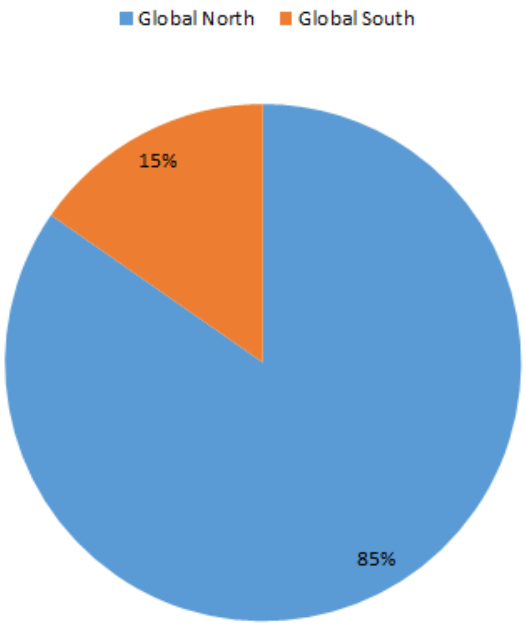

Figure 4: Registry listings by global North / South – December 2017 (ICANN 2018d)

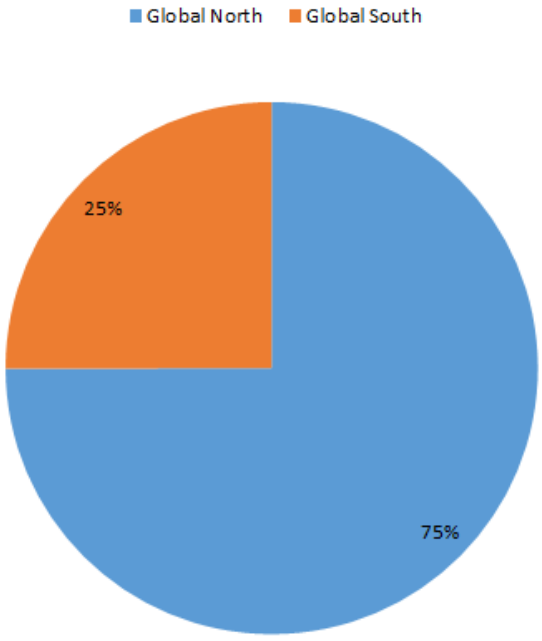

Figure 5: Accredited registrars by global North / South – December 2017 (ICANN 2018e)

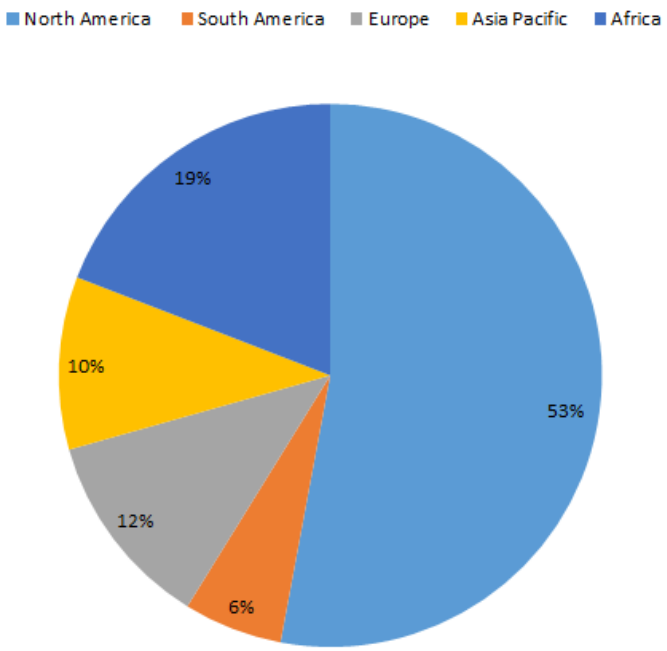

Figure 6: Business Constituency membership by region - December 2017 (ICANN 2018f)

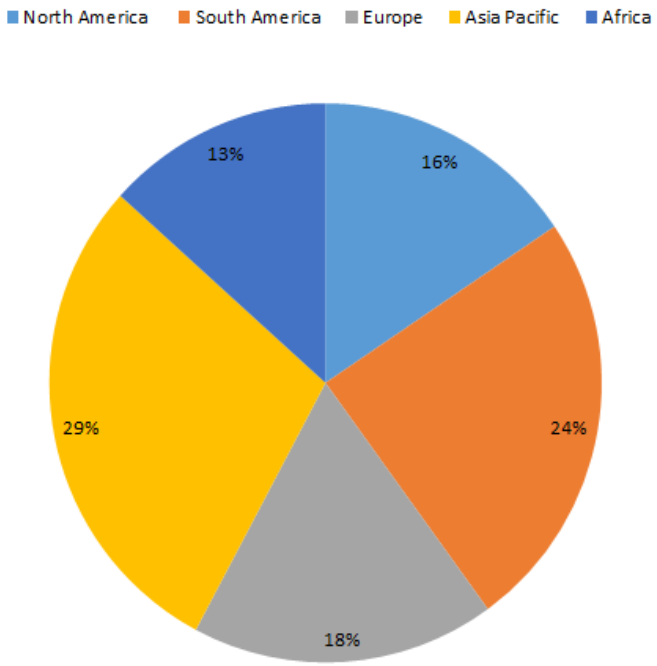

Figure 7: ISPCP membership by region - December 2017 (ICANN 2018g)

The influence of the intellectual property lobby in ICANN arguably goes well beyond the existence of an Intellectual Property Constituency in the GNSO. The ideals of intellectual property protection were, in a sense, written into the organisation's design from the beginning. The Clinton Administration's White Paper, which led directly to the formation of ICANN, also called upon the World Intellectual Property Organisation (WIPO) to initiate a process to "(1) develop recommendations for a uniform approach to resolving trademark/domain name disputes involving cyberpiracy (as opposed to conflicts between trademark holders with legitimate competing rights), (2) recommend a process for protecting famous trademarks in the generic top level domains, and (3) evaluate the effects, based on studies conducted by independent organizations, such as the National Research Council of the National Academy of Sciences, of adding new gTLDs and related dispute resolution procedures on trademark and intellectual property holders". The resulting WIPO report was accepted by the newly created ICANN as the basis of its Uniform Domain Names Dispute Resolution Policy, in one of the first significant actions made by the organisation. This decision was controversial, as the newly-formed Non-Commercial Users Constituency was not invited to participate in this process, a fact that was later criticised by a number of posters in the public comments periods (ICANN 2000). Since that time, despite the considerable criticism that the UDRP has been subject to, there has to date been no fundamental review of the policy and thus no real opportunity for change.

In summary, the charges of corporate capture and of an ICANN influenced by a neoliberal agenda would, on the face of things, appear to have some merit. The next sections will explore these questions further with reference to the New gTLD Programme.

The New gTLD Programme

ICANN's New gTLD Programme is a scheme to add large numbers of new generic top-level domains to the DNS root. Previous gTLD expansion rounds in 2000 and 2004 added a limited number of new gTLDs (seven 'open' gTLDs in 2000 and six 'sponsored' TLDs in 2004). The current programme is the result of an extended policy development process that lasted from 2005 to 2011. This began with the publication of an Issues Report by ICANN staff, setting out four areas for study: whether to introduce new TLDs; selection criteria for any new TLDs; allocation criteria for new TLDs (criteria for deciding which entities would operate them); and contractual conditions for new TLD operators (ICANN

2005). The Issues Report was followed by a GNSO Policy Development Process, which produced a degree of consensus among the GNSO Constituencies that a new TLDs programme should be pursued (or at least, in the case of the Intellectual Property Constituency, a qualified acceptance of the principle), but significant disagreements on some important details with regards to the other three areas. At the same time as these discussions were taking place within the GNSO, the GAC published a set of principles setting out its views on the public policy implications of new gTLDs (ICANN 2007a). A key concern of the GAC revolved around the question of whether 'geographical identifiers' (country, territory or place names) would be permitted as top-level domain name strings. The GNSO's Final Report was submitted for comment in July 2007. The Final Report was followed by a series of Draft Applicant Guidebooks (DAGs), produced by ICANN staff, which set out the draft policy in detail. As can be discerned from the public comments, each iteration of this document failed to produce consensus on the key issues. Some of the main points of contention continued to revolve around trademark rights protection mechanisms, the question of integration of registries and registrars, rules on which character strings would be permitted in the TLD space, and mechanisms for resolving disputes over which entity would be granted a particular string. Throughout this period, the GAC also continued to challenge aspects of the proposed policy, especially with regard to geographical names. Ultimately, the GAC was successful in winning very substantial concessions with regard to its own future authority over the allocation of gTLD strings, particularly geographical names.

New gTLDs policy development was finalised with the publication of a seventh iteration of the Applicant Guidebook in May 2011 (ICANN 2011b). No public comment was invited on the finalised Guidebook, which the Board approved on 20 June 2011 (ICANN 2011c). Some of the key features of the finalised policy can be summarised as follows:

- No upper limit was set to the final number of new TLDs that could be introduced.
- The application process would not be open at all times, but would take place in 'rounds'.
- Applicants to operate a new TLD would pay an evaluation fee of US$185,000.
- Applications would be accepted only from legally recognised organisations, not from individuals or sole proprietorships. Background screening of applicants would take place.

- Applications would undergo a complex evaluation process, whereby 'Independent, third-party, expert panels' would evaluate applications against criteria set out in the Applicant Guidebook.
- In the case of two or more entities applying for the same name, where the applicants could not resolve the matter amongst themselves, a contention resolution process would take place, which might result in an auction of the name.
- Third parties would have the opportunity to object to a given application, on payment of fee of US$1000-5000 per proceeding. The matter would then be referred to arbitration by a dispute resolution provider.
- A complex set of trademark protection mechanisms were put in place. These included: a Uniform Rapid Suspension system (a mechanism to allow disputed domain names to be suspended pending settlement of the dispute); a Post-Delegation Disputes Resolution Process (a system by which trademark holders can proceed against registry operators accused of acting in bad faith after the TLD has been delegated); mandatory 'sunrise' periods (allowing trademark owners the first option on purchasing names corresponding to their trademarks); a Trademark Clearinghouse (a database of information pertaining to trademark authentication); strong WHOIS requirements (an obligation for domain name registrants to provide details such as their name and address, and for these details to be publicly available); legal rights objection mechanisms (a mechanism by which trademark owners can object to a proposed new TLD on trademark grounds); a mandatory post-launch intellectual property claims procedure; and automatic rejection of applications from individuals identified as 'habitual cybersquatters'.
- A GAC 'Early Warning Procedure' was created, a mechanism by which the GAC could give notice that a particular application might be problematic. Although the Board was not compelled to accept GAC advice under this procedure, GAC opposition to an application would normally create a 'strong presumption' that the application should not proceed. Furthermore, if the registry subsequently failed to meet the governmental criteria, ICANN would comply with any order from a national court to shut the registry down.
- Successful applicants would pay ongoing additional fees, including a fee of US$6,250 per calendar quarter to continue to operate the TLD, as well as a

transaction fee of US$0.25 per registered domain name once a threshold of 50,000 registrations had occurred during any calendar quarter or any four calendar quarter period.

The initial application round was held in the first quarter of 2012. 1930 applications were received. The first new gTLDs were delegated in October 2013. At the time of writing, 1216 new TLDs have been delegated, and several ICANN working groups are currently evaluating various aspects of the first round, ahead of a decision on opening a second round.

New gTLDs in Operation: Domination by the Global North

The first round of the New gTLD Programme was dominated by applications from the Global North. Statistics made available by ICANN (ICANN 2017c) reveal that, of 1930 applications in total, the great majority were from entities in North America (911) and Europe (675). 303 applications were received from the Asia –Pacific region (the majority of which came from China, Japan, Hong Kong and Australia). Only 24 applications were received from South America, and a mere 17 from Africa (1.2% and 0.9% respectively of all applications). Furthermore, nine of the applicants from Africa received termination notices from ICANN in May 2016, due to their failure to make their TLDs live within the specified twelve-month window. Most of the applications received worldwide were from existing commercial entities, and were for ASCII TLD strings. Only 84 were from 'community' applicants (a classification that includes non-commercial, cultural and linguistic communities) and 66 were for IDNs (Internationalised Domain Names, i.e. TLDs in character sets other than Latin / ASCII).

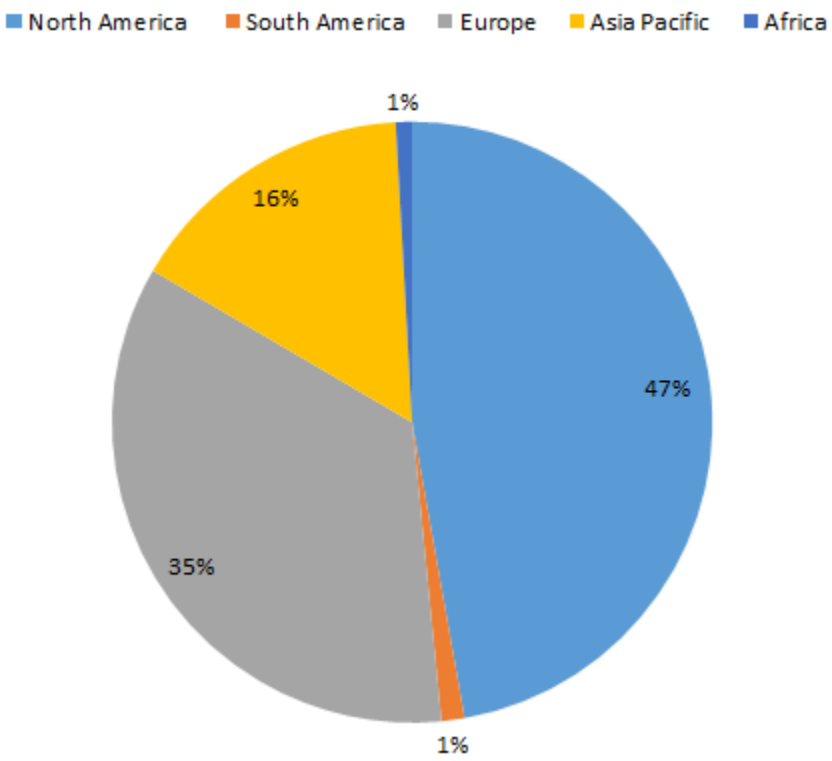

Figure 8: New gTLD applications by region

Major commercial entities based in the Global North appear to have been responsible for a large proportion of the applications. For example, Neustar applied for 234 TLDs, Google for 101, and Amazon for 78. Some existing registrars also applied for TLDs, following relaxation of rules that prevented registrars from becoming registries. A new startup venture, Donuts Inc., applied for 307 TLDs, while Top Level Domain Holdings applied for 70 and Uniregistry for 54. This large number of registrations from a relatively small number of major commercial entities has raised some concerns about a capture of the domain name space. To take one example, as Spencer (2014: 882) points out, Google's registration of the .blog TLD could give the corporation the power to insist that all bloggers who wish to set up a blog under the .blog TLD must use Google services. The 'virtual land rush' created by the new TLDs programme could see the most valuable real estate in the namespace snapped up early on by a relatively small number of big commercial players, leaving future entrepreneurs with lean pickings.

Overall, new gTLDs have clearly proved attractive to established commercial players and to a number of new commercial startups, but those startups are mostly based in the

Global North. The programme has therefore clearly accomplished little in terms of encouraging new Web services companies to emerge in the Global South, something that might have helped to redress the balance in a market that has always been dominated by registries from economically advanced regions. Furthermore, there is a real danger that many of the most desirable names will have been taken in this first round, leaving groups from the Global South with reduced opportunities to catch up in the future. Similarly, non-commercial and minority cultural and language groups have barely registered on the radar as far as new gTLDs are concerned.

Given the uneven nature of the applications, the question arises as to whether the application policy creates barriers to applicants from the Global South. One obvious barrier is the level of application fees. These are very substantial (US$185,000) and fees once the domain goes live are also considerable (US$6,250 per quarter, with additional transaction fees beyond a certain threshold). Although ICANN does offer an Applicant Support Programme for some applicants, which can include reduced application fees, the criteria for qualification are complex and include a requirement that the application must provide a 'public interest benefit', as well as the applicant demonstrating financial need together with 'appropriate' management and support capabilities (ICANN 2017d). In practice, there were very few applicants for this support programme, possibly due to a lack of awareness. Only three applicants were evaluated for support during the first round, and only one of those was successful (ICANN 2013).

In 2016, ICANN commissioned a report from AmGlobal Consulting to evaluate the reasons for limited new gTLD demand in the Global South (AmGlobal Consulting 2016). The study was based upon surveys and interviews with 'potential applicants that might have been', i.e. companies, communities and others that did not apply whose profiles mirrored those that did apply. This report identified fees as a significant factor limiting demand in less wealthy regions. Application costs were cited as a barrier by 15 out of 37 interviewees, with running costs cited by a further 9. As one respondent pointed out, $185,000 represents 'real money' in less wealthy parts of the world. Some interviewees also expressed some concern about competition and limited sales channels in the Global South.

The potential costs of applying for and running a new TLD extend well beyond the fees payable to ICANN, however. The application process is complex and would-be applicants have to run a gauntlet of highly detailed checks, evaluations and potential objections

that could see the application fail at various stages (with a consequent forfeiture of at least part of the application fee). Navigating this complex process represents a very significant organisational commitment that inevitably comes with a financial cost. It also requires a level of expertise and insider understanding that, if not already present within the organisation, must be bought in from outside.

In the AmGlobal survey, the barriers most frequently cited by respondents revolved around lack of information and understanding about the programme (AmGlobal Consulting 2016: 9). Cited issues included limited awareness of the New gTLDs Programme; a lack of complete information and/or clear communication; a lack of clarity around a suitable business model for a new gTLD registry; the complexity of the application process; and the lack of follow up by ICANN. Nearly all interviewees recommended more and better outreach from ICANN over a longer period of time to reach the Global South. They called for much clearer communications around the process, making it easier to understand costs. This lack of information and awareness about the New gTLD Programme among organisations in the Global South again points to the advantages enjoyed by existing insider groups. Established industry players in an existing relationship with ICANN were in a position of awareness and understanding of the New gTLD Programme that outsiders lacked. This was especially significant given the brevity of the only application round to be held to date (three months). This may not have been deliberate; nonetheless, ICANN could have done much more to reach out to potential new applicants particularly in the Global South, but failed to do so adequately.

Although not mentioned in the AmGlobal report, the highly restrictive trademark protection mechanisms incorporated into the New gTLD Programme represent another potential barrier to startup ventures. These mechanisms allow what may be quite generic words, phrases and names to be reserved on a global level by existing trademark holders. The mere possibility of a challenge from a trademark holder may give a potential TLD applicant pause. If a successful objection were to be made by a trademark holder partway through an application, then much if not all of the application fee may be forfeited. This risk may be enough to deter some potential applications. Furthermore, even if an application is successful, after launch the new registry must still comply with further rights protection mechanisms introduced for second-level registrations under the new TLDs, particularly the Uniform Rapid Suspension system. This adds another layer of complexity and therefore cost to the running of a new TLD.

In summary, it is clear that the current new gTLD application policy creates a number of barriers to applicants who are not already established players in the industry, including both startup commercial ventures and non-commercial groups. Although these barriers may apply to a wide range of potential applicants worldwide, they affect groups from less wealthy regions disproportionately. In an industry already dominated by corporations from the Global North, the policy does little to redress the balance. This leads to questions regarding how this situation arose. How was the New gTLDs Programme and the policy governing it created, and why did the policy take its present form? The answer may lie in the huge level of influence that established commercial interests are able to wield within ICANN.

Policy Development and Organisational Capture

While the GNSO policy development process (2005-07) did not decide the final details of the programme, it did lay out some of the broad strokes. The GNSO's Final Report on New gTLDs (ICANN 2007b) recommended that new gTLDs should go ahead, with applications taking place in 'rounds' until the scale of the demand was clear. Applicants should be evaluated against 'transparent' and 'predictable' criteria. These should include a set of selection criteria to determine which strings were and were not permissible. Included in these selection criteria was a statement that strings "must not infringe the existing legal rights of others" and that strings "must not be contrary to generally accepted legal norms" including intellectual property treaties. These recommendations clearly formed the basis on which the detailed intellectual property protection mechanisms were later built. Furthermore, it was recommended that applicants should have to demonstrate their financial, organisational and technical capability to run a registry, and that dispute resolution and challenge processes should be established prior to the start of the process. On the matter of fees, the report also recommended that "Application fees will be designed to ensure that adequate resources exist to cover the total cost to administer the new gTLD process", although it also stated that there 'may' be a fee reduction for applicants from 'less developed economies'.

There was some dissent recorded in the annex to the report. The NCUC statement included an assertion of non-support for a broad objection and rejection process on the grounds that "...the proposal would inevitably set up a system that decides legal rights based on subjective beliefs of 'expert panels' and the amount of insider lobbying...(which)

would give 'established institutions' veto power over applications for domain names to the detriment of innovators and start-ups" (Idem: Annex A) The annex also included some comments from Nominating Committee appointee Avri Doria, who expressed reservations about some of the proposed principles. These included concerns that financial requirements and high application fees "...may act to discourage applications from developing nations or indigenous and minority peoples", as well as concerns regarding the wholesale application of trademark principles to new gTLDs (Idem, Annex B).

These concerns were therefore clearly raised in the GNSO discussions, but represented a minority view. At the time, the GNSO consisted of six 'constituencies' (the NPOC did not yet exist) and of these, five represented commercial stakeholders. The vast majority of the organisations that selected the constituency representatives were businesses or corporate interest groups mainly based in the Global North. The intellectual property lobby had a strong voice, being represented by its own Intellectual Property Constituency and enjoying strong support among the Business Constituency as well. Of the 21 individuals who served on the GNSO Council at that time, the majority (13) were of European or North American nationality, and less than a quarter (5) were from countries in the Global South (ICANN 2007c).

The detailed drafting of the finalised policy was carried out by ICANN staff, with some significant policy decisions being taken by the Board. Two of the most influential pressure groups during this phase were the intellectual property lobby and the GAC. By contrast, the influence of other groups such as the ALAC appears to have been quite limited. The ALAC made a number of objections to the proposed policy, including a criticism of the proposed fee schedule as a "clear barrier to entry of potential applicants" and an objection that the proposed legal rights protocols exceeded any requirements set out in international treaties (ICANN 2009). Neither of these objections had any influence on the final policy.

The influence of the intellectual property lobby is evidenced by the growing strength and complexity of trademark protection mechanisms as successive versions of the Draft Applicant Guidebook were released. The voice of the trademark lobby became increasingly dominant in the public comments. For example, in the final public comments period, more than a quarter of all comments submitted urged still stronger trademark protection mechanisms (ICANN 2011d). In addition, ICANN received a

considerable volume of correspondence from intellectual property groups, which also lobbied national governments to push for stronger trademark protection mechanisms. Several governments, most importantly that of the US, pressed ICANN to implement enhanced trademark protection mechanisms.

Public comments on each stage of New gTLDs policy development were analysed as part of the author's PhD research project. An examination of the public comments reveals that these did not, for the most part, represent the voice of the 'average Internet user'. Over the entire course of policy development, the great majority of 'public commentators' represented businesses of various types, together with a few individuals with a direct interest in the topic (White 2012: 116). The extent to which public comment affected actual policy outcomes is, however, more difficult to quantify. In email correspondence with the author, two individuals who had served on the GNSO Council at the time of the policy's development stated that the public comments had been taken into account 'as much as possible', but also revealed that at least some members had not actually read the detailed comments.

The other key channel said to represent the 'public interest' in ICANN, the GAC, clearly had a much more significant influence over the final shape of the policy. As mentioned, the issue of 'geographical names' proved to be an issue of some sensitivity to the GAC, which insisted that governments should have the authority to veto undesired geographical names. This stance was probably related to governmental determination to exercise some degree of 'sovereignty' over country-code top-level domains and a perception that a proliferation of geographical names outside of governmental control might water down the importance of ccTLDs. While geographical names remained probably the most important issue for the GAC throughout subsequent negotiations, the GAC also pursued other aims, including lending support to the drive for enhanced intellectual property mechanisms, opposition to the 'morality and public order' objections procedure, root scaling implications; safeguards against malicious conduct and abuse of the DNS; an 'urgent need' for further economic studies to assess market impacts of new gTLDs; and implications for competition (Karklins 2010). The GAC did also note that the policy proposals risked "…excluding the participation of developing countries" and urged ICANN to set requirements, including cost considerations, at a level that would promote greater inclusivity (Dryden 2010).

From 2008 onwards, the GAC pursued a strategy of direct negotiation with the Board as successive versions of the DAG were released. Negotiations proved somewhat difficult, as a degree of intransigence existed on both sides. Matters came to a head in December 2010, when the GAC threatened to invoke provisions in the ICANN Bylaws formally requiring the Board to seek a mutually acceptable resolution of differences in a dispute with the GAC (ICANN 2010). In the event, the Bylaws provisions were not formally invoked; however, a Board-GAC Consultation took place in Brussels early in the following year in which the Board conceded some points to the GAC but stood firm on others (ICANN 2011e). In a subsequent publication setting out the GAC's position on the current state of negotiations, the GAC again urged ICANN to "...set technical and other requirements, including cost considerations, at a reasonable and proportionate level in order not to exclude stakeholders from developing countries from participating in the new gTLD process" (ICANN 2011f). This issue was mentioned towards the end of the document, behind a list of other GAC concerns, though some measures were suggested to promote inclusivity, including financial support. The GAC's response to the final policy proposals in June 2011 reiterated advice that "...appropriate and timely support...should be provided to developing countries in implementing the new gTLD process" (ICANN 2011g).

Overall, the GAC enjoyed a great deal of success with regards to its concerns on geographical names. In the finalised policy, although the Board was not compelled to accept GAC advice on geographical names, GAC opposition to an application would normally create a 'strong presumption' that the application should not proceed (ICANN 2011h). Other elements of the policy, such as the robust trademark protection mechanisms, were also broadly in accordance with GAC advice. However, while the GAC was successful on these points, it arguably failed to secure changes to the policy to ensure greater participation from applicants in less developed economies, despite raising some concerns about this issue. This leads to questions about how serious the GAC was about pressing this issue and how united it was on these points.

As part of the research on which this chapter is based, the author carried out some telephone interviews with several GAC representatives. Their responses suggested that achieving unity within the GAC is not always easy, and that, with regard to the New gTLDs Programme, states' rights over geographical names represented one of the few issues that all governments could agree upon. Even with regard to geographical names,

there have been splits within the GAC in practice. One such split recently emerged concerning a dispute over the .amazon TLD, which was triggered by an application for the TLD by the US corporation Amazon. Brazil, Peru and several other governments lodged objections on the grounds that the name damaged the interests of countries in the Amazon region. The US, however, supported Amazon's application, leading to a split in the GAC, and no consensus advice could be produced. The US did eventually change its position to one of neutrality and the Brazil-Peru led objection was ultimately sent to the Board as GAC advice, resulting in denial of Amazon's application.[229] However, following the decision of an appeal panel to uphold Amazon's application (ICDR 2017), the matter is, at the time of writing, due for reconsideration by the Board, and the result may well turn out to be a defeat for the GAC.

Overall, then, it would seem that while the nations of the Global South have a voice in the GAC, this may not be sufficient to exert much influence unless other GAC members can be persuaded and a position of clear-cut GAC unity can be reached. As Mueller (2010: 244) points out, the Board can arbitrarily invoke the GAC when overruling the Supporting Organisations or vice-versa, and the effect of this is to make the Board less accountable. However, a united GAC is harder to ignore. Even if united, however, the GAC carries no ultimate veto over decisions taken by the Board.

Options for Reform

The sections above have demonstrated that the New gTLDs Programme is not optimised to encourage applications from the Global South. The policy sets up numerous barriers to entry for new applicants and particularly for organisations from less wealthy regions. Some of the chief beneficiaries of the project to date have been major corporations, mostly based in the Global North. Furthermore, a review of the policy's development history reveals that vested corporate interests had a huge influence on the final design of the policy.

[229] The official position suggests that the US government changed its stance out of respect for GAC colleagues, to avoid a precedent of a single state blocking the transmission of GAC advice, and to encourage the Board to seriously consider the Brazil / Peru - led objection (Sepulveda 2017). However, it may also be worth noting that the US change of position took place a few weeks after the first Snowden revelations were published. These disclosures accused the US of using Internet traffic as a means of surveillance of other GAC members and their citizens (Gellman and Poitras 2013). It seems possible that the diplomatic pressure created by these accusations may have influenced the US position on the .amazon case, by making the US GAC representatives reluctant to court further Internet-related controversy at that time.

These observations point to some significant issues with the current ICANN institutional setup. Whether the organisation consciously espouses a 'neoliberal ideology' or not, the effects in practice are the same. ICANN shows signs of being a 'captured agency' that operates in the interests of major corporate stakeholders from the Global North, and, as a result, the organisation fails to offer fair opportunities to individuals and groups from the Global South. This leads to the question of how ICANN might be reformed to redress the balance and break the dominance of northern corporate interests. Current debates over future models of Internet governance suggest that there are two broad alternatives: a shift to an intergovernmental model, or a reform of the existing multistakeholder model.

Intergovernmentalism

The prospect of shifting oversight of the Internet to a multilateral intergovernmental body is the favoured goal of a significant number of states. Such a multilateral body could take over the naming and addressing function from ICANN, though its remit could also include many other areas of Internet governance, such as technical standards setting and possibly content regulation. The division between those governments that favour retention of the largely nongovernmental multistakeholder approach and those that advocate a move towards an intergovernmental model was first made evident at the World Summit on the Information Society (WSIS) in 2003-05. At the Summit, the United States and its allies (mainly states from the Global North) continued to uphold the multistakeholder model, while some of the emerging powers, including Russia, China, India, and Brazil, were pushing for a multilateral approach that would provide them with greater influence (Mathiason 2009: 124). Proposals for a new global Internet authority based around an 'Inter-Governmental Council' were floated with the backing of a number of governments, including several governments belonging to the Global South (Bhuiyan 2014: 51), but were defeated largely due to the opposition of the United States (Mathiason 2009: 124). A deadlock resulted, and, as a result, no really significant changes to existing Internet governance arrangements emerged from WSIS. The main result of the Summit was the creation of the Internet Governance Forum (IGF), an annual forum to continue dialogue. Like WSIS itself, the IGF is held under the auspices of the UN and the ITU, and is a 'tripartite' forum including representatives from the private sector and civil society as well as governments. With its establishment, the multistakeholder model

appeared to have won out for the time being; however, states such as Russia and China have used the IGF as a platform to continue to push for greater intergovernmentalism in Internet governance.

Similar patterns were evident at the World Conference on International Telecommunications (WCIT), held in Dubai in 2012. This conference served to review the International Telecommunication Regulations (ITRs), which serve as the binding global treaty designed to facilitate international interconnection and interoperability of information and communication services. The previous iteration of the ITR agreement was concluded in 1988 and mainly concerned voice communications, at a time when the Internet was in its infancy. The 2012 conference was seen in some quarters as an attempted 'power grab' by the intergovernmental ITU over the area of global Internet governance (Stanton and Hammond 2012: 61). Once again, the attempt was unsuccessful due to the opposition of a bloc led by the United States. Many of the proposals that would have increased governmental authority did not make it into the final draft of the treaty; even so, 55 ITU member states declined to sign the treaty, destroying any hope of the sort of consensus that had characterised earlier ITU treaties. Nonetheless, the conference was a clear demonstration that intergovernmentalism remains firmly the goal of multiple states.

Of course, intergovernmentalism would not necessarily have to involve the abolition of ICANN or the shifting of its functions to a new global Internet council. It could be implemented through reform of the existing organisation to give the GAC supreme authority. Arguably, the general trend in ICANN's development has already been in that direction, starting with the 2002 reforms. However, one key problem in handing greater authority to the GAC lies in the difficulty of achieving unity in that body. Signs of a North – South divide within the GAC are not limited to the New gTLD Programme. Groups of GAC members have produced 'minority advice' on a range of issues. In 2016, proposals were considered for a change in the ICANN Bylaws that would oblige the Board to only act on consensus GAC advice. This proposal was supported by a bloc of GAC members led by the USA, UK and Canada, but opposed by a second group of governments drawn mostly (though not exclusively) from the Global South (ICANN 2016b). Ultimately, the Bylaws were amended with a provision that consensus GAC advice could only be rejected by a 60% vote of the Board (ICANN 2017e: Article 12, Section 12.2). Of course, while this is the current position, there would appear to be no reason in principle why decisions in the

GAC could not be made by majority vote, or perhaps some system of qualified majority vote. A GAC with increased authority and a majority voting system might hand significantly increased influence to governmental representatives from the Global South. This would partly be dependent on encouraging more countries to participate. Although the GAC is at present comprised of 162 member states and 35 IGOs (ICANN 2017f), less than half of their representatives regularly attend meetings.

On the surface, intergovernmentalism may appear to be the most obvious solution to the problem of corporate capture. A case can be made that governments, as the 'legitimate' representatives of the public interest, are the ideal entities to counter the influence of overmighty corporations. However, there are also potential drawbacks to an intergovernmental approach. It is frequently argued by proponents of multistakeholderism that a shift to an intergovernmental model would potentially place significant influence in the hands of authoritarian regimes. Supporters of intergovernmentalism argue that there is little real danger of democracies being outvoted by authoritarian states, and that the real reason for Northern opposition to intergovernmentalism is the likelihood of Northern states being outvoted in an intergovernmental setting. It is true that today around half of all states are characterised by some degree of democracy and only a minority are classified as 'authoritarian' (EIU Democracy Index 2016). However, the list of governments practising a significant level of Internet filtering and censorship is nonetheless on the rise, even in some of the democratic states (Kelly et al 2016). Given these trends, it is not hard to foresee a situation where a majority of governments might vote for measures that could increase and legitimise such censorship. This was evident at WCIT, where a number of proposals were presented by various governments that, if successful, may have increased and legitimised censorship and surveillance. While such concerns have been seen as playing into the hands of the neoliberal agenda, they should not be dismissed. Reflecting on current trends, some commentators, such as Schmidt and Cohen (2013) have warned of a drift towards 'Balkanisation' of the Internet, where the formerly global network becomes increasingly divided by national filtering and regulatory restriction into a series of national networks, co-existing and interconnected to some degree, but with very significant restrictions on communication and data flow between them. Instead of a worldwide, borderless network, the Internet will begin to resemble the territorial map of

the world. In the author's opinion, any such moves in this direction would be a retrograde step, not only for the Global South but for humanity as a whole.

It could be argued that an ICANN under increased GAC authority may also lead to some dangers with regard to an extension of censorship. Ultimately, control over the address book could potentially confer a unique power to censor the Internet. At present, control over second-level domain names lies in the hands of the registries and is not within ICANN's remit. However, it is conceivable that an intergovernmental takeover of the DNS may lead to a radical reorganisation of its governance arrangements, involving much greater centralisation of control. By rewriting the Registry Agreements under which the registries operate their TLDs, the new IANA authority could assume greater powers than ICANN holds at present, including, for example, the authority to order deletion of individual second-level names. If a domain name is deleted, the associated website can no longer be found, thus making it effectively 'disappear' (or at least become invisible). If control of the naming and addressing systems were to be turned over to intergovernmental control, it is conceivable that there may be increasing pressure from some governments for the DNS to be used as such a tool of censorship.

Aside from the censorship issue, there are also other potential issues with an intergovernmental model. It could be questioned just how far governmental appointees can truly represent the voice of the peoples of the Global South. GAC representatives are generally civil servants of their respective states, and while they are answerable to their governments, the extent to which those governments exercise real oversight of their activities may vary. Moreover, the chain of connection between governmental representatives and 'the people' is not direct, even for those states that are democracies. International bureaucracies are more remote than national bureaucracies, and often deal with narrow and specialised issues, so that they can resemble private clubs in which delegates act away from public scrutiny (Keohane and Nye 2000: 27).

To criticise the domination of the Global North and the neoliberal ideology that prevails in current models of multistakeholder governance, while simultaneously advocating against an intergovernmental model, may seem something of an awkward position. This is because intergovernmentalism has been widely seen as the only viable alternative to the status quo. However, a third option is conceivable. This would be based on a different model of multistakeholderism, one that gives proper weight to the public voice and

hands real power to representatives of the global Internet - using public in place of the present domination by corporate interests.

Revised Multistakeholderism

While it might be argued that only governments can represent the public interest against the dangers of corporate capture, an alternative might lie in a reformed and rebalanced multistakeholder model, where representation for civil society and particularly the ordinary Internet user is strengthened as a counter to corporate influence. In the case of ICANN, this might be achieved by a revival, in some form, of the semi-democratic system once employed for selection of a proportion of its governing Board of Directors. While this system was scrapped in 2002, it could be revived, perhaps in a revised form. An ICANN Board with seats reserved for representatives of the global Internet-using public could act as a powerful counter to the dominance of corporate interests. At the same time, it would provide the global Internet-using public with representatives directly accountable to 'the people', rather than the indirect accountability of governmentally appointed officials. Such a system could give a genuine voice to those currently being sidelined by the ICANN system.

This is not to suggest that a revival of ICANN elections could be accomplished without any difficulties. As the ICANN election of 2000 demonstrated, there would be various challenges to overcome. The concerns expressed by the Board regarding the "fairness, representativeness, validity and affordability of global online elections", and the verifiability of voters (ICANN 2002a), would of course have to be addressed. To begin with, the question of how to define the electorate must be considered. ICANN's own At Large Study Committee suggested in 2001 that the franchise ought to be restricted to domain name holders only (ICANN 2001). However, this would seem to be too narrow a franchise. Since all Internet users depend on the systems under ICANN's control, democratic principles would suggest that all users, not just domain name holders, should have a vote. In practice though, engaging participation from a greater number of Internet users presents another challenge. One possible method might be to involve Internet service providers, who could contact their customers with information about the elections. Increased participation would also help to reduce the effectiveness of any attempts at capture or fraud. The involvement of ISPs in the voter registration process would also help to overcome language barriers, since the ISPs presumably are able to

communicate with their customers. Balanced geographical representation of Internet users could be achieved through the use of some form of constituency system, with constituency boundaries set so that each included roughly equal numbers of Internet users. Such constituencies need not be organised according to national boundaries, but could be regional in nature.

The potential financial and administrative costs of a global election would still present an issue. However, costs could be met via various means, such as a small extra charge levied on domain name registrations and / or a charge on corporate actors in the industry, such as registries, registrars and ISPs. These companies could reasonably be asked to bear this as a cost of doing business if it were framed as 'the price of legitimacy' (Aizu et al 2001: 106-107).

The possibility of opposition to reform from some of the vested interests in ICANN must of course be considered. Some governments, in particular, might see popularly elected At-Large Directors as a threat to their own self-proclaimed authority over 'public policy' issues in ICANN. At the same time, however, it would be hard for governments to argue against a 'democratic' initiative without inviting negative publicity. Similarly, corporate stakeholders would attract adverse publicity if they tried to actively resist reform. Furthermore, moves to strengthen and entrench a nongovernmental model for ICANN may be supported by significant proportions of the technical community, which has traditionally been strongly disposed towards nongovernmental, 'community' based ideals of Internet governance (Kleinwächter 2007: 41).

Whatever practical obstacles to redemocratisation are cited, therefore, these issues are largely surmountable, and even if the resulting system was not perfect, it would be much more legitimate than the present ICANN model. Genuine representation for the global public on ICANN's highest decisionmaking body would do much to counterbalance the influence of vested corporate interests. It would make it far harder to ignore the legitimate interests of sidelined groups, and as a consequence it would strengthen the voice of the Global South in ICANN.

Conclusion

In conclusion, this chapter has demonstrated that the New gTLDs Programme sets up numerous barriers to entry for many new applicants, particularly non-commercial groups and small business startups. While these barriers do not exclusively affect

entities from the Global South, affected groups are likely to be based disproportionately in less wealthy regions. This is reflected in the application statistics, which reveal a process dominated by applications from Europe and North America, and a large proportion of those applications coming from sizeable corporate entities. It would seem that, in a market already dominated by corporations from the Global North, potential startup competitors to those corporations, particularly in the Global South, are not being given a fair opportunity to redress the balance. Non-commercial groups, such as cultural and language communities, may face even greater obstacles to establishing an online identity in the form of a TLD.

The policy also shows strong deference to the demands of the intellectual property lobby. This is evidenced by the raft of intellectual property protection mechanisms built into the programme. Such an emphasis on trademark protection ignores the valid points made by advocates of free expression, who argue that domain names should not be considered equivalent to trademarks. By making these extensive concessions to trademark owners, the programme arguably stifles opportunities for others who may legitimately seek to express a particular online identity in the form of a TLD. The affected parties may include subnational, cultural and community groups of many different kinds, many (though by no means all) of which will be based in the Global South. The favour shown to the intellectual property lobby further reinforces the perception of a policy heavily weighted towards northern commercial interests.

The shape of the present New gTLDs policy is no accident. Many of the same northern corporate stakeholders that benefit from the policy had a major influence on its design. By contrast, the 'global Internet-using public' proved to have very little real influence, and indeed participated in the policymaking process only to a very limited extent. This, in turn, reveals broader underlying issues with ICANN's 'multistakeholder' model. The lessons from the New gTLD Programme validate claims that ICANN suffers from corporate capture and serves what could rightly be termed a 'neoliberal agenda'. The case study acts as a clear illustration of how and why the organisation, in its current form, fails to meet the legitimate interests of, or offer fair opportunities to, individuals and groups from the Global South.

To rectify this situation would require significant reform, in order to strengthen the voice of the public interest in ICANN and counterbalance the influence of the corporations. Of the two key options for accomplishing this goal – a shift towards

intergovernmental oversight, or a revival of ICANN's democratic mechanisms - the author would advocate the latter. While there is strong support for intergovernmentalism in the Global South, the potential drawbacks of an intergovernmental approach cannot be ignored. These include concerns around the potential for legitimisation and extension of governmental censorship, but beyond this, there are also real questions regarding the extent to which governmental representatives in the GAC can in fact legitimately represent the voice and the interests of the Internet-using public. Instead, deep and meaningful reform of the multistakeholder system may offer an alternative means to strengthen the voice of the Global South and its peoples within ICANN. This would require those peoples to have truly meaningful and influential representation within the organisation. While the existing 'At-Large' system is intended to provide a channel for the 'public voice', it is highly questionable whether the ALAC has much real influence, as the New gTLDs case study revealed. By contrast, the public election of representatives to ICANN's highest decisionmaking body would guarantee a public voice that could not be ignored, one that would act as an effective counterweight to the dominance of northern corporate interests.

Such reform may also provide an example that may be pertinent for other organisations in other areas of global governance. Recent waves of protest against globalisation have their roots in perceptions of a wide range of international political institutions as elite-driven, bureaucratic and technocratic organisations disconnected from the ordinary peoples of the world. In addressing its own democratic and accountability deficit, ICANN could act as an example and a proof of concept, perhaps even leading the way in helping to inspire a wider reform movement in global governance. Such a process would help to truly empower the citizens of the Global South, and indeed the world.

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Los ccTLDs y los Dilemas del Desarrollo Comercial del DNS en América Latina. Reflexiones para el Sur Global

Carolina Aguerre

1. Introducción

Internet no es una tecnología etérea ni en la nube. Está atravesada por capas de infraestructura, de códigos y protocolos, así como de contenidos que le dan vida y sustento. Pero también está envuelta por organismos, normas y principios que le imponen formas y condiciones. La historia del diseño y desarrollo de Internet se encuentra marcada por decisiones políticas, desde sus estándares hasta las instituciones que la gobiernan.

Entre sus componentes de diseño y su dimensión institucional, Internet toma forma y se adapta a los distintos contextos. Si bien puede ser un sinónimo de tecnología y medio global, la red asume en sus distintas capas y dimensiones características específicas de acuerdo a los ámbitos donde se despliega. La Internet de América Latina o del Sur Global tiene varios puntos de contacto con la Internet del hemisferio norte, pero también diferencias. Este artículo examina estas distancias a partir del DNS (*Domain Name System*), una tecnología fundamental para la masificación global de Internet.

Para la mayoría de los usuarios, el DNS es invisible, a excepción de los nombres de dominio, que con su carga semántica pueden brindar una idea de lugar, y/o concepto del elemento a recuperar. El DNS (Domain Name System), permitió, entre otros, el desarrollo de la *World Wide Web* (WWW) que acercó a Internet a millones de usuarios durante la década de 1990. La expansión del DNS como tecnología crítica para Internet también impulsó el surgimiento de organismos e instituciones que consolidaron tanto a nivel internacional, como nacional, procesos propios para su gobernanza, constituyéndose en un régimen en sí mismo (Nye, 2014; Mueller, 2002).

Al expandirse en un entorno comercial, a partir de la década del 90, la red se ha convertido en una tecnología compleja, atravesada tanto por instituciones de

estandarización *de facto* (provenientes de la industria), *ad hoc* (combinación de estándares industriales) y *de jure* (provenientes de mecanismos legales nacionales e internacionales) (Benoliel, 2003). El DNS ha impulsado uno de los mecanismos institucionales más emblemáticos y disputados de la gobernanza de Internet como ICANN (Internet Corporation for Assigned Names and Numbers) y las funciones de la IANA (Internet Assigned Numbers Authority).

A su vez, el DNS delimita un espacio de dominios "genéricos", con vocación internacional, y otro de dominios nacionales, con énfasis en la identidad del territorio. O, visto desde las teorías de globalización, expresa por un lado la visión más extendida de este fenómeno como aquel asociado a las instituciones y mecanismos que rigen procesos globales, a través de la lógica de los dominios genéricos y su entorno político y normativo definido por ICANN; por otro lado, el DNS también presenta una visión distinta de la globalización a partir de una serie de procesos y actores localizados en territorios nacionales que no tienen la capacidad de escalar globalmente, pero que se encuentran conectados a redes de actores y formaciones que conectan múltiples procesos que trascienden fronteras (Sassen, 2003), como es el caso de los ccTLD (*country code Top Level Domain)* y sus redes de interacción con ICANN y la ccNSO, asociaciones regionales[230], y otros. Desde esta perspectiva, el DNS constituye una tecnología propicia para ser examinada por sus capacidades de generar entramados institucionales complejos, que involucran diversos niveles de la globalización: el clásico entendimiento de procesos macro y el de aquellos que operan con redes de actores y de procesos transnacionales.

El control del sistema de nombres de dominio constituye una discusión crítica de políticas nacionales e internacionales, tanto en lo que concierne su infraestructura, pero también diversas dimensiones como las de usuarios, marcas, culturas y lenguas[231]. En la gestión del DNS se manifiestan las tensiones entre los distintos intereses generados por la comercialización de este espacio, que impone la necesidad de criterios de gobernanza que contemplen cuestiones que no se refieren únicamente al mercado. En tal sentido, los

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[230] Como es el caso de la asociación que nuclea a los ccTLD de América Latina y el Caribe, LACTLD. Esta figura se repite en otros continentes.

[231] Hasta mediados de los 2000 no existían dominios que tuvieran caracteres no ASCII (no latinos) en la raíz de Internet; sólo existían en el segundo nivel. A partir de 2009 la ICANN autorizó a la creación de ccTLD en caracteres no ASCII (también conocidos como IDN). El multilingüismo de la raíz de Internet y el proceso de trabajo desarrollado en la ICANN es un claro ejemplo de las presiones y tensiones para globalizar a Internet. (Véase Y.j.Park 2009; ICANN "A Primer on Internationalized Domain Names" https://community.icann.org/pages/viewpage.action?pageId=64081684).

mecanismos de autorregulación, típicos de los orígenes de Internet, cuando tanto los ingenieros pioneros de Internet como las incipientes empresas imponían las normas de juego por sí solos, cedieron terreno a la co-regulación, en la que participan tanto los gobiernos como la industria en el entramado institucional que hoy converge en ICANN[232].

Tanto en América Latina, como en otras regiones, a nivel de países, los orígenes de Internet se vincularon con las inquietudes del sector científico y de algunos gobiernos que implementaron esta tecnología en sus comunidades nacionales. En muchos casos, estos pioneros de Internet consolidaron al registro de país, o ccTLD, dentro de organizaciones académicas o de la administración pública. Pero a pesar de comienzos similares de los ccTLD, es ampliamente reconocido, incluyendo a lapropio ICANN[233], que a la fecha existen regiones menos atendidas como América Latina y África, que muestran rezagos en diversos indicadores asociados al DNS. A diferencia de lo que ocurrió en regiones como Europa Occidental o América del Norte, en los países periféricos la mayor parte de la actividad en torno al DNS en un país se asoció a las actividades del ccTLD. En economías más prósperas se consolidó una cadena de valor de emprendimientos a partir de la primera década de los 2000 y el despegue de lo que podría considerarse la industria global de DNS con la expansión de la web y usuarios conectados a Internet.

A partir del caso de América Latina, el trabajo examina las dificultades del Sur Global para el desarrollo de una cadena de valor propia asociada al DNS, con capacidad de competir en los mercados globales, como sí ha sucedido en varios de países centrales. El trabajo analiza las características del sector en la región desde una perspectiva de la cadena de valor y el negocio[234], y problematiza los arreglos de gobernanza que sostienen estos resultados de rezago.

Para ello, en la siguiente sección se desarrollan las características y evolución del DNS en su dimensión nacional e internacional, considerando particularmente el papel del ccTLD

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[232] En los orígenes de Internet y del DNS siempre fuertemente presente el gobierno de los EEUU, tanto por la financiación a través de la *National Science Foundation*, como de acuerdos que regularon la privatización de la red cuando la empresa *Network Solutions* fue otorgada la comercialización del DNS para los dominios genéricos. El rol del gobierno de ese país es para la perspectiva realista de las relaciones internacionales una prueba que los gobiernos (en este caso uno), son capaces de ejercer control y diseñar procesos en lo que refiere a Internet.

[233] En 2014 mediante un llamado público a comentarios ICANN problematiza la situación referida a las regiones poco atendidas o "under-served". https://www.icann.org/public-comments/dns-underserved-2014-05-14-en

[234] El trabajo no analiza los aspectos técnicos de la gestión del DNS en la región dado que esto implica otra serie de problemas que escapan al foco principal del trabajo.

en tanto actor referente de esta tecnología en los países en desarrollo. Luego se abordan los dilemas para la evolución del DNS, problematizando el asunto de la comercialización de los nombres de dominio desde las reglas vinculantes determinadas por la ICANN en lo referido al desarrollo de canales de venta formales de dominios.

El trabajo de campo se basa en diversas fuentes documentales de organismos regionales e internacionales, incluyendo relevamientos estadísticos y entrevistas a actores claves del DNS de la región, así como en la participación en diversos de foros como LACTLD e ICANN.

2. El DNS y los Dilemas de Gobernanza Nacional /Global

El DNS fue concebido como un mecanismo distribuido y escalable para resolver nombres de dominio sencillos de utilizar y distinguibles para los usuarios (por ejemplo, www.uba.edu.ar) en una dirección IP que se establece mediante caracteres numéricos (ejemplo: 203.160.185.48). El DNS tiene una jerarquía de datos organizada a partir de los puntos (.) en el nombre, y se estructura de derecha a izquierda. Los datos en el DNS, almacenados de manera jerárquica, y distribuidos en distintas computadoras conocidas como *servidores de dominio*, son designados como "resolvedores" en la jerga especializada. En 1984, ya se había propuesto la implementación del Sistema de Nombres de Dominio (DNS) para organizar los nombres de los nodos o *hosts* en la naciente Internet, según una jerarquía específica y con un mecanismo de resolución distribuido[235].

El sistema de dominios y direcciones en Internet está organizado en forma jerárquica en una *raíz*, y existen trece servidores raíz, espejos de aquella. Los servidores raíz proporcionan réplicas, a la vez que permiten a los resolvedores (*resolvers*) encontrar la información que se encuentra debajo de la raíz (es decir, hacia la izquierda en el "sintagma"). La primera información que pueden encontrar es el Top Level Domain (TLD, Dominio de Primer Nivel). Existen dos tipos de TLD: los genéricos o gTLD (por ejemplo, .com, .org, .net e .info) y los de país o ccTLD (por ejemplo, .ar, .br, .cl, .do y .uy). La coordinación del servidor raíz es la infraestructura crítica controlada por la ICANN (*Internet Corporation for Assigned Names and Numbers*), un organismo creado en 1998 que tiene principios de gobierno y gestión multi-sectoriales y que se encuentra

[235] Esto implicó una transición en la forma de archivar la información, basada en el viejo archivo HOSTS.TXT, al nuevo sistema. El primer estándar sobre el DNS documentado en el IETF es el RFC 882.

legalmente inscripto como organización sin fines de lucro en el Estado de California en los EEUU[236].

A partir de 1990, la presión comercial sobre Internet se hizo más fuerte: había cada vez más usuarios comerciales y aquella dejaba de ser una red académica. Los puntos de NSFNet, sucesora de ARPANET, fueron migrando a actores comerciales, y esa red cerraría finalmente en 1995. La gestión del DNS también migró a la iniciativa privada a manos de Network Solutions en 1993 quien tenía control completo del DNS en términos de TLDs y la gestión del Servidor Raíz, basada en los principios de estabilidad, competencia, coordinación e iniciativa privada, elementos que luego absorbería la ICANN en su creación en 1998. La IANA (Internet Assigned Numbers Authority), creada diez años antes que la ICANN en el seno de los ingenieros pioneros de Internet y albergada originalmente en la *University of Southern California*, más que una institución formal, constituye un conjunto de funciones necesarias para cumplir con el contrato del gobierno de los EEUU.

Un ccTLD es un dominio de primer nivel usado y reservado para un país o territorio definido por la normativa ISO 3166, basado en un código de dos letras, como se puede apreciar en los ejemplos anteriores. Cuando la IANA era administrada directamente por Jon Postel[237] desde la *University of Southern California* en las décadas de 1980, hasta 1997 cuando surgió ICANN, utilizó la normativa ISO lo que le posibilitó evadir la definición de qué constituía un país o territorio y, de esta forma, evitar problemas políticos[238]. En la mayoría de los casos, el ccTLD representa los intereses de un país, o territorio específico, y constituye la identidad y marca de ese estado en Internet. Esto le confiere un valor simbólico y económico, pero también tiene implicancias respecto de la estabilidad y seguridad de Internet, tanto nacional como mundial (Froomkin, 2001; Cukier, 2002). Los

[236] Entre 2014 y 2016 se realizó un proceso de transición de la custodia de las funciones de la IANA que implicó una reforma de la ICANN para que esta función dejara de cumplirla la NTIA de los Estados Unidos y de esta forma alejar al organismo del control unilateral por parte de un gobierno. Desde 2016 ICANN se encuentra en un proceso de revisión de sus mecanismos de gestión, estatutos y en proceso de mejorar su capacidad de gobernanza multi-sectorial a partir de avances en los procesos de rendición de cuentas.

[237] Jon Postel era considerado por muchos la persona más poderosa de Internet haasta su muerte en 1997. Fue un ingeniero qe administró la IANA y el editor de los Requests for Comments (RFC), estándares de la IETF.

[238] Aun cuando se basaron en la ISO 3166, en sus inicios, las políticas de asignación de ccTLD no estuvieron exentas de controversias. El propio hecho que se delegara el dominio .uk para el Reino Unido, cuando en la normativa ISO figura como .gb, muestra que existieron traspiés y decisiones iniciales que no pudieron escapar de la política (Yu, 2004).

primeros gTLD fueron creados en 1985[239] auspiciados por el Departamento de Defensa de los Estados Unidos. Con la creación de ICANN en 1998 se desdoblaron las funciones de registro y de venta de dominios para fomentar la diversidad del mercado de dominios y la confianza de los consumidores.

A diferencia de los gTLD, que responden directamente a normativas de ICANN y, por ende, son parte intrínseca del régimen global de Internet, el ccTLD tiene la potestad de definir sus propias políticas y procedimientos, siempre y cuando estos se encuentren alineados con estándares técnicos básicos para mantener la interoperabilidad con el DNS global. Al mismo tiempo, se rige por las leyes aplicables a su jurisdicción nacional. Es decir, este organismo tiene la capacidad de establecer políticas propias, específicas para su contexto nacional, mercado o entorno, dependiendo de su orientación[240], a la vez que tiene responsabilidades técnicas en el nivel internacional: un dominio nacional de un ccTLD tiene el mismo valor jerárquico en la raíz del sistema de nombres de dominio que un gTLD.

Los nombres de dominio se han transformado en "una clase de propiedad importante en la comunicación electrónica, que representa posición, ubicación, camino e identidad, por lo que la administración de direcciones únicas de identificación en Internet se ha convertido en un bien público global"[241] (Knill y Lempkuhl, 2002, p. 73). Esto reafirma la problemática de legitimidad en la gobernanza de ICANN que debe atender constantemente como parte de su mandato, y también señala el argumento económico de finitud o escasez de los nombres de dominio, así como de otros recursos críticos de Internet. Desde el punto de vista de la ingeniería de la raíz, los nombres de dominio no son escasos, ya que mediante procesos de rediseño, se puede expandir el servidor raíz original para incorporar nuevas extensiones de dominio. De hecho, esto es lo que ha ocurrido con la incorporación de nuevas extensiones de dominios genéricos de primer nivel, los nuevos TLD (new gTLD) aprobados en junio de 2012, que amplían el servidor actual, de casi 300 TLD, a cerca de 1500 extensiones activas en la actualidad que contemplan nombres geográficos (.flanders), de ciudades (.rio, .berlin), de comunidades

[239] .edu, .com, .org, .mil, .arpa y .net, también considerados los gTLD "históricos".

[240] En el trabajo de Y. J. Park (2008) se establece una clasificación general de aquellos ccTLD que atienden a sus ciudadanos y están orientados al "mercado interno", con políticas específicas que restringen la registración por parte de usuarios externos (.br, de Brasil, y .cn, de China), de aquellos interesados en los mercados globales (ejemplo: .be, de Bélgica y .co, de Colombia).

[241] Traducción propia.

(.gay), de marcas (.sony) y genéricos comerciales (.music, .book, .bar)[242]. No obstante, el argumento económico aporta otra perspectiva (Solum, 2008), porque incorpora la dimensión de los costos de mantenimiento y operación del servidor raíz, así como el hecho de que el espacio de dominios es escaso, porque no se puede repetir ni asignar el mismo a dos entidades distintas. Son esta clase de argumentos vinculados a la eficiencia, la rendición de cuentas, el interés público y el comportamiento económico de estos bienes[243] los que tornan particularmente conflictiva la gestión del servidor raíz. Por ende, la ICANN se encuentra bajo el examen constante de los actores que buscan mecanismos alternativos.

La Internet surge en la región en un contexto en el que ya existían experiencias de interconexión y comunicación de redes de datos en el nivel nacional en varios países, tanto en el sector universitario-científico como en el sector privado y de telecomunicaciones (constituido por empresas públicas a principios de la década de 1980). A su vez, en varios de los contextos nacionales donde los mercados son más grandes (como Brasil, México, Argentina) se inserta en el marco de una tradición de protección de las comunicaciones y de la industria local, incluyendo la informática necesaria para el caso de las comunicaciones basadas en redes IP.

Luego de los primeros años de experiencias con Internet y formas de intercomunicación entre redes, los actores involucrados con experiencias de redes de datos comenzaron a organizarse y a especializar sus funciones, en tanto los usos se diferenciaban y se volvían más complejos (gubernamentales, académicos, comunitarios y de grandes empresas). En concomitancia, emergieron mercados y cadenas de valor específicos, vinculados con dos estándares fundamentales de Internet: los de infraestructura de conexión a las redes mediante los protocolos TCP/IP[244], y los nombres de dominio, vinculados al estándar del DNS con el desarrollo de los ccTLD.

Antes del surgimiento del DNS, cada punto de conexión de la red almacenaba una copia del archivo que incluía la tabla de correspondencia de los nombres y direcciones con los

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[242] New gTLD Program Status. https://newgtlds.icann.org/en/program-status

[243] Internet y el DNS comparten algunos rasgos de bienes públicos en términos de su dificultad de exclusión y la naturaleza no-rival de muchos de sus servicios. A pesar que el DNS sí permite generar barreras de entradas y es rival (ej: un nombre de dominio apunta es de un sólo registrante y a un mismo sitio), la competencia y barreras porosas en este sector lo vuelven un espacio de disputa comercial y político.

[244] *Transmission Control Protocol / Internet Protocol* es el protocolo fundamental y definitivo de Internet que permite la transmisión de datos a los extremos de las redes (*end-to-end*), una diferencia sustantiva con otros protocolos que operan sobre la base de redes centralizadas.

demás puntos de conexión. El archivo de referencia era operado por el *Stanford Research Institute*. Sin embargo, con el crecimiento de Internet, era cada vez más evidente que este mecanismo se volvía crecientemente obsoleto en la medida en que aumentaba el número de puntos en la red. El desarrollo del DNS respondía a ese problema y, para ello, se creó una repartición jerárquica de las direcciones de la red y la distribución de la responsabilidad de mantenimiento de las tablas de enrutamiento y direccionamiento.

Tanto la consolidación de TCP/IP como la del DNS constituyen *coyunturas críticas* que iniciaron trayectos institucionales en el plano internacional[245], pero cuyos mecanismos de adaptación en contextos nacionales han sido poco examinados (Drezner, 2004). Desde el institucionalismo, las coyunturas críticas constituyen momentos en los que se relajan los controles tradicionales (provenientes de factores económicos, políticos, culturales), lo cual expande las opciones para los actores. A la vez, las decisiones tomadas en estos momentos producen legados que se perpetúan en el tiempo, en un escenario donde predomina la contingencia y el accidente histórico (Capoccia y Keleman, 2007). Este concepto es importante para comprender el escenario de consolidación de los ccTLD, que en muchos casos no eran actores con peso político o comercial, sino centros de gestión técnica que les permitieron desempeñar las funciones esenciales de administración del DNS.

2.1 Caracterización de los Registros de Dominio de País (ccTLD)

> *Recorde-se que o processo de delegação de nomes de domínio nacionais (ccTLD) ocorria a revelia dos governos, mediante a aplicação de critérios formulados pela comunidade técnica, no contexto de regime de governança estritamente norte-americano* (Lucero, 2011, p.96).

[245] Popular and scholarly histories of the Internet argue that the technical protocols were created by an epistemic community of computer experts who belonged to the IETF, and that no government could thwart this outcome. A closer look at the origins of these protocols and the regimes for managing them suggests a rather different picture. At two crucial junctures in the growth of the Internet—the acceptance of the Transmission Control Protocol/Internet Protocol (TCP/IP) for exchanging information across disparate computer networks, and the creation of the ICANN regime for governing the Internet Domain Name System (DNS)—governments took active steps to ensure that the outcome serviced their interests and that the management regime remained private but amenable to state interests. In the first episode, governments acted in concert to prevent computer firms from acquiring too much influence over the setting of standards; in the second episode, they acted to prevent particular NGOs and IGOs from acquiring too much influence. (Drezner, 2004, p.490).

El grado de adaptación al sistema internacional y las opciones domésticas adoptadas por los actores locales involucrados con la gestión del DNS ha sido escasamente investigado. Existen pocos trabajos vinculados con las interacciones de organismos focales de Internet en el plano nacional, como son los ccTLD (*country code Top Level Domain*), con el régimen internacional (Park 2008; Mueller 2002). Estos organismos constituyen el vínculo nacional con el sistema internacional de nombres de dominio, uno de los componentes más institucionalizados del régimen internacional de gobernanza de Internet. A fines de la década de 1980 y comienzos de la de 1990, estos organismos fueron formalizados mediante estándares de carácter informativo, como el RFC 1591 (1994) del IETF, a partir de mecanismos informales de delegación. Estos mecanismos otorgan una gran autonomía a los actores nacionales, porque brindan servicios de delegación de nombres de dominio con identificadores únicos nacionales (en el caso de este trabajo, el .ar y el .br).

A pesar que la ICANN no posee mecanismos formales para reglamentar los ccTLD (lo que sí puede hacer con los gTLD), este organismo implementó tres dispositivos con el fin de encuadrarlos. El primero, que resulta el menos vinculante en términos contractuales, se conoce como "intercambio de cartas" y es una formalización de reconocimiento mutuo. El segundo es el "marco de responsabilidad", que implica un marco de cooperación más estrecho entre ambos organismos, y el tercero es un contrato formal donde se establecen los deberes y derechos de la ICANN y del ccTLD. Este es el formato que establece más condiciones, y en él se pone en evidencia una triangulación entre el gobierno, el ccTLD y la ICANN[246]. En la actualidad, predominan el "marco de responsabilidad" y el "intercambio de cartas" con los 69 ccTLD que han firmado tales documentos. En total, son 13 los registros nacionales en América Latina que tienen algún tipo de vínculo formal por escrito con este organismo, un porcentaje alto considerando que en esta región el total de registros (sin el Caribe) comprende 22 países.[247]

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[246] Esta modalidad se abandonó en 2005, ya que la ICANN se encontró con una gran resistencia por parte de los ccTLD a incorporarse formalmente a su régimen de esa manera. El contrato no se pudo consolidar como un modelo viable de relaciones, fundamentalmente por dos razones. En primer lugar, son pocos los ccTLD que están controlados por organismos de gobierno interesados en establecer relaciones formales con ICANN. En segundo lugar, porque los ccTLD que no están bajo la órbita de una oficina gubernamental no desean establecer acuerdos que puedan implicar controles por parte del gobierno local. Los 16 contratos y memorandos de entendimiento se llevaron adelante entre 2000 y 2005.

[247] En 2017, eran 69 los ccTLD que mantenían uno de estos dos tipos de acuerdos con la ICANN, establecidos a partir de marzo de 2006. Antes de esa fecha, se redactaron 16 contratos formales y memorandos de entendimiento de acuerdo con los principios iniciales de las prácticas de relacionamiento

Desde el establecimiento de la ICANN, los ccTLD se abrieron a la registración de dominios, más allá de sus fronteras organizacionales (Park, 2008). Al mismo tiempo, muchos ccTLD introdujeron la práctica de cobrar tarifas de registro de nombres de dominio. Este cambio fundamental en la administración de los ccTLD ha llevado a que estos registros evolucionen como instituciones económicas y políticas, incluso trascendiendo su jurisdicción de origen.

Otro aspecto a considerar es que los ccTLD pueden tener diversas formas organizativas e institucionales. Esto implica que, según los orígenes y el desarrollo de Internet en cada país, habrá registros nacionales que son organizaciones de la sociedad civil, organismos universitarios, empresas comerciales, entes gubernamentales o una combinación de varios. Cada ccTLD es diferente porque obtuvo el derecho a la administración de los identificadores únicos de dominio de primer nivel en su territorio gracias a una delegación oficial, otorgada por el entonces encargado de administrar el DNS, Jon Postel. Entre 1985 y 1993, Postel otorgaba esta delegación al primer actor que la solicitara, basándose en mecanismos informales, el conocimiento mutuo (casi todos los ccTLD en esa época pertenecían a universidades), la confianza (debía ser una *persona responsable* [248]) o simplemente el interés (Yu, 2004). En otras palabras, el origen de las políticas públicas en materia de ccTLD fue un ordenamiento ad hoc y de coordinación informal que, a medida que Internet fue creciendo, fue reemplazado por mecanismos más formales de gobernanza en el marco internacional.

Como se mencionó anteriormente, existe un documento básico, el RFC 1591, redactado en 1994 por Postel, que describe las características esenciales de un ccTLD según su creador y es un estándar informativo del IETF. A pesar de su carácter no vinculante, el RFC 1591 es uno de los pocos instrumentos que establece el régimen de Internet (en aquel entonces muy poco institucionalizado) en relación con las responsabilidades de los actores nacionales en la administración del registro de país (ccTLD). Allí se menciona que los ccTLD están gestionados por un organismo administrador para ese país, al que se le confiere la capacidad de delegar partes del árbol de nombres[249]. Un aspecto central de este documento es que le confiere una amplia libertad a los administradores a los que se

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de la ICANN con los ccTLD (ICANN Agreements, s/f). Los ccTLD de América Latina que firmaron dichos documentos son: .br, .ec, .py, .mx, .uy, .bo, .cr, .sv, .pa, .ni, .sv, .pe, .hn y .cl.

[248] Postel citado en Mueller (2002, p. 88).

[249] Un ejemplo de esto es el caso de .ar, que delegó el edu.ar al Centro de Computación de la Facultad de Ciencias Exactas de la UBA en 1989.

les ha delegado la función de administración de un registro de país. No obstante, se destaca que "estos administradores están realizando un servicio público en favor de la comunidad Internet (...) La mayor preocupación en la designación del administrador de un dominio es que sea capaz de cumplir con las responsabilidades necesarias y que tenga la capacidad de realizar un trabajo equitativo, justo, honesto y competente" (RFC 1591, 1994, p.3-5).

El documento enfatiza, asimismo, el trato equitativo que el administrador debe dar a todas las solicitudes, sean estas de carácter comercial o académico. Se hace evidente, así, el creciente impacto que las condiciones de comercialización de nombres de dominio imponían ya en aquel entonces al DNS, incluyendo a los ccTLD, que no habían nacido originalmente como actores comerciales. El poco control inicial ejercido por las autoridades de la IANA (Postel) sobre la organización a la que se delegaba un registro de país, sumado a la vaguedad de los principios del RFC 1591 (1994) y a la poca autoridad reinante en esta materia, generó algunos conflictos iniciales entre los actores nacionales (casi siempre involucrando a los gobiernos) y la IANA y la ICANN. Muchos de esos conflictos fueron resueltos cuando el Estado nacional reclamó el recurso como propio y la IANA ejecutó las recomendaciones de los actores estatales[250].

Puesto que Internet es considerada cada vez más como un recurso nacional estratégico, el ámbito nacional es un espacio vital para incidir sobre la Internet global, como lo conocen tanto muchas potencias, tanto occidentales como no-occidentales (Chen, Hwa Ang, 2011; Ayers, 2016; Mueller, 2010). El ccTLD, particularmente, se encuentra bajo la mira por ser el aspecto visible de la identidad nacional de Internet en el ciberespacio (Froomkin, 2004). El trabajo de Y. J. Park (2008) examina las variaciones existentes en los ccTLD de diversos países en cuanto a su orientación, ya sea hacia estrategias para expandir el mercado de nombres de dominio, o hacia la regulación estatal, en la que se establecen valores políticos y de identidad nacional., Park establece correlaciones entre la participación en el régimen y el cumplimiento de sus normas como resultado de ese involucramiento. Esta autora encuentra que cuanto más participa un ccTLD en la ccNSO de la ICANN (que se examina en el siguiente párrafo), más tiende a implementar estrategias de expansión hacia el mercado global para los nombres de dominio

[250] Existen varios casos documentados en Yu (2004) y Park (2009), entre los que se encuentran: .bt (Bhután), .ht (Haití), .ly (Lybia) y .ng (Nigeria)). Cada vez que un actor gubernamental reclamó ante la IANA/ICANN la delegación del ccTLD cuando este se encontraba en manos de un ente privado, se le concedió ese "permiso" de delegación.

nacionales. Este comportamiento es distinto para el caso de los actores gubernamentales que participan del GAC en la ICANN. Cuanto mayor la asistencia al GAC y participación en él por parte de los gobiernos, mayor el interés por regular, supervisar y controlar las actividades del ccTLD[251]. El estudio también destaca que entre los ccTLD relevados, aquellos en los cuales el Estado tiene más injerencia no necesariamente buscan estrategias menos competitivas desde el punto de vista comercial. Este último aspecto tiene una connotación central: no necesariamente una mayor regulación estatal del registro implica perder su vocación comercial, incluso fuera de su jurisdicción.

El foro global de ccTLD lo constituye la ccNSO (country code Name Supporting Organization), que es la organización soporte de los ccTLD ante la ICANN. Fue creada en 2003 por 35 ccTLD de todas las regiones, y tiene la responsabilidad de coordinar los asuntos vinculados con los nombres de dominio de los ccTLD en ese organismo. Es el instrumento más directo que poseen los ccTLD para incidir sobre las políticas de la ICANN que los afectan. En julio de 2017, tenía 162 ccTLD miembros, y la mayor parte de los países de América Latina son miembros de este organismo. Incluso en su creación, un tercio de los miembros provenían de esta región, lo que indica un alto grado de adhesión a las iniciativas institucionales internacionales ya desde los orígenes.

Un elemento adicional de los ccTLD es su papel como nodo nacional en temas de gobernanza de Internet. Desde 2013 en la región han proliferado las iniciativas nacionales de gobernanza de Internet (Aguerre, Galperin, 2015) y en todas ellas hay una presencia – en distintos grados según el contexto nacional - del registro de nombres de dominio. Estos organismos que inicialmente cumplieron una función estrictamente técnica, con la consolidación de las distintas instituciones y funciones de Internet han pasado a ocupar un espacio más visible y central en lo referente a políticas y gobernanza de Internet en sus respectivas comunidades nacionales. La gestión técnica del DNS por parte de un ccTLD es un punto de conexión con las reglas del régimen internacional de Internet. Cuando esta función técnica es complementada con otras acciones, como los vínculos contractuales con la ICANN y la participación en otros foros y espacios técnicos de la región (como LACNIC, LACNOG) o políticos y de gobernanza (como la ccnNSO-ICANN, LACIGF, IGF), esta gestión aparece legitimando y consolidando esta acción.

[251] Toma a 35 países miembros de la OECD y a los cuatro Estados BRIC (Brasil, Rusia, India y China). La inclusión de Brasil es particularmente relevante para el presente trabajo en tanto exponente de la región.

Una característica del entorno de ccTLD en la región se basa en la naturaleza no comercial de muchos de estos registros. Aunque solo el 30% son empresas privadas (ICANN, 2017), algunos son parte de una estructura más grande en gobiernos y universidades y pueden ser tan competitivos como los provenientes del sector privado (.mx es un ejemplo de ello). Sin embargo, "el carácter sin fines de lucro de la mayoría de los ccTLD y el hecho que muchos registros estén en un entorno gubernamental, o académico, a menudo limita la libertad que tiene el gerente de un TLD para tomar decisiones y desarrollar una estrategia comercial independiente para su ccTLD"[252]. A pesar que se puede caracterizar a los ccTLD de América Latina como más orientados a cuidar los aspectos técnicos y político-institucionales que los comerciales, esta tendencia comienza a ser lentamente revertida como es el caso de registros como el .mx, ya señalado, pero particularmente el .co. Éste último constituye un ejemplo de registro de país globalizado en términos de adopción de la normativa y regulación de ICANN en su dimensión comercial, con una base de usuarios internacional. También es fundamental destacar que este registro es operado por una empresa multinacional (con base en Estados Unidos) bajo un contrato con el Ministerio TIC de Colombia, el titular de registro .co. De esta forma, la imbricación del DNS en la región se produce no sólo bajo el formato de reglas técnicas y políticas del régimen internacional de gobernanza de Internet, sino que se pone en evidencia el complejo entramado de intereses y actores del sector privado que buscan desarrollar nuevos mercados y cadenas de valor apelando a formatos no convencionales en otras industrias.

Hasta aquí el trabajo ha desarrollado la evolución de la gobernanza del DNS y el papel de los ccTLD como actores pioneros del DNS en América Latina. En la siguiente sección se desarrollarán los problemas que ha enfrentado el despliegue de una industria del DNS en la región.

2.2 Estadísticas del DNS en la Región

Cuando en junio de 2012 se cerró el período de postulaciones para los nuevos gTLD, se materializó un escenario en el cual sobresalieron las características de desigualdad en la participación en el sector: América Latina contó con 24 aplicaciones y África con 17. Esto contrastó con más de 300 aplicaciones de Asia Pacífico, más de 600 en Europa y las restantes casi mil provenientes de América del Norte. Este escenario acompañó lo que ya

[252] Wim Degezelle, 2015. (Traducción propia).

venían indicando otros estudios: apenas uno o dos ccTLD de la región se encontraban entre los primeros 20 del mundo en términos de tamaño de la zona[253], mientras que ningún ccTLD de África ha estado jamás en estas listas. Una situación similar emerge del análisis de los principales agentes registradores del mundo: ninguno de los principales diez agentes registradores en la última década provino de una región del Sur Global, siendo la mayoría de América del Norte (EEUU y Canadá), y de Europa, y existiendo cada vez menos registradores acreditados en África y América Latina, donde hoy no llegan a sumar a más de una docena de operadores propios en ambos continentes.

Existe una amplia gama de penetración de nombres de dominio en la región, desde muy alta, como en Islas Caimán y Bahamas, hasta muy baja, como es el caso de Guatemala y Bolivia. Haciendo foco sobre los cuatro países más poblados en América Latina (Brasil, México, Colombia, Argentina), la tasa de penetración media es de 22 dominios por cada 1,000 habitantes. Estos números acompañana el índice promedio de acceso a Internet, que promedian 55% en esos países, en comparación con 94% en los Países Bajos y 90% en el Reino Unido y que adicionalmente se encuentran entre los primeros diez puestos mundiales en el Índice de Desarrollo de las TIC (ITU, 2017). Esto indica que la penetración de dominios debe entenderse en el contexto de la economía y el desarrollo de la sociedad de información de un país o región.

En la investigación realizada para la ICANN sobre el mercado del DNS, durante 2016 la región presenta un panorama de registro de dominios que, en agregado, suma 12 millones y medio de nombres de dominio, de los cuales unos 8 millones se corresponden a nombres de ccTLD y los restantes 4.5 corresponden a dominios genéricos. El total de dominios registrados durante ese período en el mundo era de 334.6 millones, lo que significa que el volumen de dominios registrados en América Latina y el Caribe representa el 3,7% del total de dominios activos para el mismo período (Verisign DNIB, Q2, 2016). (GRÁFICO 1). De los 4.5 millones de dominios genéricos, un cuarto millón de dominios correspondían a los nuevos TLD. Este número es equivalente a casi el 1% de los dominios de los nuevos gTLD para el mismo período (Verisign DNIB Q2, 2016) (GRÁFICO 2). Todos estos números reflejan la baja incidencia de los dominios registrados en la región en el volumen total de dominios, números que son mucho más bajos que el total de

[253] Dependiendo del año, el .br, el .ar y luego el .co han sido los ccTLD de América Latina con las zonas más grandes en esta categoría de registros.

la población en América Latina y el Caribe con respecto a la población global, dado que la región representa más del 8% de esta última.

Gráfico 1

Fuente: ICANN (2017)

Gráfico 2

Fuente: ICANN (2017)

Esta tendencia también se observa en otras regiones como Medio Oriente y África, caracterizadas como regiones "poco atendidas" por servicios de DNS de acuerdo a la ICANN. En Medio Oriente y Países Adyacentes (2016)[254], los 2.9 millones de dominios registrados en esa región representaban el 1% del total de dominios del mundo para fines de 2015, y al igual que en América Latina y el Caribe, la mayoría se correspondían a dominios provenientes de ccTLD. En África el volumen total de dominios registrados en esa región asciende a 5,1 millones, equivalentes al 1,5% de dominios mundiales (ICANN 2017; Verisign DNIB Q4 2016).

En una región de tal diversidad como América Latina y el Caribe, es de esperar que las tasas de penetración de nombres de dominio varíen. Dada esa diversidad, realizar promedios regionales puede tener una utilidad limitada, aunque las comparaciones con otros países y regiones también pueden servir como un punto de referencia para ayudar a comprender qué niveles se han logrado en otros lugares.

Tabla 1

País	Dominios cada 1000 hab.
Países Bajos	330
Reino Unido	165
Italia	46
Croacia	20
Turquía	15
Emiratos Arabes	15
Promedio en América Latina y Caribe	15

Fuente: ICANN 2017

[254] https://www.icann.org/en/system/files/files/meac-dns-study-26feb16-en.pdf

Si bien la penetración media del nombre de dominio en la región es equivalente a la de Turquía o los Emiratos Árabes Unidos, la región también cuenta con algunos índices nacionales de penetración de nombres de dominio que son muy altos, como es el caso de Islas Caimán y Bahamas. Estos números se explican porque las empresas que registran y venden dominios en estas islas sirven a un mercado global. Incluso excluyendo los registros de proxy de privacidad, las Islas Caimán presentan 4.000 dominios por cada 1.000 habitantes. Bahamas tiene aproximadamente 1.000 dominios por cada 1.000 habitantes (uno por habitante), Belice 400 y Barbados 150. Excluyendo estos países, la mediana de penetración de dominios por país es 13 cada 1.000 habitantes, desde Colombia (49) hasta Bolivia (3). La industria de los nombres de dominio parece presentar el mismo principio de desplazamiento geográfico que se aplica a algunos servicios financieros (ICANN, 2017), elemento que no resulta extraño en tanto ambos, Internet y finanzas son aspectos fundamentales para la provisión de servicios en una economía globalizada, al mismo tiempo que se encuentran inscriptos en dinámicas territoriales, incluyendo sus regulaciones específicas, pero al servicio de una orden económico internacional (Sassen, 2003).

El volumen de dominios en registros ccTLD tiende a ser mayor que el de los dominios de registros de gTLD en los cinco principales mercados de dominios de la región: .br, .co .mx, .ar, .cl. Durante el período 2010-2015, la tasa de crecimiento anual de la región fue en promedio del 6%, registrando un pico de crecimiento entre 2010-2011 del 19%. Las tasas de crecimiento en la región (excluyendo valores atípicos[255]) se acercan al crecimiento de los nombres de dominio agregados a nivel global (ICANN, 2017).

A modo de síntesis de esta sección, la adopción de nombres de dominio en la región como proxy de una adopción de Internet "autóctona" muestra resultados mixtos en términos de un proceso de apropiación y desarrollo por actores y usuarios de la región. Resulta más claro que la fase comercial del desarrollo del DNS no ha podido ser acompañada al mismo ritmo por actores del Sur Global (tanto empresas como usuarios finales) que por los países más avanzados. A continuación se analizan algunas de estas causas en América Latina y el Caribe.

[255] Provenientes de casos de registros con políticas que han generado abruptas cambios en las tendencias regionales de crecimiento producto de sus políticas (.ar) y de cambios institucionales (.co).

3. Problemas en la Cadena de Valor del DNS en la Región

El concepto de "cadena de valor" (Porter, 1985) conlleva a una caracterización de cinco dimensiones cuyas actividades primarias se enfocan en otorgar valor a una organización o sector, y a sus usuarios. Estas cinco dimensiones son: logística interna (recepción de materia prima, en el caso del DNS, de datos), operaciones (procesamiento), logística externa (envío del producto/servicio), marketing y ventas, y por último, los servicios. No es objetivo del trabajo problematizar esta caracterización, pero sí es relevante considerar que son diversos los elementos que componen la cadena de valor y que desde la creación de la ICANN se visualizó como necesario entender y desdoblar muchas de estas funciones para evitar caer en monopolios, como los que ya se estaban dando previo a la existencia de este organismo, en los que las funciones de registro y de agente registrador estaban concentradas para los dominios genéricos de aquel entonces en un solo gran operador basado en EEUU[256]. De acuerdo a esta caracterización de la cadena de valor de Porter, con las funciones que describe la ICANN para los registros y agentes registradores que se aplican a los gTLD, las dimensiones de recepción y procesamiento corresponden a los registros, los restantes a los agentes registradores.

La comercialización de dominios y la expansión y diversificación de este mercado ha sido uno de los grandes *leitmotivs* de la creación de la ICANN. Sin embargo, no fue sino hasta el 2012 con el programa de nuevos TLD cuando quedó en evidencia que la cadena de valor de esta industria no estaba integrando a los actores del Sur Global. Una de las principales debilidades de la cadena de valor del DNS en la región se vincula con la dimensión de ventas, así como a la falta de registradores oficiales acreditados por este organismo[257]. Esta debilidad se ve parcialmente compensada por una extensa red de pequeños revendedores y otros intermediarios, especialmente compañías de hosting. Sin embargo, cuando los revendedores locales y nacionales se encuentran en un mercado donde el ccTLD tiene una participación de mercado significativa (como es el caso de Argentina, Brasil, Chile, Colombia, Paraguay, Uruguay) esos mismos revendedores locales y nacionales se enfocan más en las ventas de dominios de ccTLD, lo que los vuelve más locales. Si a esto se le suma que los registradores y revendedores deben establecer alianzas y acuerdos con un registrador acreditado por la ICANN para vender un gTLD, y

[256] Como era el caso de Network Solutions que administraba los dominios genéricos existentes hasta entonces así como su registro y venta.

[257] Conocidos en inglés como *ICANN accredited registrars*.

este requisito constituye una barrera insalvable para muchos de estos pequeños operadores, incluso en los países de la región donde hay una mayor presencia de Internet y servicios asociados.

El declive de agentes registradores acreditados por la ICANN en la región se produjo con el nuevo *Registrar Accreditation Agreement* (RAA) de 2013, que impuso más condiciones de cumplimiento y de servicio, que encarecieron la operación, y tornaron su operación económicamente inviable en ALC. Se registra un descenos de 28 agentes registradores oficiales en 2013, a menos de 20 en 2017. Cuando este fenómeno se considera en relación a la expansión de la oferta de dominios con los nuevos TLD, se produce una concentración más marcada en la comercialización de los dominios.

Para los intermediarios no especializados que participan en la venta de dominios en la región, como las empresas de hosting o los ISP, un nombre de dominio es solo una pequeña parte de los servicios que ofrecen. Para éstos, los nombres de dominio generalmente se incluyen empaquetados con otros servicios, como alojamiento, plantillas de diseño, instalaciones de comercio electrónico, SEO e incluso conectividad a Internet (por ejemplo, en el caso de los revendedores que actúan como ISP). Estas últimas actividades son mucho más lucrativas, y los intermediarios tienen un mayor control sobre el precio y la prestación de este servicio que sobre un nombre de dominio. Los servicios complementarios también son provistos tanto por los registros no acreditados como por los que sí, como una propuesta comercial clave[258] (ICANN 2015). En este aspecto, la industria local tiende a asimilar las prácticas internacionales.

Entre diversos expertos y partes interesadas involucradas en la cadena de valor DNS, la falta de visibilidad y conocimiento de los nombres de dominio, particularmente en el caso de los nuevos TLD, se erige como la barrera más importante para la captación de nombres de dominio (ICANN 2017). Además, a falta de registradores acreditados ante la ICANN, la presencia de un mercado de revendedores es una característica dominante en la región. Desde una perspectiva de empresas a consumidores, las empresas de hosting, revendedores, registradores y registros (particularmente los nuevos TLD, pero también los ccTLD) son responsables de atraer al usuario final, promover la conciencia sobre el valor de un nombre de dominio y comercializar las oportunidades que surgen con los nuevos TLD. De igual forma, dos tercios de los ccTLD de la región no han desarrollado un

[258] Más del 50% de los registradores acreditados por la ICANN ofrece al menos uno de los siguientes servicios, en orden de importancia: hosting, e-mail, servidor, SSL. (Rafert y Tucker, 2015).

mercado horizontal formal de venta de dominios como sí ha sucedido en Europa y en las economías desarrolladas de Asia Pacífico, sino que son ellos directamente quienes proporcionan tanto el servicio de registro como la comercialización. Esta práctica no está alineada con las recomendaciones internacionales a partir de la evidencia positiva del desdoblamiento de la comercialización de los dominios de la función de registro, pero es funcional para otros intereses de las organizaciones de las que forman parte los ccTLD. A pesar que la mayoría de los ccTLD no tienen canales de venta oficiales con registradores, la mayoría de ellos están disponibles (a diferentes tarifas) con revendedores y registradores internacionales. De 18 ccTLD encuestados por LACTLD[259], solo .br y .co tienen mecanismos formales de reconocimiento para los registradores y ninguno para los revendedores en el lugar.

Los ccTLD más grandes de la región han implementado el modelo de registro y registrador motivados por distintas coyunturas del registro. En el caso de .co, el atractivo global del TLD es un factor muy importante; el .br tiene una sólida reputación nacional y un gran mercado doméstico; .mx ha sido tradicionalmente un registro con un departamento de marketing fuerte y también tiene un mercado nacional de grandes proporciones. Este conocimiento de las reglas de juego de la comercialización ha sido puesto en práctica en el registro con una diversificación de sus propias funciones de venta: es el único ccTLD de la región que ha desarrollado su propio agente registrador (Akky), que está acreditado por la ICANN.

La evidencia provista por los ccTLD europeos que en gran parte han implementado el modelo de desdoblar las funciones de registro y de ventas, y de los ccTLD en la región de Medio Oriente y Países Adyacentes que han adoptado modelos mixtos, muestran en ambos casos mayores tasas de crecimiento que aquellos que aún trabajan con modelos de registro directo.

3.1 Prácticas y Políticas de Registro en la Región

El isomorfismo mimético, mecanismo que se da como respuesta a la incertidumbre y a partir de la difusión de normas y buenas prácticas (Powell y Di Maggio, 1983) ha proporcionado algunas lecciones en las últimas dos décadas de evolución de la industria de dominios. Una práctica extendida es la de buscar políticas de registro lo más abiertas posibles, y sin restricciones de presencia local. Este último es el requisito más

[259] En: LAC DNS Marketplace Study 2017.

ampliamente exigido para un dominio de ccTLD en América Latina, pero también en otras regiones del Sur Global, de acuerdo a la perspectiva de agentes registradores globales o regionales interesados en estos mercados (ICANN 2017; ICANN 2016).

En el mundo de ccTLD, los registros que han desarrollado políticas sujetas a requisitos de presencia local enfrentan en ocasiones mayores desafíos para crecer que aquellos con políticas más abiertas, particularmente si se examina en comparación con el .com. Sin embargo, algunos de los ccTLD más exitosos de la región en términos de cuota de mercado con respecto a los genéricos, como .br (Brasil) que históricamente ha desarrollado políticas de presencia local para los registrantes, muestra una vez más que las tendencias en este entorno son indicaciones, pero no garantías de desarrollo de un modelo determinado. En el caso de .br, la sostenibilidad de la operación bajo esta restricción está garantizada por el tamaño del mercado nacional. El comportamiento de los registrantes es también un factor a considerar, ya que a pesar que el registro .br[260] exige números fiscales de identificación, estas reglas son muchas veces circunvaladas mediante distintos mecanismos.

La implementación de instalaciones de pago en línea en los diferentes canales de venta es un componente esencial para el negocio de registro, así como para todos los operadores que buscan formar parte de la economía digital global. Existe una fuerte evidencia de que eliminar la fricción para las transacciones en línea es esencial para una empresa que necesita responder a las demandas de servicio 24/7, sin papel y para operar en tiempo real. Los registros .do (República Dominicana) y .gt (Guatemala) son ejemplos regionales de cómo el despliegue de pagos en línea en sus plataformas, como una medida independiente, fomentó el crecimiento del dominio. Esta medida se ha destacado como una de las estrategias más relevantes para el crecimiento por ccTLD de la región de LACTLD, y aún hay un puñado de revendedores y de registros que no tienen el servicio completamente desarrollado.

En Brasil, el mercado nacional más grande de la región, el uso extendido de *boleto bancario* - un mecanismo tradicional que existía antes de Internet - es, para muchos, una alternativa más creíble a los pagos en línea a través de tarjetas de crédito, PayPal, etc. Esto impone desafíos que no son meramente técnicos, sino que también se extienden a valores sociales, a la confianza y a los problemas de bancarización de la población en

[260] El .ar es otro ccTLD de la región que impulsa la misma política de registro mediante identificación con el número fiscal.

general, que son de larga trayectoria tanto en América Latina como en el Sur Global más ampliamente (BID DIA 2016).

Los usuarios también exigen servicios de activación más rápidos para que puedan tener una presencia en línea inmediata a través de un nombre de dominio. América Latina es la región con mayor proporción de usuarios de redes sociales en el mundo, con más de dos tercios de los internautas suscriptos a alguno de estos servicios (Pew Global Research 2016). Comparar la diferencia en la velocidad de activación con la creación de un perfil en línea en una plataforma de red social muestra que sigue habiendo desafíos que enfrentan la activación inmediata del nombre de dominio que no siempre se deben necesariamente a problemas técnicos. En cambio, la barrera son los controles administrativos (incluidos los controles financieros y las demoras porque el proceso no está automatizado) (ICANN, 2017).

Aunque el precio es una variable que tiene una incidencia usualmente importante en el posicionamiento de los bienes o servicios, las reglas en el mercado de los nombres de dominio son particulares. En primer lugar, en un entorno comercial, el precio de un nombre de dominio rara vez es tan alto que actúe como barrera para una organización o usuario. En segundo lugar, porque la dinámica del mercado para una adquisición y una renovación varía ampliamente: una vez que se ha utilizado un nombre de dominio, adquiere más valor tanto para el registrante como para otros usuarios. Las renovaciones de nombres de dominio tienden a costar más que los registros iniciales.

En la región, el precio de un .com sigue siendo el estándar de facto contra el cual los usuarios finales evalúan el costo de un dominio. El mayor precio de los dominios locales de ccTLD frente a estos – en un promedio regional que llegar a ser de 30 dólares por dominio por año en comparación con los 10 dólares estadounidenses de un .com - es una de las razones por las cuales en algunos países el nombre de dominio local no ha adquirido una gran participación de mercado. Una consideración adicional en torno a las tarifas es que los identificadores de dominio, que tienen un costo, están siendo desafiados por el mundo de perfiles de redes sociales gratuitos. Si bien no existe evidencia concluyente de sustitución de un perfil de redes sociales por un sitio web, hay evidencia que todavía un tercio de las PYMES en América Latina no usa ni página web ni email (LATE, 2017). Aquellos países de la región que pasaron el umbral del 50% de habitantes con acceso a Internet en los últimos tres años, son con usuarios de *smartphones*, no de computadoras (ITU, 2017). Esto implica una visión de Internet que se

concentra en el mundo de aplicaciones y plataformas, más que de dominios. A su vez, estos usuarios de Internet son más proclives a producir contenidos en el ámbito de las redes sociales, más que en sitios web, blogs, etcétera. Esto tiene un impacto sobre el crecimiento de los dominios entre los usuarios de la región.

Comentarios Finales

Si bien se puede constatar que hay un alineamiento político por parte de los actores involucrados en el DNS en la región, incluyendo a los ccTLD, con los mecanismos del régimen internacional y fundamentalmente en torno a la ICANN a partir de diversos indicadores como su participación en la ccNSO y los crecientes vínculos formales con ICANN (fundamentalmente a partir de cartas de entendimiento), no se ha logrado generar una verdadera industria en torno al DNS en América latina y el Caribe. A diferencia, en muchos contextos nacionales europeos o asiáticos, donde el propio ccTLD nacional jugó un papel relevante, sobre todo en términos de desarrollo horizontal de la comercialización de los nombres con registradores, se amplió la cadena de valor en los países, exportando estos servicios. La mayor parte de los ccTLD de la región son aún entidades que no contemplan una finalidad comercial, y estos son organizaciones focales del DNS en un país. El desarrollo de mercados propios del DNS emerge como una necesidad y proyecto real; el mercado internacional por el contrario ya se encuentra atendido, y el desarrollo de competencia por parte de actores del Sur Global en esta industria ya parece ser una voluntad más política que una necesidad comercial.

Como en otras industrias y sectores productivos en América Latina, existe una dificultad para generar campeones internacionales desde esta región (Grazzi y Pietrobelli, 2016). Las variables de contexto que ya de por sí afectan otros sectores vinculadas a la economía digital, como los pagos online, los flujos de datos transfronterizos, regulaciones que tienen poca capacidad de contemplar el escenario inter-jurisdiccional de las nuevas tecnologías, barreras lingüísticas y restricciones a nivel de infraestructura de conectividad y de la nube, son algunas de las principales dificultades que también atraviesan la cadena de valor del DNS en la región.

Sin embargo, estas características deben además complementarse con la amenaza concreta de sustitución de producto (Porter, 2008) que representan otras formas de identificación de contenidos en Internet, notablemente redes sociales y apps. A su vez, las asimetrías entre los registros (tanto de país como genéricos), así como en los

operadores que intervienen en la cadena comercial, refuerzan la posición dominante de varios de los principales actores del mercado del DNS que, como servicios que se desarrollan bajo fuertes efectos de red, buscan consolidarse y devienen en jugadores de peso global.

Si bien los distintos actores regionales involucrados en el DNS reconocen el peso político de los mecanismos de ICANN y sus grupos de trabajo y sectores, la participación en estos espacios es escasa e insuficiente como para desplegar nuevas reglas de juego que permitan favorecer el crecimiento de nuevas empresas en estas regiones. En la medida que son los mismos actores que participan quienes definen las reglas, hay un problema de representación que debe atenderse. La participación en este sector, y la apertura a nuevos actores del Sur Global requiere reconocer las asimetrías existentes, atendiendo al problema que es una industria que crece a tasas más bajas que otras áreas de Internet.

Sin embargo, la participación en el contexto del régimen internacional asociado al DNS es una condición necesaria, pero no suficiente para garantizar el desarrollo de un ecosistema de actores involucrados con la comercialización y el robustecimiento del DNS como una industria o sector específico en la región de América Latina y el Caribe. Las variables nacionales y regionales imponen condiciones al desarrollo del sector que trascienden la capacidad de un solo actor organizado en el país, como podría ser un ccTLD, para poder desarrollar más ampliamente este ecosistema. Se vuelve necesario re-conceptualizar las bases asentadas del régimen a través de una ICANN para que esta organización sea capaz de reconocer los problemas que enfrenta un sector ya consolidado - con capacidad de imponer reglas globales - junto con la dimensión más local del problema, con actores involucrados que, ya sea por su rol histórico como es el caso de los ccTLD, como de los emprendedores del Sur Global, necesitan integrarse al sistema y desplegar capacidad de agencia para garantizar un sistema más equitativo en la dimensión comercial del DNS.

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Deconstructing the Paradoxes of South Africa's Emerging Discourse and Framework on ICTs and Internet Governance

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1. Introduction

Changing Internet governance policy is the subject of significant debate and discussion, as the South African government attempts to introduce controversial new policy initiatives covering information communication technologies (ICTs) in general (GILBERT, 2017c). These specific and national developments are taking place within what seems to be a much wider crisis of confidence in the complex global system of Internet governance, particularly in terms of transparency and in terms of the dominance of the private sector and the United States (BRADSHAW et al. 2017, p.46). Encouraged by the outcry against online surveillance by the U.S.'s National Security Agency (NSA) as well as the control of U.S. based online platforms and tools companies, such as Google, Facebook, Paypal, Amazon, Twitter, Yahoo and Microsoft, the BRICS countries[261] (Brazil, Russia, India, China, and South Africa) have called for an alternative model of Internet governance to preserve "the internet as a global common good" (AGARWAL, 2017). The importance of principles of multilateralism/multi-stakeholderism, transparency and democracy are highlighted and underscored in the revised positions on Internet governance propagated by these countries.

Against this background, South Africa has recently adopted a new policy framework on ICTs and Internet Governance: the *National Integrated ICT Policy White Paper* of 28 September 2016 [hereinafter "the White Paper"]. This policy, as will be discussed in detail below, sets out a revised policy position for a national Internet governance system based around the "core philosophy" of the Open Internet and the Internet as a public good, and

[261] Representing major emerging economies and acting as counter balance to Western dominance in international affairs.

against the challenges of the global Internet governance system identified therein. Yet, the development of this policy took place in an environment in which public trust in government has declined significantly with a more generalised political and economic crisis evolving around the presidency of Jacob Zuma (in power from 2009 until his forced resignation in February 2018), and most especially with regard to the issue of 'state capture' or grand corruption.[262] Moreover, four years in the making, the ICT Policy has been strongly criticised, not least for the lack of transparency in its development, especially in the final stages (OGUZ, 2017).

Against this background, this chapter examines the development of the White Paper, setting this within a historical framework of ICT policies in South Africa, before critiquing the new policy positions against recent developments within the ICT sector in the country. Critically, we argue that there are a number of paradoxes at play within South Africa's rhetoric on Internet governance – as captured in the White Paper. Indeed, we note that while the White Paper discusses the Internet as a basic right, the country has spoken about the limitations of online rights at international fora. Moreover, we identify that the South African state is re-performing the very critiques it levels against the global system of Internet governance in the White Paper within its own borders. So, while South Africa criticises the lack of state influence – or multilateralism – and the lack of transparency within global Internet governance, it has subsequently failed to promote participation and transparency within its own policy-making processes. The last section of this chapter examines two recent developments – the blocking of cell phone signal during a presidential Parliamentary address in 2015 and the draft Cybercrimes and Cybersecurity bill – against the notion of the 'Open Internet' promoted as a "core philosophy" of the White Paper. From these developments, what can be discerned is a State which in fact sees control of social media and other channels of communication as fundamental to political stability.

2. A Brief Genealogy of Internet-related Policy Directives in South Africa

It is well recognized that the ICT sector is critical to rapidly changing technology, markets and industry, and ultimately contributes to national and global development. In South Africa, even before their rise to power in 1994, the African National Congress

[262] For an explanation of the term 'state capture' in the South African context, see report by Swilling et al. (2017).

(ANC) had discussed the importance of ICTs in its election manifestos for the country's first democratic election (VAN AUDENHOVE, 2003). After the election, the theme of the 'information society' surfaced regularly in political speeches and debates, by high level officials including Cabinet Ministers, the then President (Nelson Mandela) and Deputy President (Thabo Mbeki, who later succeeding Nelson Mandela as President). In their speeches, as well as in many sector conferences,[263] ICTs were routinely conceptualised as a means to bridge the technological divide, attract foreign investment, and generally as a positive force for social change. Universal service/access was central in these discussions, as there was much concern about the digital divide. The Reconstruction and Development Programme (RDP) – formed of the election manifesto of the ANC but also took up shortly after the 1994 election as the new democracy's overarching economic policy – defined access to telecommunications as a *basic need* that had to be provided at affordable prices as soon as possible (SINGH, 2010, emphasis added; VAN AUDENHOVE, 2003).

Against the background of the South African state moving "from a mostly state-led market system to a growing free-market system" (SINGH, 2010, p. 213), it is important to note two characteristics of the motif of universal access to ICTs. First, universal access was primarily conceived as access to phones: landline first and late mobile phones. While commercial Internet services were launched in 1994 (BROWN et al, 2007) and went through rapid growth afterwards, the growth was short-lived as it was only "affordable and accessible to those operating in the developed 'first economy' [the wealthy]. Growth, therefore, stagnated as levels of saturation were reached in the 'first economy'"(BROWN & BROWN, 2008, p. 113). Brown and Brown continue, highlighting that "mobile services have partially bridged the information divide, but their knowledge delivery capacity cannot be compared with high speed fixed broadband infrastructure" (2008, p. 133).

Second, the main approach of the then newly elected government towards providing universal access was through limiting competition in the ICT sector. More specifically, Telkom – the national operator landline company, commercialising in 1991 and privatised in 1997 – was exclusively given an ambitious mandate to rollout telephone line connections. Its obligation was to "install 2.69 million new lines (60% of which were to be in disadvantaged areas), provide telecommunication services to 3204 villages, install

[263] For example, the Information Society and Development Conference in 1996 (May 13-15), and the immediate subsequent conference on Empowering Communities on the Information Society (May 15-17).

120.000 public payphones and provide access to 20.000 "'priority customers' (such as community centers, clinics and schools)" (SINGH, 2010, p. 216). Telkom, however, soon found itself with a "50-70% rate of disconnected lines as the consumers were unable to pay their phone bills" (SINGH, 2010, p. 216).

In the mobile network domain, while subscriptions grew explosively, the duopoly established through the two licences introduced in 1993, Vodacom and MTN, was given a much less demanding Community Service Obligation (CSO) at 22.000 and 7500 community service lines respectively.[264] The introduction of the third mobile licence company – Cell C - "ran totally into the ground [...] because of the tending process" (VAN AUDENHOVE, 2003, p. 19). And when Cell C was eventually introduced in 2001, it "did little to interfere with Vodacom and MTN's comparatively higher prices which they were able to maintain after their initial CSOs were fulfilled" (SINGH, 2010, p. 216). As many other newer small-scale operations started from the same period, they were forced to be 'price takers' while the duopoly was largely unchallenged.

The introduction of competition began in 2001 when the Minister of Communications changed and less emphasis was placed on universal access. The first round of awarding of Under-Serviced licences to small-scale operations saw seven licences issued (SINGH, 2010). According to Singh, "although information regarding applicants' submission was published in the [Government] Gazette [no.] 22959 of December 2001, the formal issue of licenses took place only in October 2004. As a result of this three-year delay, many other potential licenses who had applied could not sustain themselves during the lengthy process" (2010, p. 217). The second round of licencing began in 2005, no longer directly led by the Department of Communication as the 1st round, but by the new regulator: Independent Communications Authority of South Africa (ICASA)[265] with a mandate to convert all existing ICT licenses into a new competitive arrangement. However, because of its capacity, the licensing of new entrants was delayed, in turn leading to ineffective competition. This phenomenon is not limited to the mobile world: Benner (2003) makes a similar observation regarding the broader ICT industry, where larger companies take the lion's share of the market, while the majority of other firms are small and only occupy spaces within the margins and periphery of the market.

[264] They fulfilled these 3 years before the 1999 deadline (SINGH, 2010).

[265] It was formed out of the merger of SATRA and the regulator for broadcasting (Independent Broadcasting Authority, IBA) in 2000.

The same period saw an intensification of the tension between the "chosen economic arrangement of market liberalism" (SINGH, 2010, p. 226) and the aim of universal access (both in terms of realised access by the previously disadvantaged community but more so in terms of opening up supplying-side competition). As a result, greater state involvement in the market became more and more evident, including in newer policy documents, such as South Africa's Telecommunication Amendment Act (2001) and the new economic strategy of Accelerated and Shared Growth Initiative for South Africa (ASGISA) in 2005 (SINGH, 2010). The same tension is evident in the formation of the new ICT White Paper of 2016 too, discussed below.

3. The Formation of the ICT White Paper 2016

The *National Integrated ICT Policy White Paper* was published on 28 September 2016, and aimed to achieve a reconfiguration of the regulatory and policy framework for ICT, as defined principally by the White Paper on Telecommunications of 1996, the Electronic Communications Act, no. 36 of 2005 and the Electronic Communications Transactions Act, no 25 of 2002.

Figure 1: Key milestone over the life-span of the ICT policy review panel. (Source: WHITE PAPER, 2016, p.8).

Figure 1 shows the main timeline for the formation of this new ICT policy. Indeed, the development of the ICT policy was a relatively lengthy process, taking more than three years. From the onset, the Framing Paper of 2013 explained the need for this new policy as "in recognition of convergence in the communication sector", more specifically, the "increasing blurring of the traditional distinction between broadcasting and

telecommunications" (FRAMING PAPER, p. 7, p. 10). Later, the Green Paper identified an increasing indistinctiveness between the Internet and the media (GREEN PAPER, p. 3) as another point of departure for the establishment of a new ICT policy. Indeed, the Framing Paper speaks of forming "a seamless information infrastructure [which] will be universally available and accessible and will meet the needs of citizens, business and the public sector" (citing the National Development Plan of South Africa, Framing Paper, 13). More specifically, it regards the spectrum as a national asset and public resource (FRAMING PAPER, p. 12, 13; WHITE PAPER 10, p. 77) and aims at its maximise use. In so doing, it works to address the "duology commanding 90% of market share, or six players dividing all high demand spectrum between themselves in a market of 400 other licensees" (WHITE PAPER, p. 66). Central to this aim was the recognition of the limited competition in the market, resulting from the historical events mentioned above and the need for state intervention.

The following Green Paper of 2014 noted that previous telecommunication policies "have made great strides to deal with the legacy of the past in which access to infrastructure and services was on a racially skewed basis" (p. 4). However, it goes on to state that "the rapidly increasing digital divide threatens to reopen the fault lines of the past and national policy should ensure equitable treatments of all South Africans" (GREEN PAPER, p. 4). It specifically states that "the ICT policy review panel is unanimous that, were the market to be left to its own devices, there would be some serious developmental failures as some sections of the South African population still do not appeal to market forces because of their economic and geographic profile. Consequently, the ICT policy review panel *rejected* any suggestion that sought to propose a market-led approach as opposed to a policy and rights based approach to a new communications framework." (GREEN PAPER, p. 4, emphasis added)

The resultant White Paper deals with a wider range of issues than only Internet governance, and states that the responsible government department, the Department of Telecommunications and Postal Services (hereafter DTPS), will need to "work together with a range of different government departments and public entities (including local government and regulators)" if the policies outlined are to be realised (WHITE PAPER, 2016, p. 7). It proposes to divide responsibility for "economic and content regulations" between two separate regulatory bodies, citing a "need for holistic regulation and

classification across the media/content sector" (WHITE PAPER, 2016, p. 47) and points to measures taken in the European Union and in Australia along similar lines.

The White Paper argues that a policy revision had become necessary first because "technologies change the way people communicate, interact and transact"; second because governmental development policy and practice had "evolved," especially in terms of the major shifts marked successively by the Reconstruction and Development Programme of 1994, the New Growth Plan of 2010, and the NDP of 2013; and last because there is always a generalized need for "ongoing honest and critical review" (WHITE PAPER, 2016, p.6).

The "core philosophy" informing this policy is *openness* and *inclusivity*, with an aim of building trust and facilitating inclusive socio-economic transformation of South Africa through ICTs. The policy recognises the "limited influence on global internet governance issues" of the national government, motivates for a complementary national governance framework to global Internet governance, and endorses the principles of openness and inclusivity noted above.[266] Phrases such as "public interest", "openness", "equal participation", "inclusive", "universal access", and "freedom of expression" permeate throughout the policy document.

The policy positions on Internet governance set out in the White Paper developed in part as a response to what South Africa saw as the limitations of the global Internet governance system, and its place within it. Specifically, many of the challenges with global Internet governance articulated in the White Paper (p. 60-61) relate to the restricted and unequal power governments seem to be able to wield in this domain. The White Paper speaks of governments having "limited influence on global Internet governance issues" and notes that "not all governments have equal influence over Internet governance issues – in contravention of the principles of multilateral international policy formations" (p. 60). The White Paper further states that "governments play only an advisory role" within global Internet governance, with predominantly US or Northern hemisphere-based private companies dominating decision-making (p. 60). The White Paper suggests that the lack of control vested in governments in the global Internet governance system means that its operations are not conducted in the public interest and renders governments unable "to fulfil their

[266] The policy specifically recognises these principles as defined and proposed by the World Summit on the Information Society (WSIS) sponsored by UN in Tunis in 2005.

responsibilities as custodians of public policy in their respective countries" (p. 60), and calls for "a need to strengthen democratic decision making and transparency in the global Internet Governance Framework" (p. 61). Lastly, the White Paper criticises the lack of decision-making power of the multi-stakeholder Internet Governance Forum (IGF) (p. 61).

Against these concerns, the White Paper identifies eight key principles which it says must underpin the country's governance policies:

1. In line with the WSIS [World Summit on the Information Society] Declaration, management of the Internet should be "multilateral, transparent and democratic, with the full involvement of governments, the private sector, civil society and international organisations".

2. All users must be able to legally access and share information and run and develop applications and services of their choice.

3. All lawful and legal Internet traffic must be treated equally, without discrimination, restriction or interference, regardless of the sender, receiver, content, device, service, or application.

4. Internet governance arrangements must respect and promote cultural and linguistic diversity.

5. Any change in Internet governance arrangements, must not allow disruptions to the operational stability of the Internet.

6. The Internet must remain a unified global network that is stable, secure, resilient, trustworthy, reliable, interconnected and accessible to all users across the world.

7. The Internet must continue to be based on open standards to facilitate innovation and to allow everyone to participate equally in the global community.

8. Users must have the same rights online as offline (WHITE PAPER 2016: 50).

These principles are articulated as principles of the Open Internet – the key policy directive of the White Paper. Indeed, drawing on what Nathaniel Tkacz speaks of as "a master category of contemporary political thought' (2012, p. 387), the policy states "the core philosophy informing all of the revised policies introduced in this White Paper is a move towards facilitating "openness" – open access, open Internet and open Government" (p. 4).

The objectives of South Africa's policy positions on the international governance of the Internet similarly coalesce with the policy's "core philosophy" on the Open Internet. These objectives include:

1. Ensure that international governance and administration mechanisms, processes and institutions reinforce the overarching principles of the Open Internet.

2. Reinforce a multilateral approach to Internet governance in line with the principles set by the United Nations.

3. Recognise the responsibilities of all governments across the globe to determine public policy on a local, national and international level and ensure equal participation by all governments in Internet governance.

4. Strengthen Internet governance mechanisms and processes to ensure they are inclusive and open to all interested stakeholders, in line with the South African constitution.

5. Reinforce the importance of meaningful participation and involvement by all stakeholders across the world in international governance processes and decision-making related to this platform. This includes all governments, technical experts, individual users, community and civil society organisations, academics and the private sector in their respective roles.

6. Clarify the roles of the different stakeholders in shaping the evolution and development of the principles, norms, rules, standards and programmes that shape the Internet.

7. Ensure that stakeholders involved are globally distributed and that no one country or group of countries has any undue influence on global Internet policies.

8. Reinforce accountability mechanisms for Internet governance institutions.

These policy positions clearly are a reaction against what are identified as the challenges currently facing the global Internet governance framework.
This paper thus turns to a critique of the White Paper, identifying a series of contradictions, or ruses, inherent in its discourse.

4. Contradictions and Paradoxes within South Africa's Internet Governance Discourse
In the last few years, South Africa's emerging set of ICT policies have found their primary expression in the government's controversial White Paper, set out above, as well as in more recent initiatives such as the equally contentious Cybercrimes and Cybersecurity Bill of 2015 and 2017 (discussed below) – seen by some critics as effectively handing "further powers to state security structures" and effectively "putting [such security structures] in control of Internet governance in South Africa" (TECHCENTRAL, 2017). It is thus clear that the question of Internet governance is much more than a merely technical issue, and is deeply political in nature in South Africa, as elsewhere, with significant and ongoing engagement by at least some sectors of civil society. It is a national microcosm of what has been described, accurately, as

> [...] a contested space reflecting broader global power struggles ... Internet governance has expanded beyond operational governance functions ... governance technologies are recognized as powerful forces to control the flow of content ... They are also being co-opted for censorship, for surveillance, for kill-switch interventions, and for making political statements via technical mechanisms such as DDoS attacks (DENARDIS, 2014, p. 222-223)

In play are not only local and global commercial interests driven by the desire to develop profitable Internet- (as opposed to Web-) based business plans (ANDERSON & WOLFF 2010), but also strongly authoritarian tendencies that are identifiable within some parts of the South African state, which see control of social media and other channels of communication as fundamental to political stability, evident in the development of the Cybercrimes and Cybersecurity Bill and the events of the 2015 Parliamentary Presidential Address.

Gillwald (2017, p. 4) has proposed a perhaps overly-technicist framework on the conditions necessary for effective Internet policy, which she articulates as requiring:

> "[... a] capable state with a national regulatory agency empowered to implement national policy, independently of state and industry influence, in ways that will optimize consumer welfare and safeguard citizens' rights ... the executive needs to have sufficient competency in policy making and use processes to consult the public and harness expertise outside of government ... The translation of policy into practice requires transparent and accountable regulatory decision making and the resources and competencies to fulfil its mandate."

At one level, therefore, the question is to what extent current political and administrative conditions in South Africa are able to meet these requirements. But we repeat, the issue of Internet governance cannot be understood as merely a regulatory or administrative problem, especially in South Africa, a country in which, despite a sophisticated information technology (IT) infrastructure, indices of social and economic inequality are among the highest in the world, and the GINI coefficient remains, two decades after democratisation, at around 0.63 (WORLD BANK, 2011).

A careful deconstruction of key aspects of the government's official (and broadly upbeat) discourse in the White Paper therefore remains necessary. The following section is structured according to four identified ruses within this discourse, relating to 1) the Internet and human rights; 2) multistakeholderism in Internet governance; 3) government control over market forces; and 4) transparency and participation in the formulation of the White Paper.

4.1 Rights and the Internet

The White Paper speaks of the Internet as a public good and perhaps even as a kind of human right, nominally at least reflecting general trends in thinking on this issue, particularly from BRICS countries. It states that the 'Government recognises that the Internet is a global resource which enhances domestic socioeconomic development' (p. 60), reflecting South Africa's earlier policy commitment of the RDP that defined access to telecommunications as a *basic need*, noted above. In addition, the new policy explicitly claims a human rights justification for the development of new policy:

> The interventions developed are aimed at realising clearly identified public value objectives based on the rights and freedoms in the South African Constitution. At the core of the Constitution is the right to equality and the right of everyone to "equal protection and benefit of the law (and) the full and equal enjoyment of all rights and freedoms". The Bill of Rights compels Government to intervene to address unfair discrimination to promote meaningful equality (WHITE PAPER, 2016, p. 6).

Yet, the South African government's attitude in the face of this reality has not been especially consistent with its own rhetoric, which includes "saying the correct things about freedom of access, connecting the marginalised and the poor, human rights and free speech" (SHINN, 2017). In fact, in 2016 South Africa joined China, India, Indonesia, Russia and Saudi Arabia in voting *against* a United Nations Human Rights Council resolution stating that offline rights should be respected online as well (SHINN, 2017). The South African delegate stated that while the country's Constitution guaranteed

> "... the exercise of the right of freedom of opinion and expression ... incitement to hatred is problematic in the context where we are having our domestic debates on racism and the criminalisation thereof. The exercise of the right to freedom of opinion and expression is not absolute, and carries with it duties and responsibilities for right holders ..." (quoted in SHINN, 2017).

In June 2017, at an earlier meeting of the same body, South Africa took a similar line, arguing that

> ... the right of Freedom of Opinion and Expression has permissible limitations and beyond certain thresholds can constitute incitement to hatred ... we continue to have serious reservations with attempts to equate online and offline exercise of the right to freedom of opinion and expression (also quoted in SHINN, 2017).

These comments seem to stand directly opposed to the last stated principle of the Open Internet that "[u]sers must have the same rights online as offline" (WHITE PAPER, p. 50). These kinds of contradictions suggest either a lack of clarity on behalf of the South African state in terms of the constitutional value of the Internet, or, worse, a lack of commitment to the directives set out in the White Paper, given that this latter comment was made at a forum in July 2017, after the publication of the policy.

4.2 Multi-stakeholderism vs Multilateralism

It is a commonplace that historically the United States government has played a dominant role in how the Internet is run and for whose benefit, and has consistently resisted attempts to move towards genuine *multi-stakeholder* governance solutions (HILL, 2014, p. 80). Indeed, these concerns are raised in the White Paper which, as noted above, takes concern with the lack of decision-making power of the IGF – the designated multi-stakeholder forum for Internet Governance.

Yet, in 2011 South African representatives at the IBSA Multistakeholder meeting on Global Internet Governance in Rio de Janeiro joined with their Indian and Brazilian counterparts in again taking a multilateralist (as opposed to a multi-stakeholder) position, and demanding that

> "an appropriate body is urgently required in the United Nations system to coordinate and evolve coherent and integrated global public policies pertaining to the Internet," including oversight of institutions responsible for the Internet's operation (DENARDIS, 2014, p. 34).

If we assume a kind of inverted hierarchy in which government control is preferable to multilateral control, which is in turn preferable to multi-stakeholder models (which often turn out to be merely systems of corporate as opposed to state control), then these various positions are logically consistent. We can also begin to understand South Africa's

unilateral establishment in the early years of the century of a *local* statutory agency, ZADNA, to administer the "country code top level domain" (or ".za") (FELD, 2003, p. 354). ZADNA is empowered to set enforceable national regulations for the domain, but will disappear *as a separate entity* under the recommendations of the new White Paper, and be absorbed into a newly established regulator. These challenges as described show some signs of confusion: for example, the complaint that the multi-stakeholder forum has limited powers sits oddly alongside a discourse that, in general, seems to advocate for multilateral governance structures. Indeed, there appears to be vacillation between favouring multilateralist models of governance (in the African continent especially) over multi-stakeholder structures, a vacillation which also appears to be playing itself out in the lack of effective participation afforded to interested parties in the formulation of the South African White Paper.

4.3 Increasing Governmental Control

Related to the above, the White Paper sets out a number of policy directives which work to enhance state control in the field of Internet Governance. Accordingly, the policy states the following:

1. South Africa endorses positions that recognise the central role that governments, as elected bodies representing and accountable to the public, must play in determining Internet governance policy.

2. South Africa recognises the right of all countries to develop and implement policies in accordance with the principles of self-determination and subject to the UN principles.

3. South Africa recognises the responsibility of governments to develop public policy on all aspects of the Internet including infrastructure and services deployment and regulation, cybersecurity, cross border taxation etc. (p. 60).

Yet these positions seem to reflect more forcefully in the administration of state control over national Internet issues. Indeed, commentators of the formation and content of the White Paper rightly claim it "signals a 'strict' regulatory environment" (MOFOKENG,

2017), "appears to be a push towards much greater government oversight and control" (GILBERT, 2017c), "want to curb the influence of the current operators" (VAN DE GROENENDAAL, 2016). Together with the lack of transparency in the formulation of the policy (discussed below, OGUZ, 2017), this met with strong industry objections and lead to strong criticism of the White Paper. The most disputed aspect and objection relates to on the White paper's commitment to a Wireless Open Access Network (WOAN) and its spectrum policy. The WOAN was set to "stimulate downstream completion through the creation of an upstream monopoly" (MOFOKENG, 2017), namely creating one single WOAN operator through "public- private sector owned and managed consortium...consist[ing] of entities that are interested in participating" (WHITE PAPER, p. 75). Replacing the historical exclusive assignment of one specific spectrum for a defined period in a defined geographic area, and assigning all high demand spectrum on an open access basis and encourage all licensees to work together, the policy claims that this will "encourage competition in services and reduce competition in infrastructure" (ENSOR, 2017) and "argues the new regime will accommodate more players and open up the market for more competition" (GILBERT, 2017c). The Minister is also given greater power in the new policy: taking over all policy-related functions currently residing with the USAASA[267], as well as some regulatory functions previously under ICASA. It calls for the establishment of a new and integrated ICT regulator and makes the new regulator accountable to the Minister as well as to the parliament. Arguably, the policy's promotion of state control is also fostered through the directive for a policy review process to identify 'a national framework for digital identity verification' (p. 123).

4.4 Lack of Transparency and Participation in Policy Formulation

Despite the above, the central concern which has been levelled against the White Paper concerns the lack of transparency and effective public participation in its formulation, particularly in the latter stages. According to one commentator, the government ignored "its own guidelines on transparency during the final phase of the preparation of the White Paper and fail[ed] to consult stakeholders prior to publishing the final version of

[267] Originally Universal Service Agency (USA) and was tasked to implement the telecentres, originally expected for about 3000-5000 over the country. Later changed to Universal Service and Access Agency of South Africa, USAASA. In 1999, with the new Minister appointed, USAASA "shifted from its focus on the direct implementation of telecentres towards three other outcomes—electronic training, education and increasing public awareness of the importance of ICT literacy" (SINGH, 2010, 216).

the document" (OGUZ, 2017). Indeed, even in Cabinet, for reasons which are not clear, approval was not forthcoming for a full six months (VAN DE GROENENDAAL, 2016). Moreover, despite provoking significant critical reaction, the Department of Telecommunications and Postal Services (DTPS) has refused to consider any form of renegotiation, stating in March 2017 that "the policy is final". Instead, the DTPS moved ahead into a phase of considering proposals (mainly about spectrum allocation) from industry stake-holders (GILBERT, 2017a). Most recently, the Director-General of the DTPS revealed in September 2017 that three key strategy documents derived from the White Paper, dealing with e-government, e-strategy in general, and rapid deployment of infrastructure, were all about to be submitted for approval to the Cabinet (GILBERT, 2017b).

5. Cybercrimes and Cybersecurity

The above discussion demonstrates the paradoxes at play within South Africa's discourse on Internet Governance, particularly within its 2016 White Paper. However, struggles over Internet rights and freedoms have also focussed on other legislative initiatives, as well as issues more broadly associated with the realisation of freedom of expression and access to information online. In 2015 the government published a first draft of a Cybercrimes and Cybersecurity Bill, which criminalised a wide range of activities above and beyond those already defined in the Electronic Communications and Transactions Act (25 of 2002), which defined, in its Chapter XIII, three broad categories of offences. These were "unauthorised access to, interception of or interference with data" and "computer-related extortion, fraud and forgery", as well as aiding or abetting the commission of either of those offences (see sections 86, 87, and 88). The new draft legislation proposed the definition of a wider range of much more tightly defined categories of cybercrime, with increased penalties of up to ten million rand in fines and up to 25 years imprisonment. The newly-defined criminal offences included:

1. use of personal and financial information to commit offences (for example, identity theft);

2. use of hardware, software and computer systems to commit offences (for example, the various dark net sites from which illegal activities are conducted);

3. prohibited financial transactions (for example, phishing);

4. hacking (for example, gaining unauthorised access to a system to steal credit card information);

5. possession and distribution of malware (for example, sending viruses attached to fraudulent emails);

6. terrorism, espionage, extortion and appropriation (for example, the Ashley Madison hackers threatened to release sensitive information unless the site was shut down);

7. hate speech, discrimination and violence (for example, posting unlawful content on social media); and

8. infringement of copyright (for example, re-posting someone else's article on your blog without permission or acknowledgement) (CRAWFORD, 2015).

The draft bill attracted widespread public criticism from such civil society organisations as Right2Know for constituting a real threat to Internet freedom, including freedom of expression and access to information. Right2Know claimed that the draft contained overly harsh copyright protection provisions; created 59 new offences so broadly that they could entrap ordinary computer users; increased the surveillance powers of state security agencies; criminalised whistle-blowers and investigative journalists; and in sum, handed Internet governance at national level to the security cluster (R2K, 2015). Subsequently a public petition against the bill attracted several thousand signatures (HUNTER, 2017). While the 2017 version of the Bill has amended some of the proposed clauses for the better, it remains that journalists will be criminalised for the "unlawful possession" of certain information and data (clause 17).

In any discussion of Internet governance in South Africa, one of the most unequal societies in the world, it is vital to remember that for the vast majority of citizens,

Internet access means access via pay-as-you go or pre-paid celular telephone services. More smartphones are sold than feature phones, with market penetration estimated at around 54 percent of 38 million service subscribers: 3G networks are universal and 4G is available to around three-quarters of the population. In this context, individual interventions by state agencies that violate constitutionally-defined rights of access via telephone networks assume great symbolic significance for wider questions of the future of Internet governance in the country.

One example of arbitrary state action to limit the free flow of information took place on 12 February 2015, during what should have been a fairly routine State of the Nation Address (SONA) by the then President Jacob Zuma to a joint sitting of the two houses of Parliament. It was widely expected, however, that opposition parties would attempt to disrupt the proceedings, claiming that Zuma was involved in widespread corruption and "state capture". Before the President's address commenced, MPs from the two opposition parties – the Democratic Alliance and Freedom Front Plus – raised points of order regarding the scrambling of cell phone reception in the National Assembly. Indeed, although the session was being televised by the state broadcaster, the SABC, cell phone and Internet signal had been blocked in Parliament, causing outrage from opposition parties as well as journalists and media houses present, many of whom thought it was a deliberate tactic by Parliament and the Executive to cover up the fiasco that has ensued within the Parliamentary Chamber between the various political parties, including the forced removal of members of the Economic Freedom Front. Subsequently, various organisations and media houses – including the civil society organisations Right to Know and the Open Democracy Advice Centre – took the matter to the Western Cape High Court, to request that Parliament be prevented from blocking cell phone signals in future (Case no. 2749/2015). In the responses from Parliament, the Chairperson of the National Council of Provinces (NCOP) and the other presiding officers stated that Parliament does not have a jamming device which could have been used at the State of the Nation Address, and further that none were ordered by Parliament to be deployed. However, during the court proceedings in the Western Cape High Court it was revealed by the lawyers representing Parliament that the jamming device had been installed by the National Intelligence Agency (NIA), a branch of the Executive (MEDIA GOES TO COURT, 2015).

The blocking of the cell phone signal in the National Assembly, in our view, was a measure with clear implications for the government's intentions (as opposed to its formal positioning) regarding Internet governance in its widest sense. It also violated a number of rights enshrined in the Bill of Rights. Primarily it violated the rights of the media and those present within the National Assembly to freedom of expression. Freedom of expression is enshrined in Section 16 of the Constitution and includes *(a) freedom of the press and other media* and *(b) freedom to receive or impart information or ideas*. This right is derived from Article 19 of the International Covenant on Civil and Political Rights (ICCPR) which South Africa ratified in 1998. Article 19 provides that:

> Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kind, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

By denying those within the National Assembly the use of their mobile devices, they were denied both their right to freedom of expression, and the right to impart information to the public. Section 32 and the right of access to information is also invoked here, as the public were denied access to information about the events in the National Assembly except by specific news channels.[268] Subsequently, in the matter against Parliament which has been brought before the Western Cape High Court concerning the use of signal jamming devices, the judge hearing the matter proclaimed that the matter is important as "it affects democracy [...] it affects transparency" (ODERSON, 2015). Indeed, by blocking the signal, it was demonstrable that the needs of the public to be informed and to express public opinion on the events in the National Assembly was secondary to the will of the Executive to protect the President and the ruling party from dissent and possible media slander. Yet, moreover, the blocking of cell phone signal appears to both align with the state's position in the Cybercrimes and Cybersecurity Bill and simultaneously contradicts the position of the Open Internet expressed in the White Paper regarding the user's enjoyment of the same rights both on- and offline.

[268] It is worth noting that SABC have been criticised for not being independent, and being partial to the ANC as they did not broadcast the points raised by the EFF, but focused their screen only upon the Speaker and her responses. See, for example, "SABC BOSSES" (2017), first published in the City Press newspaper.

6. Conclusion

This chapter has critically examined the new ICT Policy of South Africa and deconstructed some key aspects of the government's official (and broadly upbeat) discourse which conceive of the Internet as a public good, reflecting the general move of the BRICS countries on this issue, and even a human right. While the 2016 White Paper appears to be "saying the correct things" (SHINN, 2017), we have identified a series of paradoxes, or contradictions, between the policy positions outlined in the policy document and South Africa's broader discourse around Internet governance and ICTs. Critically, as is demonstrated in the section above, other developments with regard to signal blocking in Parliament and the drafting of the Cybercrimes and Cybersecurity Bill, reveal a tendency to conceive of the Internet as a source of political instability if not adequately controlled by the State.

Fundamentally, we note an inherent paradox at play in the South African state's focus on openness and inclusivity, on the Internet as a public good, and its attempts to enact control over the sector, as evidenced by the developments of the ICT white paper, the draft Cybercrimes Bill and the blocking of cell phone signal at the State of the Nation Address. We examine these issues as examples of the South African government seeking to enact further control and governance over national use of the Internet in a move that we see as mimicking the very criticisms it lodges against the current order of international Internet governance in the ICT policy (WHITE PAPER, 2016, p.59-61). Indeed, we contend that the centralising role the South African government envisages itself playing in national Internet governance ironically works as a microcosm of the role of the United States and its private companies on the international Internet governance scene.

In examining these conditions against the ideals outlined in South Africa's ICT Policy, it will be important to address the question of whether this new policy holds the potential to bring about change in the way that truly honours the principles of openness and inclusivity it champions. And, moreover, to interrogate the South African state's ability to cooperate effectively in a multi-stakeholder framework against the general decline of public trust and examine both the process of developing this policy and the effectiveness of the proposed multi-stakeholder involvement platforms for its implementation.

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Governança da Internet a partir da Periferia: Integrando a Amazônia Brasileira aos Debates sobre a Governança da Internet

Luisa Lobato

Introdução

Ao longo das últimas duas décadas, a estratégia de inserção brasileira nos debates sobre a governança da Internet ganhou projeção internacional. Essa estratégia foi e tem sido marcada por uma ativa participação do país em fóruns multilaterais e multissetoriais de debate, a exemplo da Cúpula Mundial sobre a Sociedade da Informação (CMSI), do Fórum de Governança da Internet (FGI), e de debates na Assembleia Geral da ONU e na União Internacional das Telecomunicações (UIT), bem como pela intensa reação do então governo da presidente Dilma Rousseff às revelações sobre a ampla campanha de vigilância e espionagem arquitetada pela NSA, o que culminou na organização do fórum multissetorial *NETMundial*, em 2014, e na aceleração no processo de aprovação do projeto do Marco Civil da Internet.

Este papel protagonista resulta não somente da atuação de entes que compõem o setor público, mas principalmente do intenso envolvimento da sociedade civil, comunidade técnica, centros de pesquisa, indivíduos e universidades, que colaboram para a elaboração de princípios e práticas para a governança da Internet. Entretanto, a atuação destes setores ainda esbarra em tradicionais desigualdades inter-regionais do país. As principais redes de colaboração e centros de pesquisa ainda se concentram, em grande medida, na região centro-sul. Um exemplo disto é o mapa das *side-talks* da 9ª Escola do Sul de Governança da Internet, que serve de fórum para debates sobre a governança da Internet e ocorreu na cidade do Rio de Janeiro no ano de 2017, contemplando onze palestras nas cidades do Rio de Janeiro, São Paulo, Brasília e Curitiba.

Diante de tal cenário, a possibilidade de maior integração de perspectivas alternativas ao debate sobre a governança da Internet no Brasil se vê consideravelmente limitada. Afim de ampliar os horizontes de pesquisa em governança da Internet no sul global, propõe-se

explorar a participação da região amazônica no debate brasileiro. Compreendendo quase que a integralidade da Amazônia brasileira, a região norte é uma das menos conectadas do país, de acordo com a série histórica da pesquisa TIC Domicílios (2008-2016). Por vezes, havendo acesso, não é raro que, em municípios de médio e pequeno porte, a velocidade de conexão seja ruim ou mesmo precária – o que afeta, dentre outros, a relação dos habitantes locais com o consumo e produção de conteúdo, por exemplo. A Pesquisa Nacional por Amostra de Domicílios do Instituto Brasileiro de Geografia e Estatística (IBGE), em 2015 aponta que a região amazônica apresenta o maior percentual de domicílios nos quais predomina o uso de banda larga móvel e do celular para acessar à Internet, o que se deve, principalmente, à ausência de infraestrutura de cabos adequada para atender às suas grandes distâncias. Salientando os desafios apresentados por esta dinâmica de desigualdade inter-regional, assim como iniciativas nacionais e locais de acesso e produção de conteúdo, o capítulo explora a maneira como a região amazônica e suas diversas experiências com a Internet podem contribuir para enriquecer a estratégia de inserção brasileira no debate global sobre a governança da Internet.

O principal objetivo desta reflexão é ilustrar como a região menos conectada do país pode contribuir para os debates e formulação de políticas públicas. A partir da análise de três casos – o evento do III Fórum da Internet no Brasil, ocorrido na cidade de Belém do Pará no ano de 2013; o programa Amazônia Conectada, em curso desde 2014, que busca prover conexão à Internet a cidades do interior do Amazonas mediante a instalação de cabos subfluviais de fibra óptica; e o Projeto Telefonia Celular Comunitária (CELCOM), desenvolvido pela Universidade Federal do Pará (UFPA), – salienta-se como o caso amazônico compreende os distintos aspectos envolvidos no debate sobre acesso, suas dificuldades e possíveis alternativas para provê-lo.

O capítulo atenta para o debate sobre o (não) lugar da Amazônia nas Relações Internacionais (RI). Por isto, nos referimos ao papel da região enquanto local para se pensar o internacional. É bastante frequente a presença da Amazônia em estudos sobre biodiversidade, sustentabilidade e geopolítica, mas essa presença não necessariamente se traduz em esforços para se pensar o internacional a partir de perspectivas locais. Sugerimos que esta invisibilidade também se estende aos debates sobre a governança da Internet, na medida que estes são amplamente influenciados pela literatura internacionalista (EPSTEIN, KATZENBACH; MUSIANI, 2016) e, em decorrência disto,

argumentamos pela relevância de se abordar o tema a partir da perspectiva dos locais menos conectados.

Isto nos permite visualizar a maneira como se materializam as dificuldades e oportunidades de acesso à Internet, assim como sua variância dentro da região e nisso, dentro das capitais; entre estas e cidades de menor porte; e entre estas e localidades mais isoladas, como aldeias e vilarejos de pescadores; além disto, ilustrar as dinâmicas locais do debate sobre a governança da Internet nos permite compreender e pensar dinâmicas globais a partir de um olhar "de dentro" sobre o problema.

Cada um dos casos analisados compreende uma abordagem distinta da relação entre a região amazônica e a governança da Internet. O III Fórum da Internet no Brasil (ForumBR) se apresentou como oportunidade para o estabelecimento de pontes de diálogo entre as redes mais difusas da região com redes mais consolidadas no país. A ocasião não apenas levou os debates sobre o tema para a região amazônica, como concedeu voz aos atores locais para que manifestassem sua perspectiva sobre os principais tópicos discutidos na época. O Projeto Amazônia Conectada, por sua vez, compreende uma tentativa, liderada pelo poder público e "de fora para dentro", de lidar com o problema da infraestrutura na região. Finalmente, o Projeto CELCOM é uma proposta local para o problema do acesso à Internet em comunidades não contempladas pela conexão via cabo. A partir disto, argumentamos que dirigir uma maior atenção às perspectivas e experiências próprias dos pontos de menor acesso possibilita aos diversos setores envolvidos no debate sobre a governança da Internet pensar em estratégias diversas para uma questão urgente e comum ao sul global e, ao mesmo tempo, possibilita ao Brasil se engajar, no âmbito dos fóruns internacionais, com maior coerência no debate.

O Debate em Torno do Acesso à Internet

Torna-se importante situar pontos fundamentais do debate em torno da questão do acesso à Internet antes que possamos propriamente adentrar a discussão sobre o lugar da Amazônia nas RI. Nossa opção por este debate em particular dificilmente ignora as possibilidades de se conceber políticas para a Internet – nas e a partir de regiões menos conectadas – relacionadas a diversos outros debates, como inovação, direito autoral e/ou propriedade intelectual, entre outros. Ela se justifica, principalmente, em razão de ser o acesso, bem como os temas imediatamente correlatos, uma preocupação comum,

imediata e fortemente reclamada por atores locais, conforme restou enfatizado no III Fórum da Internet no Brasil, que ocorreu em Belém do Pará, no ano de 2013.

Ademais, a dinâmica do acesso se configura como função fundamental do ecossistema da governança da Internet, cuja constituição se dá a partir de uma série de práticas cotidianas corriqueiras, porém politicamente relevantes; decisões institucionais, horizontais ou verticais; e da interconectividade de dispositivos híbridos que habitam, moldam e definem processos fundamentais para a operacionalidade da rede (DENARDIS; MUSIANI, 2016). O tópico prontamente aponta para uma série de atores, materiais, operações lógicas e infraestruturas que naturalmente informam políticas de acesso à Internet no mundo.

O debate também se relaciona intimamente com dinâmicas de inclusão e exclusão digital, compreendidas em termos da divisão entre quem tem e quem não tem acesso às tecnologias da informação (OPPERMANN, 2009; MORI, 2011; RIBEIRO; MERLI; SILVA, 2012). Já a relação entre inclusão digital e exclusão social é mais controversa. Para Oppermann (2009), trata-se de dinâmicas claramente inter-relacionadas, de modo que, para que políticas de inclusão social sejam bem-sucedidas, não basta prover somente acesso ao computador; torna-se igualmente significativo que o usuário possa aprender a utilizar o equipamento, a fim de que este possa lhe auxiliar na melhoria de sua própria condição social.

Mori (2011) nota, entretanto, que a abordagem dos conceitos de inclusão digital e exclusão social está diretamente associada à perspectiva analítica que se adota – com as subsequentes compreensões de justiça, igualdade e liberdade que acompanham cada uma – e que, por consequência, vem a informar a definição e implementação de discursos, práticas e políticas de inclusão digital e social no mundo. Nesse sentido, a autora sugere que a disseminação das tecnologias da informação (TICs) é primordialmente orientada pelas dinâmicas do mercado e não por paradigmas de igualdade social. Ela nota que "seria verdadeiramente impressionante se o acesso às TICs fosse equitativamente distribuído. A posse, uso e desenvolvimento de TICs poderia não ter sido concentrados de modo substancialmente diferente do que a sociedade do consumo permite[269]" (MORI, 2011:58, tradução nossa).

[269] Original: "*it would be actually impressive if ICT access had been equally distributed. ICT possession, use and development could not have been concentrated in ways substantially different from what consumer society allows for*" (MORI, 2011:58).

Tendo em vista essas observações iniciais, a presente discussão se endereça ao debate sobre acesso em termos (1) de sua compreensão enquanto direito humano ou não; (2) da consequente associação entre acesso e acessibilidade, que chama a atenção para o uso da Internet por pessoas com alguma forma de deficiência; (3) da relação entre acesso e "alfabetização digital", ou seja, a capacidade de utilizar as tecnologias da informação para usufruir das oportunidades por elas proporcionadas; (4) da correlação entre acesso e os debates sobre neutralidade da rede[270] e zero-rating[271]; (5) e, finalmente, das distintas barreiras ao acesso e, em particular, da importância da infraestrutura de telecomunicações em países com salientes desigualdades internas, como, por exemplo, a concentração de infraestrutura de telecomunicações em grandes centros urbanos e, dentro destes, em áreas mais ricas. Essas dinâmicas orbitam em torno de questões de acessibilidade (itens 1, 2 e 3), disponibilidade (itens 1, 4 e 5) e viabilidade econômica (itens 1, 4 e 5), ideias que nos acompanharão ao longo da seção.

É importante frisar que o rol acima de modo algum se propõe como exaustivo – tampouco se propõe esgotar as discussões elencadas. Ele serve a duas finalidades: ilustrar a complexidade e disputas atinentes ao debate em torno do acesso à Internet e situar essas dinâmicas, a fim de que se possa pensar políticas de acesso para a Amazônia e a partir dela.

O Direito ao Acesso

A disseminação da Internet enquanto meio de comunicação fundamental para a vida cotidiana contemporânea levou pesquisadores e governos a tratar o acesso à Internet banda larga como um direito[272]. Nesse contexto, o 6º Fórum de Governança da Internet

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[270] A neutralidade da rede corresponde à máxima de que todas as informações que trafegam na rede devem ser tratadas da mesma forma e sem, por exemplo, haver discriminação de determinadas aplicações por consumo de banda larga. A criação do termo é atribuída a Tim Wu (2003).

[271] De acordo com Belli (2016) a política do zero-rating corresponde ao patrocínio, por parte de um operador de rede ou terceiro, do consumo de dados correspondente a um grupo ou conjunto determinado de aplicações.

[272] É importante notar que, em meio a este debate, alguns optam por distinguir o debate em torno do direito ao acesso à Internet banda larga enquanto direito humano ou fundamental e enquanto direito civil. Cerf (2012) sugere que essa distinção reside no fato de a primeira categoria se referir a direitos intrínsecos dos seres humanos por sua condição enquanto tal, enquanto que a segunda categoria abarca aqueles direitos que são conferidos pela lei, independentemente da natureza humana. Em ambos os casos, ele se posiciona contrariamente à ideia de acesso à Internet como um direito. Para fins da presente discussão, não trabalharemos com a distinção entre direito fundamental e direito civil proposta por Cerf, haja vista nosso interesse em debater questão do acesso à Internet enquanto categoria jurídica amplamente considerada.

(FGI), ocorrido em 2011, em Nairóbi, no Quênia, chamou a atenção para os temas do acesso e do papel das tecnologias da informação para o desenvolvimento. Antes disso, a dinâmica do acesso já era considerada como pilar fundamental para a agenda de Túnis e para o plano de ação de Genebra, em decorrência dos debates conduzidos na ocasião da Cúpula Mundial sobre a Sociedade da Informação (CMSI), em 2003 e 2005, no âmbito da Organização das Nações Unidas. Uma das principais preocupações levantadas naquela ocasião – e que prontamente se estenderia para os subsequentes debates conduzidos em diversos Fóruns de Governança da Internet – consistia na redução da chamada exclusão digital, para a qual a possibilidade de acesso à Internet se constitui como etapa fundamental (WSIS, 2003; MORI, 2011).

O debate em torno do acesso enquanto direito humano ou fundamental, entretanto, ganhou maior proeminência na ocasião do FGI de 2011, tendo sido influenciado tanto pelos protestos que marcaram o início da Primavera Árabe[273] quanto pela associação entre acesso à Internet e a realização de uma ampla gama de direitos[274] feita pelo então Relator Especial para a Promoção e Proteção das Liberdades de Opinião e Expressão, Frank de La Rue. O relatório, apresentado na ocasião da 17ª sessão do Conselho de Direitos Humanos da ONU, apontou para duas dimensões do acesso à Internet: acesso a conteúdo *online*, sem quaisquer restrições, salvo aquelas contempladas pela legislação internacional sobre direitos humanos; e a disponibilidade de infraestrutura de acesso e tecnologias da informação, a exemplo de cabos, modems, computadores e softwares (UN, 2011).

A partir do momento em que a Internet passa a ser considerada como ferramenta essencial para a realização de direitos fundamentais, assim como para a aceleração de processos de desenvolvimento sustentável, as dimensões da infraestrutura de acesso e acesso a conteúdo *online* passam a envolver novas formas de violações de direitos humanos. Em alguns casos, isto se traduz em uma lentidão na transição e implementação de tecnologias da informação como aspecto estrutural, diretamente

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[273] Em referência à onda de manifestações que se espalhou pelo norte da África e Oriente Médio e foi marcada pelo uso de redes sociais tanto para fins de organização dos movimentos civis quanto como meio de comunicar os eventos para o mundo. Alguns destes eventos culminaram em revoluções e deposição dos governos do Egito e da Tunísia, bem como nas guerras civis na Síria e na Líbia.

[274] UN. Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank de la Rue. *United Nations Human Rights Council*, 2011. Par. 85. “Given that the Internet has become an indispensable tool for realizing a range of human rights, combating inequality, and accelerating development and human progress, ensuring universal access to the Internet should be a priority for all States”.

associado à escassez de recursos, enquanto que em outros casos, pode sugerir a existência de uma estratégia deliberada para se restringir a participação democrática (IGF, 2011).

Para aqueles que se posicionam a favor de se considerar o acesso à Internet como direito humano básico, o direito ao acesso à Internet é fundamental para que as pessoas possam exercer direitos humanos básicos, como, por exemplo, a liberdade de expressão e opinião. Em diversos casos, a exemplo da França, Finlândia, Grécia e Estônia, legislações e/ou decisões judiciais sustentam ser obrigação dos Estados garantir a universalidade do acesso à Internet, bem como não restringir de maneira irrazoável o acesso dos indivíduos à rede. A grosso modo, falar em universalidade do acesso implica em tratar das diferentes formas de se garantir que a banda larga esteja disponível para todos, de uma maneira ampla, o que inclui tanto a garantia de infraestrutura de acesso a todos quanto a educação para o uso de suas funcionalidades (POSSEBON, 2012).

Nesse sentido, a universalidade do acesso também se constitui como um dos princípios fundamentais do Comitê Gestor da Internet no Brasil (CGI.br) para a governança e uso da Internet: "O acesso à Internet deve ser universal para que ela seja um meio para o desenvolvimento social e humano, contribuindo para a construção de uma sociedade inclusiva e não discriminatória em benefício de todo" (CGI.br, 2009).

Embora na ocasião da publicação do relatório sobre o direito à liberdade de opinião e expressão, muitos na mídia e na sociedade civil tenham interpretado a associação entre acesso à Internet e direitos humanos como uma declaração de que o acesso à Internet em si seria um direito humano[275] (LA TIMES, 2011; KRAVETS, 2011), esta interpretação não resta necessariamente explícita no texto. Por isto, Vinton Cerf (2012) argumenta contra a interpretação que atribui ao acesso à Internet o status de direito humano, sugerindo que a Internet é melhor compreendida como uma ferramenta por meio do qual é possível aprimorar a condição humana – e não como um direito em si. Endossando a crítica, Skepys (2012) argumenta que, apesar de considerar não haver um direito humano à Internet, a negativa de acesso em si se configura como ameaça ao direito de assembleia (ou a outros direitos humanos), suscitando assim o dever negativo de não negar acesso à Internet por parte dos Estados.

[275] Situação similar se seguiu à publicação da Resolução *The Promotion, Protection and Enjoyment of Human Rights on the Internet* (A/HRC/32/L.2), do Conselho de Direitos Humanos da ONU. Ver, por exemplo, as reportagens de Alexander e Shore (2016) e Sandle (2016).

Acesso e Acessibilidade

A noção de acesso encontra-se fortemente associada à de acessibilidade. Esta última compreende principalmente dois aspectos: o primeiro é a igualdade de acesso à informação e funcionalidade da Internet para todos os usuários, o que inclui questões como barreiras e diversidade linguísticas, i.e., pertinentes à possibilidade de usuários acessarem conteúdo e websites em seu próprio idioma; e o segundo, como decorrência lógica do primeiro, compreende a remoção de barreiras que dificultem ou mesmo impossibilitem a interação entre, ou acesso a, websites, softwares e outras funcionalidades, por parte de uma pessoa com alguma forma de limitação ou dificuldade. O tópico está presente na agenda do World Wide Web Consortium (W3C) desde a década de 1990, tendo praticamente acompanhado a difusão da própria Internet, e foi amplamente discutido na ocasião do 10º FGI, sediado em João Pessoa, no Brasil, no ano de 2015.

Falar em acessibilidade neste último caso envolve proporcionar a pessoas com deficiências a possibilidade de utilizar um produto ou serviço de forma tão efetiva quanto para uma pessoa sem deficiência. Envolve também o recurso a tecnologias assistivas que viabilizam o acesso à Internet para quem tem alguma forma de deficiência. Na prática, isto envolve o uso de princípios inclusivos de design em produtos e serviços utilizados por grande parte da população e compreende também a disponibilização de ferramentas e recursos de acessibilidade em sistemas operacionais e websites, como o alto contraste, que facilita a visualização de conteúdo para pessoas com determinados problemas de visão. Designs mais acessíveis em produtos e serviços são vistos como críticos para transformar a condição de vida de pessoas com deficiência, proporcionando-lhes maior independência social e econômica, uma vez que que muito frequentemente este grupo também enfrenta marginalização na sociedade (IGF, 2011).

Se, por um lado, o aumento no uso de *smartphones* levou a significativas melhorias na maneira como pessoas com deficiência e necessidades especiais utilizam a Internet – com o desenvolvimento e uso de sensores e dispositivos de voz, legendas em noticiários, anúncios de emergências e videoconferências, – por outro, Goggin, Hollier e Hawkins (2017) apontam que apesar do consenso político e institucional acerca da centralidade do tema para a agenda da inclusão digital, a aplicação prática dessas metas de igualdade, justiça e acessibilidade ainda enfrenta significativas dificuldades. Isto se torna visível no caso de aplicativos desenvolvidos para dispositivos móveis, cujos níveis de acessibilidade

são considerados, de forma geral, menores do que, por exemplo, aqueles de websites, e também no caso dos e-books que, segundo os autores, em virtude, entre outros fatores, de legislações restritivas de propriedade intelectual, têm sua reprodução em formatos acessíveis severamente restringidas.

Analfabetismo Digital

O analfabetismo digital é uma dimensão constantemente enfatizada na literatura que trata do tema do acesso à Internet. De modo sucinto, falar em analfabetismo no âmbito da Internet e das TICs envolve atentar para a capacidade das pessoas de as utilizarem. Isto significa considerar, para além dos problemas relativos ao acesso material, i.e., garantia de infraestrutura de acesso, a garantia de instrumentos por meio dos quais diferentes indivíduos entendam e saibam utilizar a tecnologia que se apresenta à sua frente. Nesse sentido, autores como Ribeiro, Merli e Silva (2012) e Oppermann (2009) consideram a "alfabetização" em TICs como elemento essencial para a vida contemporânea, uma vez que esta passa a ser mediada por diferentes tecnologias digitais. A partir desta visão, torna-se imperativo – e também um objetivo de muitos projetos de inclusão digital – proporcionar vias por meio das quais diferentes gerações e culturas possam usufruir da Internet e das tecnologias que a sustentam.

Este mesmo imperativo é reforçado, de modo recorrente, em fóruns multissetoriais de debate. Novamente buscando o exemplo do FGI, nota-se uma ênfase na importância de que, na medida em que mais pessoas ganham acesso à Internet, elas possam aprender a utilizá-la de forma responsável e atenta à sua segurança *online* (IGF, 2015).

De fato, como observado anteriormente no capítulo, o tema do acesso guarda estreita relação com o objetivo da inclusão digital. Tanto isto é verdade, que todas as oito dimensões da inclusão digital identificadas por Ribeiro, Merli e Silva (2012) dizem igual respeito ao debate sobre acesso. São elas: tecnologia, referente ao tipo de dispositivo acessado; infraestrutura de acesso; custo de acesso e uso; cognição, pertinente à maior ou menor dificuldade em se utilizar TICs, devido a fatores geracionais, econômicos, educacionais ou mesmo falta de interesse; instrumentalidade, i.e., disponibilidade do conteúdo para todos, e linguística, ambos correspondentes à dimensão da acessibilidade; e institucional, relativa à existência de projetos públicos de medidas de inclusão.

Entretanto, como notam Cogo et al. (2014), é comum que se tome como dados tanto o desejo daqueles grupos "excluídos" em serem incluídos quanto seu próprio entendimento

sobre inclusão. Ao analisar o uso de TICs por migrantes latino-americanos no Brasil e na Espanha, as autoras criticam a maneira com a qual muitos projetos de inclusão digital e acesso se dão na prática, ao desconsiderar como práticas cotidianas invocam o uso de alternativas pouco contempladas nas políticas públicas de inclusão digital, a exemplo do compartilhamento ou empréstimo de dispositivo, uso de pontos públicos de acesso ou mesmo compartilhamento de redes entre vizinhos ou parentes. Desse modo, elas chamam a atenção para o fato de que, no dia a dia, os usuários desenvolvem estratégias para driblar as dificuldades de acesso e a falta de conhecimento sobre o uso e funcionamento dessas tecnologias de forma criativa e, por vezes, espontânea, e salientam a importância de que as políticas públicas para o acesso e inclusão digital sejam pensadas também em termos das experiências cotidianas de seu público-alvo.

Neutralidade da Rede e Zero-rating

Uma rede neutra corresponde, de acordo com Wu (2003), àquela que não favorece uma aplicação sobre as outras. O princípio da neutralidade da rede, dessa forma, compreende a não-discriminação e o igual tratamento, por parte das empresas e provedores, dos pacotes de dados e conteúdo que circulam na rede (SILVA, 2012). Entende-se, todavia, que o princípio da não-discriminação, compreendido pelo princípio da neutralidade da rede, não é absoluto (IGF, 2016). Exceções envolvem, por exemplo, a prática de gerenciamento de tráfego de dados com propósitos legítimos, i.e., visando uma alocação mais eficiente dos recursos da rede, diante de aplicações com consumos variados de banda larga como, por exemplo, e-mails, jogos online, compartilhamento *peer-to-peer*, serviços de streaming, etc.

Um desdobramento relativamente recente do debate sobre neutralidade concerne a prática de *zero-rating* por parte das empresas e provedores de Internet (BELLI, 2016). Enquanto o princípio sobre a neutralidade da rede se desenvolveu com base em preocupações com a manutenção da livre concorrência e da possibilidade da livre inovação na Internet (WU, 2003), seu enquadramento em torno dos debates sobre *zero-rating* chamam a atenção para a direta correlação com o tema do acesso. Isto porque a prática *de zero-rating* corresponde ao patrocínio do consumo de determinado conteúdo ou serviço, por parte do operador da rede ou de terceiros, de certas aplicações ou de um conjunto determinado de aplicações (BELLI, 2016). Na prática, isto tende a afetar profundamente a concepção do que constitui a Internet para o “próximo bilhão”, na

medida que condiciona o acesso à Internet apenas a determinado conteúdo, como redes sociais ou aplicativos de mensagens específicos (IGF, 2015a).

Essa associação entre Internet e o conteúdo patrocinado em práticas de *zero-rating* é particularmente preocupante em países em desenvolvimento, na medida que em locais cuja infraestrutura de banda larga é limitada, é comum que governos aceitem ou mesmo suportem esse tipo de iniciativa, uma vez que ela se torna imediatamente associada à expansão do acesso à Internet para populações mais pobres (IGF, 2015a). Em alguns casos, o acesso à Internet via serviços *zero-rating* equivale à única, ou majoritária, forma de acesso para um grupo ou comunidade, como é o caso do serviço "Free Basics", oferecido pelo Facebook (IGF, 2015a). No Brasil, essa prática se associa principalmente à comercialização de planos franqueados com baixos limites mensais de volumes de dados e que estabelecem que, ao final da franquia, o provedor mantém o acesso a determinados aplicativos, bloqueando o acesso a qualquer outro conteúdo não compreendido nestes (LEFÈVRE, 2015). Lefèvre (2017a) aponta que um dos principais problemas desse modelo de negócios são seus efeitos políticos, culturais e sociais, na medida que o acesso à informação passa a ser mediado e condicionado por plataformas como o Facebook.

Entre as principais justificativas alegadas pelos provedores para a prática de zero-rating no Brasil, estão a necessidade de se atender a consumidores de baixa renda que não podem arcar com planos ilimitado; e a insuficiência de infraestrutura para atender à crescente demanda por redes de banda larga. Ambas as alegações são contestadas por críticos da prática, que apontam para seus efeitos econômicos, sociais e políticos negativos. Lefèvre (2015), por exemplo, argumenta que admitir tal prática implica um estímulo ao não investimento, na medida em que ao se permitir o bloqueio ao acesso à Internet (uma vez finda a franquia de dados) e sua restrição a conteúdos ancorados em uma baixa capacidade de tráfego, relativiza-se a obrigação do governo e de empresas de promover investimentos em infraestrutura. Belli (2016) chama atenção para o desconhecimento por parte dos usuários das restrições às oportunidades (econômicas, políticas, culturais) diversas proporcionadas por um acesso irrestrito a Internet que acompanham esse tipo de serviço.

Infraestrutura e Custos de Acesso

O debate sobre infraestrutura e custos de acesso compreende dois aspectos importantes, que se relacionam diretamente com os temas anteriormente explorados: a questão da

infraestrutura de acesso e do acesso a toda uma infraestrutura viabilizada a partir da Internet. De acordo com o Panorama Setorial da Internet de 2016, o alto custo e a baixa capilaridade das redes compreendem alguns dos principais desafios para a inclusão digital no Brasil (CETIC.br, 2016). Convém apontar que, à medida que as TICs evoluem, elas requerem a implementação de uma infraestrutura robusta de acesso à Internet, o que gera grandes desafios em torno de investimentos, gestão, opções tecnológicas e políticas regulatórias (POSSEBON, 2012).

Brito (2016) aponta que boa parte dos limites impostos pelos provedores de conexão à Internet no Brasil se dá não em virtude da falta de investimentos na camada de acesso (relativa à transmissão de informações entre o terminal do usuário e o primeiro ponto de acesso à rede), mas sim em razão da infraestrutura, na medida em que os provedores não ampliam a espinha dorsal da rede[276] e a camada de transporte na mesma proporção. Isto quer dizer que, à medida que o tráfego na rede aumenta, ele passa a demandar mais da infraestrutura existente que, por sua vez, nem sempre dá conta dessa demanda. Isto leva a uma redução da velocidade da Internet em relação ao que é contratado.

O cenário brasileiro também é marcado pela concentração dos investimentos em infraestrutura nos grandes centros urbanos. Nota-se, portanto, que a pouca infraestrutura em localidades mais pobres, em grandes cidades ou não, é outra dimensão do problema da infraestrutura de Internet no país (LEFÈVRE, 2017b). Nesse caso, o problema de infraestrutura afeta diretamente os preços praticados pelos provedores de Internet e a qualidade do serviço de acesso à Internet nos pacotes que são comercializados, na medida em que os altos custos para investimentos em regiões com pouca ou nenhuma infraestrutura tornam os valores praticados pelos provedores custosos para os indivíduos.

Assim, a realidade brasileira é marcada por desigualdades tanto dentro das grandes cidades, entre as áreas mais ricas, com maior infraestrutura, e as áreas mais pobres, com menos infraestrutura (LEFÈVRE, 2017b), quanto entre as regiões do país. De acordo com pesquisa TIC provedores 2014, do CGI.br, naquele período apenas 9% do total das empresas provedoras de Internet atuava na região norte, comparado a 15% na região centro-oeste, 21% na região nordeste, 31% na região sul e 43% na região sudeste (CETIC.br, 2014). Nesse sentido, a região norte, compreendendo a Amazônia legal brasileira, é a

[276] A espinha dorsal da rede (ou *backbone*, em inglês) compreende a rede principal por meio da qual os dados dos usuários são transmitidos.

menos populosa do país e também a com infraestrutura de rede mais precária em relação às demais regiões. A pesquisa TIC Domicílios de 2016 apontou que cerca de 54% das residências não possuem acesso à Internet na região (CETIC.br, 2016; 2018). Entre as principais justificativas para a falta de acesso encontram-se os altos custos do serviço.

Em contrapartida, o fato de essa ser a região com a maior proporção de residências em áreas rurais e nas classes D/E, que utilizam conexões móveis para acessar à Internet, sugere, consoante a proposta de Cogo et al. (2014) de se analisar as práticas cotidianas de acesso, modelos alternativos de conexão ante às deficiências na infraestrutura e aos altos custos de acesso por ela acentuados. O fato de que pelo menos 4 bilhões de pessoas no mundo não têm acesso à Internet aponta para a ineficiência do modelo tradicional e sugere que modelos alternativos, como redes comunitárias, poderiam ser mais promissores nesse sentido (BELLI; ECHÁNIZ, 2016).

(Re)pensando Acesso a partir da Amazônia Brasileira

O debate sobre acesso à Internet nos permite um duplo movimento: situar o tema da governança da Internet em nossa discussão e, ao mesmo tempo, olhar para experiências heterogêneas, a partir das quais se torna possível pensar o lugar da Amazônia no sistema internacional. Nossa proposta é ilustrar de que maneira lançar luz a ambos os movimentos nos permite uma via distinta para se pensar o internacional a partir de localidades e experiências amazônicas específicas – um exercício que dificilmente se esgota nesta proposta. Ademais, nota-se que a forte influência da literatura internacionalista nos debates sobre a governança da Internet (EPSTEIN, KATZENBACH; MUSIANI, 2016) sugere que a mesma dificuldade de se pensar a Amazônia enquanto sítio de experiências e reflexões também se estende à realidade destes debates. Isto não significa dizer que não se fala das experiências amazônicas em debates sobre a governança da Internet (ver, por exemplo, CAMINATI et al., 2016), mas certamente implica apontar o pouco espaço do assunto, se considerarmos seu potencial para se pensar a governança da Internet – e seus principais desafios – no Brasil e para além dele igualmente de modo distinto.

Amazônia e Relações Internacionais

É comum a presença da Amazônia em estudos sobre biodiversidade, sustentabilidade e geopolítica. Sua importância para a agenda ambiental marcou o nascimento de um

interesse acadêmico das RI pelo tema, nas décadas de 1980 e 1990 (HURRELL, 1991; VIOLA, 1998; TULCHIN; GOLDING, 2002; HERZ, 2002; GARCIA, 2011). Nesse mesmo período em que se construiu um consenso acadêmico e político acerca da importância da região para o clima e biodiversidade do planeta, o interesse de estudiosos das RI por temas como meio ambiente e Amazônia cresceu significativamente (HERZ, 2002). Trata-se, afinal, da maior floresta tropical úmida e da maior reserva de água doce do mundo, estendendo-se por cerca de 40% do território sul-americano, ao longo de oito países (PICQ, 2016). Para o Brasil, que detém a maior porção da floresta em seu território, ela desempenha função estratégica e ambiental ímpar.

Estudos que têm a Amazônia como objeto tratam de diferentes problemas a ela relacionados: alguns compreendem uma preocupação com a prática do desmatamento e com a necessidade de preservação de seu bioma (HURRELL, 1991; KECK, 2002); outros focam em esforços de cooperação internacional para preservação da floresta e os instrumentos jurídicos deles decorrentes (GARCIA, 2011); outros atentam para sua relevância para o desenvolvimento da política ambiental doméstica brasileira (HURRELL, 1991; VIOLA, 1998); enquanto outro grupo se concentra na sua função estratégica em matéria de segurança e soberania (ESPACH, 2002; BITTENCOURT, 2002).

Entretanto, apesar da importância ambiental e estratégica e de sua riqueza cultural e antropológica, a Amazônia ainda está à margem de processos de produção de conhecimento nas RI, isto é, o crescente número de estudos sobre a região não resultou em um deslocamento do assunto para o centro das preocupações da disciplina, tampouco proporcionou às experiências locais a possibilidade de servir de base para se pensar dinâmicas internacionais. Como nota Picq (2016), além de não ser percebida como espaço de estudo e produção de conhecimento, a região resta virtualmente ausente em conferências internacionais e periódicos de grande impacto na área.

Para uma vertente crítica das RI, o que se nota é o predomínio de um mecanismo de perpetuação e reprodução de desigualdades no processo de produção de conhecimento na disciplina (COX, 1986; SHILLIAM, 2015; 2016). A marginalização do chamado “Sul Global”, em sua epistemologia e ontologia, isto é, como objeto e fonte de conhecimento e sua realidade, tende a ser reproduzida pelos acadêmicos da área, perpetuando, assim, o conhecimento produzido no centro. Como implicação disto, tem-se que produção de teoria a partir da periferia é limitada por aquilo que se define por ciência no Norte. Como observa Picq (2016), a ciência produzida na periferia gera pouco interesse no centro e,

muito frequentemente, formas alternativas de conhecimento produzidas a partir do Sul Global – ou sua realidade própria – tendem a ser marginalizadas como não constitutivas da disciplina. Um exemplo de como acadêmicos produzindo RI a partir do "centro" percebem a periferia – e de como essa percepção é, por sua vez, reproduzida na própria periferia a partir de processos de difusão de conhecimento no próprio ensino de Relações Internacionais – pode ser encontrado nos estudos de Tickner (2003; 2008).

Dificuldades similares podem ser pensadas ao considerarmos o papel da região em debates e políticas para a governança da Internet no Brasil e, de modo mais amplo, no campo da política internacional. A Amazônia surge no debate sobre a governança da Internet no Brasil no contexto de uma preocupação com a conexão do "próximo bilhão", diretamente relacionado a uma preocupação com a diminuição dos níveis de desigualdade em termos de acesso à Internet, e é ilustrativa das dificuldades logísticas, políticas e sociais de se pensar em expandir o alcance da rede para regiões até o presente não contempladas – ou pouco contempladas – por elas.

Nesse sentido, apesar de o Fórum de Governança da Internet, enquanto sítio multissetorial de debate, oferecer um espaço distinto no qual vozes locais podem ser ouvidas, essa não tende a ser uma realidade que acompanha as práticas de atores – companhias de telecomunicação, provedores de serviços de Internet, governos e organismos internacionais – envolvidos neste espaço e que dispõem de maior poder e ou influência nos processos de formulação de políticas públicas "de cima para baixo". Durante nossa pesquisa, um dos principais problemas apontados ao se falar em inclusão digital para e na Amazônia foi a falta de interesse econômico em se investir em uma infraestrutura ampla de telecomunicações, justificando-se na baixa lucratividade dos investimentos que seriam necessários para se levar infraestrutura de telecomunicações para localidades na região. Dita falta de interesse econômico se assenta em uma particularidade da Amazônia brasileira: sua população esparsamente distribuída em um território vasto. Como consequência, a infraestrutura de telecomunicações e Internet que chega às capitais amazônicas não se estende de maneira adequada a cidades de menor porte e, muitas vezes, sequer chega a zonas rurais, vilarejos, comunidades ribeirinhas e de pescadores, os quais se configuram como assentamentos populacionais comuns locais.

Assim, a ampla dimensão territorial, as densas florestas e a baixa infraestrutura de transportes tendem a ser citadas como empecilhos para o estabelecimento de políticas de

inclusão digital na região. Isto resulta na concentração de infraestrutura nas grandes cidades e seus arredores mais populosos em detrimento da expansão desta infraestrutura para regiões menos densamente povoadas (BRITO, 2016). Ademais, é comum encontrar, nessas localidades, infraestruturas instaladas de maneira inadequada ou inutilizadas, além de problemas como ausência de sinal – ou então um "resto de sinal", correspondendo a um ponto específico onde o sinal da torre mais próxima chega e onde se tem que ir para se conseguir alguma forma de conexão ou sinal de telefone, – e equipamentos, como computadores, modems ou cabos, por exemplo, que simplesmente não funcionam.

Compreendendo esta realidade e abraçando a proposta de se pensar soluções locais (como se leva acesso à Internet a determinada localidade) para problemas globais (o problema do acesso à Internet no mundo), apresentamos a seguir um breve estudo de três casos que possibilitam contemplar a inserção da Amazônia brasileira no debate sobre acesso à Internet, bem como que tipo de horizontes essa mudança de ênfase nos permite vislumbrar. O exemplo amazônico torna possível entender outros casos similares em que o acesso de uma determinada região é restringido por sua dimensão territorial, distribuição populacional, poder econômico e distribuição de riquezas ou, contrariamente, casos opostos, nos quais apesar de tais cenários, políticas de acesso e inclusão digital tendem a ser mais bem-sucedidas. Isto se torna particularmente relevante quando consideramos o papel do Brasil nos debates sobre a governança da Internet e, de modo mais amplo, locais "incomuns" (BEIER, 2005) de produção de conhecimento para as RI.

Três Casos para se Pensar a Amazônia Conectada

Para demonstrar as possibilidades de se pensar e fazer políticas para a Internet, a partir de, e com base em regiões menos conectadas, selecionamos três casos, abrangendo três modos diferentes de fazer política para a Internet na região amazônica. Estes casos são ilustrativos de experiências de apenas uma pequena parcela da região e se restringem, territorialmente, a Amazonas e Pará, mas chamam a atenção para problemáticas e estratégias políticas comuns em relação aos demais estados da região e, fundamentalmente, representam as abordagens distintas que têm sido utilizadas para levar acesso ao norte do país e que nos permitem pensar sua relação e envolvimento com as políticas no campo da governança da Internet.

III Fórum da Internet no Brasil (2013)

O Fórum da Internet no Brasil, ocorrido na cidade de Belém do Pará, no ano de 2013, é o ponto de partida deste exercício, tanto por anteceder cronologicamente os outros dois casos quanto por seu papel de estabelecer pontes entre a região norte e o restante do país. Nesse sentido, nota-se que, se comparadas às redes de pesquisa e debate sobre a governança da Internet concentradas na região sudeste, as redes amazônicas são relativamente difusas, com interconexões menos intensas entre si e com pontos de acesso esporádicos às redes mais próximas do "centro" dos debates sobre a governança da Internet, isto é, onde eles ocorrem com maior intensidade. É comum também que atores nessas redes desconheçam algumas iniciativas locais, mas possuam maior grau de contato e/ou envolvimento com redes no resto do Brasil. A escolha da região norte para sediar o fórum de 2013 resultou da indicação dos participantes do fórum de 2012, que ocorreu em Olinda (PE).

A indicação do Pará como sede do Fórum também foi motivada por preocupações com a qualidade e acesso à Internet na região norte. No ano de 2012, a região detinha uma porcentagem de 56% de habitantes que nunca haviam acessado a rede (CETIC.br, 2012). Temas como a melhoria dos serviços de Internet, da qualidade de banda e da inclusão digital se tornaram então centrais no contexto do III ForumBR. Uma das principais propostas do Fórum seria então utilizar os debates contextualizados na realidade regional para discutir a questão de modo mais amplo, em todo o território nacional.

O Fórum de 2013, que contou com três dias de duração e expressiva participação de locais, foi estruturado em torno de cinco atividades: abertura, trilhas temáticas, seminário WSIS +10, atividades autogestionadas, "desconferências" e plenária final. O evento foi antecedido do 1º Fórum de Ativistas Digitais da Amazônia, que promoveu debates acerca de demandas locais envolvendo o problema do acesso na região, o Plano Nacional de Banda Larga[277] (PNBL), o então projeto do Marco Civil da Internet, bandeiras das comunidades de software livre, uso de redes sociais em mobilizações populares e a contenda a respeito do domínio *.Amazon* (BRANDÃO, 2013).

[277] A proposta inicial do PNBL, implementado no ano de 2011, era ampliar o acesso à Internet banda larga até a Copa do Mundo de 2014, mediante acordos entre o governo e as principais prestadoras de serviço de Internet no país. Segundo o relatório anual da Anatel, em 2016, mais de nove mil municípios foram atendidos pelo plano, com ofertas no varejo e atacado. Entretanto, sua área de cobertura é criticada por atender principalmente regiões com maior infraestrutura de acesso, como a sudeste (ANATEL, 2016; AMARAL, 2017).

Dentre as trilhas temáticas[278], destaca-se a trilha 1, abarcando os tópicos da universalidade, acessibilidade e diversidade, que chamou atenção para a importância de atentar para modelos locais de desenvolvimento e para uma expansão da infraestrutura de telecomunicações que considere características e demandas regionais. Enquanto as demais trilhas permitiram que debates importantes, como neutralidade da rede, privacidade e modelos de inovação, centrais a processos de governança da Internet não apenas no Brasil, como também no mundo, pudessem ser discutidos com atores locais, a particularidade dos tópicos tratados na trilha 1 tornou possível enquadrar debates globais a partir da realidade local.

Houve, por exemplo, relativo consenso entre os distintos setores da sociedade – academia, empresarial, sociedade civil e governo – no que tange às dificuldades referentes à expansão comercial e aos déficits de investimento na região amazônica. Um dos pontos levantados por representantes da sociedade civil foi o fato de planos e políticas governamentais desconsiderarem déficits de infraestrutura existentes, a exemplo da inexistência de energia elétrica em certas localidades. Entretanto, sociedade civil e governo divergiram em relação a como expandir o acesso na prática. O primeiro grupo foi particularmente crítico do segundo, na medida que este propôs uma expansão baseada no setor privado, representado pelos grandes provedores de serviço, em contrapartida a pequenos provedores, provedores locais e redes comunitárias. Outro tópico salientado – sobre o qual não houve consenso – foi a importância da desagregação de redes em um contexto de concentração da malha da infraestrutura nas mãos de poucas empresas, o que se configura como um limite à competição no setor privado e dificulta a entrada de novos serviços.

Como veremos adiante, na análise do caso do Projeto CELCOM, da UFPA, ditos debates acompanham e também alicerçam propostas que se baseiam no uso da Internet como plataforma para criação de economias locais, amplamente discutidos na ocasião da trilha 2. Sobretudo, salienta-se que os debates conduzidos na ocasião do ForumBR de 2013 chamaram a atenção para as experiências locais e para a apropriação e uso das TICs por comunidades diversas (indígenas, rurais, ribeirinhas, etc.), assim como para a necessidade de se utilizar tais tecnologias como aliadas na construção de identidades

[278] Ao todo, o evento contou com cinco trilhas temáticas: universalidade, acessibilidade e diversidade; inovação tecnológica e modelos de negócios na Internet; cultura, educação e direitos autorais na Internet; privacidade, inimputabilidade da rede e liberdade de expressão e neutralidade da rede.

dessas comunidades (FORUMBR, 2013). Desse modo, nota-se que a ocasião não apenas levou a debates sobre a governança da Internet para a região amazônica, mas também permitiu que atores locais manifestassem suas perspectivas a respeito desses debates e compartilhassem ativamente as experiências e os desafios locais em matéria de acesso e uso da Internet.

Programa Amazônia Conectada (2015-presente)

O Programa Amazônia Conectada é um projeto de expansão da infraestrutura de telecomunicações e Internet banda larga na Amazônia Ocidental. Seu lançamento oficial ocorreu em julho de 2015, na ocasião da inauguração do primeiro trecho de cabo subfluvial ao longo de 10 km no leito do Rio Negro, interligando duas organizações militares do Exército brasileiro: o 4º Centro de Telemática de Ária (4º CTA) com a 4ª Divisão de Levantamento (4ª DL). O programa é coordenado pelo Ministério da Defesa e composto pelo Comando do Exército brasileiro, pelo Ministério das Comunicações, Ministério da Ciência, Tecnologia e Inovação (MCTIC) e pela Telebrás. O Exército, por meio de seu Centro Integrado de Telemática (CITEx), é o encarregado de implementar o projeto de infovias, que compreende a instalação de uma infraestrutura de cabos de fibra óptica subfluviais nos leitos dos rios do estado do Amazonas.

O programa atualmente compreende duas fases: a fase ora em implementação, relativa à infovia do Solimões (cerca de 400km de cabo) e a fase, ainda em estágio de projeto, que compreende o trecho entre Tefé e Tabatinga (cerca de 900 km de cabo). Um segundo trecho, concluído em abril de 2016, liga os municípios de Coari a Tefé e tem 242,5km de extensão. Uma terceira fase, que completada em maio de 2017, se compõe de duas etapas, que totalizam 600 km de cabo de fibra óptica: 460 km entre Manaus e Coari, perpassando o município de Manacapuru e 140 km de cabo entre Manaus e o município de Novo Airão (EB, 2017). A seleção das empresas que realizarão a exploração comercial dos trechos já finalizados ainda depende de chamamento público previsto para ocorrer ainda em 2017, bem como da liberação por parte do exército (MENEZES, 2017). No momento desta pesquisa, a Processamento de Dados Amazonas (PRODAM), uma empresa vinculada ao estado do Amazonas, anunciou estar negociando com provedores locais com interesse na exploração destes trechos (PRODAM, 2017).

A proposta do programa é atender ao déficit de infraestrutura física e de serviços na região. A rede de fibra ótica existente no estado do Amazonas anteriormente à execução

do projeto atendia apenas a capital Manaus. Além da infraestrutura de cabos inexistente no restante do estado, nota-se também problemas relativos à qualidade das conexões oferecidas. Como observado na apresentação do programa, a baixa velocidade de acesso se soma à falta de acesso na maior parte dos municípios do interior, bem como aos altos custos de comunicação no estado – que dependem, dentre outros, de comunicação via satélite ou rádio, com todas as dificuldades que acompanham essas alternativas em um estado tão vasto (SALES, 2015).

A expansão da banda larga para a região mais ocidental da Amazônia possibilita levar uma série de serviços de rede de dados de qualidade à população do interior do estado, organizações governamentais e acadêmicas. Nesse sentido, um dos objetivos do projeto envolve conectar diversas organizações civis à nova infraestrutura, a exemplo do Instituto Chico Mendes de Conservação e Biodiversidade, da Universidade do Estado do Amazonas, o Instituto Federal do Amazonas, a PRODAM e o órgãos do judiciário, como o Ministério Público Estadual e o Tribunal de Justiça do Amazonas.

Tal infraestrutura implica tanto uma melhoria qualitativa quanto reduz os custos de conexão. Atualmente, em cidades do extremo noroeste do estado, paga-se cerca de R$250,00 por uma Internet com velocidade de 200 kbps (PAYÃO, 2016). Uma conexão banda larga à Internet, nesse sentido, torna possível conectar mais pessoas e também o consumo de conteúdos que demandam mais da conexão a preços mais populares, facilitando assim uma vasta gama de serviços, como cursos à distância, expansão de programas governamentais digitais voltados para ensino e saúde, e também a inclusão digital de povos indígenas e populações ribeirinhas locais, abrindo possibilidades distintas para processos de desenvolvimento local. Nesse sentido, não se pode falar em desenvolvimento sustentável da região sem que a população local tenha acesso à Internet de qualidade e a serviços satisfatórios de telefonia fixa e móvel (SALES, 2015), uma vez que a capacidade de transferência de informações, bem como a disponibilidade do acesso à Internet são compreendidas como condições importantes para desenvolvimentos nas áreas de saúde, segurança pública, turismo e cidadania. Nesse sentido, o programa é percebido como oportunidade para provedores locais e regionais e o papel destes na prestação de serviços de Internet e telecomunicações em regiões que serão contempladas com a infraestrutura de cabos subfluviais é visto como ímpar para o desenvolvimento da economia regional (PRODAM, 2017).

O programa, nesse sentido, se apresenta como uma proposta do que parte do nível do governo, representado pelo Ministério da Defesa e operacionalizada pelo Exército, de lidar com o problema da infraestrutura na região. Ao mesmo tempo em que a iniciativa parece responder a preocupações manifestadas no âmbito do III ForumBR acerca da importância de políticas públicas para uma região com déficit histórico de investimentos, ela também sinaliza limitações[279] em termos do tempo e recursos necessários à idealização e implementação de projetos desta natureza, particularmente na medida em que se envolve, ao menos imediatamente, apenas um aspecto, ainda que central, do debate sobre acesso – qual seja, o da infraestrutura.

Projeto CELCOM (2007-presente)

O Projeto CELCOM é uma iniciativa, no âmbito da academia, cujo objetivo é levar infraestrutura de telecomunicações para regiões não contempladas pela infraestrutura comercial que alimenta as médias e grandes cidades do estado do Pará[280]. Seus integrantes disponibilizam na Internet uma página com informações a respeito do projeto, idealizado ainda em 2007. Sua execução, todavia, veio a ocorrer no ano de 2016, no município de Boa Vista do Acará e conta com duas outras fases em processo de implementação: Campo Verde, uma comunidade Quilombola localizada na zona rural do município e Concórdia do Pará, e a região da Floresta de Caxiuanã, localizada no município de Melgaço, na Ilha do Marajó, a cerca de 300km da capital. Esta localidade em particular apresenta dificuldades grandes em termos de localização (mais de quinze horas de viagem de barco da capital), infraestrutura (não dispõe de energia elétrica) e transporte de material.

O projeto utiliza tecnologia GSM[281] e conta com a ajuda de programas do governo do estado para fazer as conexões e assim permitir que o tráfego de navegação local flua para os centros urbanos. O tráfego de rede no município de Boa Vista do Acará passa pela

[279] Aqui se atenta para as limitações da infraestrutura de fibra óptica face o vasto território da região e sua distribuição populacional. Exemplo similar é encontrado no caso do programa NavegaPará, do governo do estado do Pará, cuja fibra óptica não alcança a todos.

[280] Para complementar esta pesquisa, conversamos com dois integrantes do projeto. Agradecemos aos envolvidos pela receptividade e por nos possibilitar compartilhar suas ricas experiências neste trabalho.

[281] A tecnologia GSM (em português, Sistema Global para comunicações Móveis) é o padrão mais popular para celulares no mundo. O sistema possui sinal e canais de voz digitais, além de permitir serviços de menor custo, i.e., mensagens de texto, em relação às tecnologias que a antecederam. Entretanto, sua capacidade para chamadas é limitada, pois permite apenas um máximo de dez chamadas em um mesmo canal.

UFPA, ao passo que para o tráfego de localidades como Campo Verde, Floresta do Caxiuanã e Portel requerem um link via satélite. A experiência de Boa Vista, na condição de projeto já implementado, é marcada não apenas por uma relativa autonomia decisória da comunidade, o que agiliza burocracias requeridas para a instalação da infraestrutura e operacionalização do projeto, como também por iniciativas no sentido de proporcionar um bom aproveitamento dessas tecnologias por parte da população, com atenção à maneira como essas tecnologias são utilizadas por crianças e adultos.

Todavia, é possível estabelecer perspectivas para os demais projetos ainda em fase de implementação: Campo Verde, por exemplo, já conta com uma infraestrutura prévia, em comparação a Boa Vista do Acará, onde foi necessária a instalação de uma torre de transmissão. A comunidade de Campo Verde conta com uma antena via satélite e infocentro e recebeu computadores do governo, e a torre de transmissão GSM está em processo de instalação. No entanto, a existência de infraestrutura prévia não necessariamente implica em conhecimento por parte da comunidade de como utilizar essas tecnologias.

Observa-se que uma dificuldade constante a projetos de inclusão digital na região é a disparidade entre as estatísticas e a realidade, particularmente em relação à representação de uma realidade por meio de dados públicos, que, por vezes, acabam se tornando empecilhos para se pensar em políticas de inclusão digital localmente, na medida em que nem sempre são suficientes para representar adequadamente a distribuição territorial e populacional local, tampouco dando conta de capturar as realidades das comunidades locais. Outro aspecto desta disparidade concerne a uma falsa ideia de inclusão proporcionada pela existência de certo nível de infraestrutura: o projeto de universalização do acesso às telecomunicações do governo federal compreende a instalação de telefones públicos e Internet em todas as escolas públicas e infocentros. Entretanto, é comum que esta infraestrutura encontre desde problemas de funcionamento por má-instalação, até situações em que inexiste sinal ou ela simplesmente não funciona. Um exemplo disso envolve escolas públicas em interiores que dispõem de equipamentos de modem sem funcionamento. Em algumas comunidades, por exemplo, isto também acontece com os telefones públicos – alguns jamais chegaram a funcionar.

Integrantes do projeto estão envolvidos em uma rede que reúne quatro projetos de redes comunitárias no Brasil e no México[282]. Dentre os principais objetivos dessa articulação está o compartilhamento de experiências individuais dos projetos. Ademais, nota-se também a importância de se advogar por uma flexibilização de modelos de licenciamento para atender a redes comunitárias, em um contexto no qual iniciativas de inclusão digital fora do contexto de uma universidade enfrentam sérios obstáculos para a condução desse tipo de projeto, na medida em que se torna necessário obter anuência das grandes companhias – muitas que, paradoxalmente, não parecem possuir interesse em levar infraestrutura para comunidades mais isoladas.

Compreendemos o Projeto CELCOM como um exemplo de iniciativa local para lidar com questões como acesso à Internet e à infraestrutura de telecomunicações em comunidades não contempladas pela conexão via cabo. Nesse sentido, não sugerimos que haja um caso dentre os analisados se sobreponha ou ofereça uma solução mais efetiva em relação aos demais. Entendemos, outrossim, que diferentes casos abordam o mesmo problema de maneira variada e que, dentro de um contexto regional específico, alguns deles se apresentam como opções mais sustentáveis e alternativas mais realistas, em um contexto no qual muitas comunidades ainda se veem isoladas em relação a capitais e municípios de diferentes tamanhos. Nesse sentido, o projeto ora analisado se encontra nesta brecha política, na qual determinadas localidades, independentemente de sua distância dos principais centros urbanos, se veem, com alguma frequência, esquecidas por políticas governamentais de infraestrutura e inclusão digital.

Considerações Finais

As RI funcionam, de acordo com Beier (2005), como um monólogo de uma sociedade dominante que, em suas pretensões universalistas, impõe seu conhecimento em detrimento da exclusão dos demais e frequentemente excluindo aquilo que não se enquadra em suas fronteiras. Ao longo deste capítulo, sugerimos que isto também acontece quando falamos das experiências amazônidas e quando discutimos acesso à Internet no Brasil. Apresentamos os principais elementos do debate sobre acesso à Internet e propusemos analisar três diferentes casos a partir dos quais se pode pensar políticas públicas de acesso à Internet no Brasil e, possivelmente, para além de suas fronteiras. Este capítulo explorou apenas algumas, dentre uma variedade de possíveis

[282] Informação concedida em entrevista com integrantes do grupo.

respostas à necessidade de se entender e explorar experiências locais.

É possível utilizar experiências não-eurocêntricas/ocidentais para pensar fenômenos globais, mesmo que, historicamente, esta tenha sido uma estratégia pouco comum às RI enquanto disciplina. O III ForumBR, nesse sentido, tornou oportuno enquadrar o debate sobre o acesso à Internet a partir do contexto da região menos conectada do país. Esse debate tem sido, com maior frequência, compreendido como central a processos de desenvolvimento sustentável, na medida que, a partir de suas dimensões de infraestrutura e alfabetização digital, ele facilita o desenvolvimento de economias locais. No caso do projeto CELCOM, o acesso facilitou a comunicação entre a associação local de produtores de Boa Vista do Acará com empresas para as quais estes fornecem matéria-prima, e também possibilitou a moradores locais especializar-se mediante cursos universitários à distância.

Grandes projetos governamentais, apesar de contarem com melhor infraestrutura e recursos em relação a projetos de iniciativa local, têm por limitação uma dificuldade em abarcar comunidades menores que, por vezes, restam mal representadas (ou sequer são representadas) em censos estatísticos oficiais. A dificuldade em saber onde as pessoas estão se traduz em políticas públicas com alcance limitado a maiores aglomerações populacionais – uma realidade que, na Amazônia, ainda convive com aglomerações menores e bastante esparsas. Municípios como Coari e Tefé, no Amazonas, possuem aglomeração populacional mais densa – ambos com mais de 60 mil habitantes – quando comparados com comunidades como Campo Verde, Boa Vista do Acará e outras zonas rurais e/ou comunidades ribeirinhas espalhadas na região norte do país. Somado a isto, limitações de natureza comercial, como o pouco interesse econômico em expandir infraestrutura para tais localidades, também são apontadas como indicativas da importância de se investir em redes comunitárias (BELLI; ECHÁNIZ, 2016).

Nota-se que projetos de infraestrutura não necessariamente vêm acompanhados por uma preocupação com instruir as pessoas a utilizar as TICs. Isto é realidade não apenas em localidades com pouca ou nenhuma conexão, mas também onde já se convive com acesso à Internet há mais tempo, como as capitais. A ampliação dos debates sobre as experiências locais sugere que qualquer solução para o problema da falta de acesso à Internet que não leve em consideração as especificidades regionais é insuficiente. Ademais, ilustrar distintas experiências, que englobam desde uma reorientação do debate para contemplar de que modo experiências locais podem informar umas as

outras, além de políticas mais amplas, torna possível aos diversos setores envolvidos no debate sobre a governança da Internet pensar estratégias diversas para a questão do acesso – uma pauta comum ao sul global como um todo. Nesse sentido, pensar e fazer RI a partir de locais "incomuns" (BEIER, 2005) poder ser, na realidade, muito mais comum do que se imagina.

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Examining the Intersections of Counter-Terrorism Laws and Internet Governance in Ethiopia

Tewodros Workneh

Since its ascent to power in 1991, the Ethiopian People's Revolutionary Democratic Front (EPRDF) has ruled over the Ethiopian state with a highly centralized, vanguard party system (HABTU, 2003; GASHAW, 1993; MERERA, 2007). Embracing an ethno-nationalist political program from its origins as an opposition collective against its Marxist-Leninist predecessor the "Derg,"[283] EPRDF has characterized itself as a champion of state-led economic development in the mold of the Asian Tigers and China (TADESSE AND YOUNG, 2003). Although EPRDF's economic agenda has gone through several modest iterations throughout its 27 years in power, the party's conceptualization of development as a hegemonic construct remains its principal branding. In the past decade, EPRDF has reported Ethiopia has experienced a robust economic growth. The party consistently proclaims this success is due to its "development-first" policy.

While the development narrative dominated Ethiopia's official communication platforms, the country has also experienced a rising tide of opposition movements recently. EPRDF's centralized political and economic agenda, including its development-first proposition, has pushed alternative public discourse to the fringes. The party's religious approach to top-down "developmentalism" resulted in an insular decision-making power concentrated within a detached political clique at the expense of basic human rights provisions enshrined in the Ethiopian Constitution.[284]

EPRDF's exclusionary political and economic agenda has also resulted in a wave of protests across the country. As recently as November 2015, for example, the government encountered massive protest in the Oromia regional state over a master plan that proposed boundary expansion of the capital city of Addis Ababa (FORTIN, 2015).

[283] EPRDF's predecessor, the *Derg*, came to power on September 1974 by ousting the last king of Ethiopia's centuries old Solomonic dynasty, Haile Selassie I. The *Derg* was a committee of communist military officers led by former dictator Mengistu Haile-Mariam.

[284] See Chapter 3, Fundamental Rights and Freedoms, section of **Constitution of the Federal Democratic Republic of Ethiopia**, Addis Ababa: The Federal Democratic Republic of Ethiopia, 1994.

Although the government argued the master plan is key to its large-scale development schemes involving local and foreign investors, protesters feared it would displace Oromo farmers and their families. Further protests grew across the country, culminating in a country-wide six-month state of emergency imposed by the Ethiopian government on October 9, 2016 (SCHEMM, 2016). The state of emergency suspended many constitutionally granted rights, including the use of mobile Internet and social media.

For a country with an Internet penetration rate of around 15% (INTERNATIONAL TELECOMMUNICATIONS UNION, 2017), it is probably safe to argue that the digital front is not yet the most impactful mode of communication for the nation's 100 million people. Limited as it is, however, the Internet represents a "genie-out-of-the-bottle" scenario for the Ethiopian government. For a political party that is used to controlling its own messaging through its near-state-monopolized broadcasting sector, the Internet poses a sort of an existential threat. Former Prime Minister of Ethiopia and author of EPRDF's political and economic program Meles Zenawi believed the long-term success of his party was contingent on the successful branding of "developmentalism" and the creation of a mass devoted to it (EPRDF, 2010). For critical observers of EPRDF, however, developmentalism has become a blanket term that is used to thwart legitimate opposition. By extension, criticizing the government has become synonymous with criticizing the very notion of development itself, resulting in a caricature of the critical public as "anti-development," "anarchist" or even "terrorist" (WORKNEH, 2015).

The Internet's role in disrupting authoritarian regimes' yearning for uniformity of political narrative is mostly demonstrated through the emergence of what came to be known as online communities or virtual communities. Porter (2006) defines a virtual community as "an aggregation of individuals or business partners who interact around a shared interest, where the interaction is at least partially supported and/or mediated by technology and guided by some protocols or norms." In this chapter, I am using the phrase "online communities" to loosely refer to Ethiopians who can access and regularly participate in social networking sites (SNSs) such as Facebook. Although Ethiopia's SNS subscribers use the platforms like Facebook for a variety of purposes including forming/maintaining relationships, general networking with other people or finding entertaining content, the communities of interest here are those who use the platform to participate in some form of political discourse either by sharing a political opinion with others or staying up-to-date with news and current events. In countries that experience

lack of political plurality and freedom of expression, online platforms serve as alternative avenues to find political discourse communities that oftentimes morph into some form of collective identity, activism, or social movement (JAMES, 2017; LEE, 2018). There is evidence this is particularly the case in Ethiopia (see GAGLIARDONE, 2014; KUMLACHEW, 2014) where the offline media landscape is predominantly shaped by the interests of the ruling party. In this sense, it is no surprise that some of the most notable rhetorical resistance and opposition against the ruling party has taken place in the online sphere (GAGLIARDONE and POHJONEN, 2016).

Today, there is a widespread recognition within the EPRDF circle that the Internet, especially social media, cannot be ignored in spite of its limited reach. In suspending Internet services from the sole state monopoly telecommunications provider, the Ethiopian government has in many instances singled out social media as the preferred mode of communication for its critics (GAGLIARDONE and POHJONEN, 2016). Although the Ethiopian government has used a variety of methods to contain critical narratives in the online sphere including service disruptions and unleashing an army of trolls (FREEDOM HOUSE, 2016; GRINBERG, 2017), one of the most frequented strategies in recent years involves the arbitrary use of legal frameworks to intimidate, censor, and imprison online communities that actively participate in critical political discourse.

It is against this backdrop that this chapter looks at Ethiopia's Internet governance policy guidelines, most notably the Anti-Terrorism Proclamation, to examine how state-sponsored legal frameworks are used to undermine freedom of speech. More importantly, I will discuss how offline prosecution is creating a cloud of fear and uncertainty in the Ethiopian digital ecosystem. By framing the adoption and execution of Ethiopia's Anti-Terrorism Proclamation as an outcome of the ruling party's long-term hegemonic project, I demonstrate how the Ethiopian State has developed a legal-rational bureaucracy that exploits terrorism narratives to stifle critical speech and Internet freedoms.

Contextualizing EPRDF's Ethiopia

Ethiopia's ruling elite party since 1991, EPRDF is a coalition of four ethnically organized parties, namely the Tigrayan People's Liberation Front (TPLF), Oromo Peoples' Democratic Organization (OPDO), the Amhara National Democratic Movement (ANDM) and the Southern Ethiopian People's Democratic Movement (SEPDM) (PAULOS, 2011). A

former rebel group that toppled the military "Derg," the EPRDF coalition presently controls all the seats of the Ethiopian parliament. While all party members play equally important roles in the coalition, at least in principle, many see TPLF as the most decisive and influential organ (DANIEL, 2003).

Assessing the legacy of EPRDF in the unfolding evolution of the Ethiopian state is not only a daunting task but also methodologically unsound given the unfinished and active role it is still playing in the country. However, it is fair to conclude that perceptions and attitudes toward EPRDF's rule, archetypal to modern Ethiopian political history, are controversial, if not polarized. Supporters claim that Ethiopia took some progressive and brave steps in the right path under the leadership of EPRDF. They argue equitable state building and electoral democratization are slowly being implemented with elections taking place every 5 years. They contend long-standing group identity questions were constitutionally addressed and ethnic groups were empowered through self-governance and cultural and linguistic autonomy, replacing unitary authoritarianism with a multiethnic egalitarian nation state; and a relatively robust free market economy with large-scale privatization was put in place abandoning the inefficient and sterile command economy (BERHANU, 2008; HAMMOND, 1999; HENZE, 2000; YOUNG, 1997; YOUNG, 2000).

On the other hand, critics point out that the EPRDF ethnic coalition does not truly reflect a legitimate representation of the Ethiopian populace but is rather a pretext to sustain TPLF's minority hegemony. They accuse TPLF of deliberately amplifying ethnic tensions that has the aim of creating insecurity for other groups, which in turn affords TPLF uncontested power. They argue constitutionally guaranteed human rights have been violated every year; the press, though free to operate constitutionally, has been harassed, with editors being regularly incarcerated or exiled; political parties that EPRDF considers threatening to its hegemony have been outlawed, and those that chose to compete have been systematically hunted down with their members reportedly getting harassed, arrested, made to disappear or flee; elections have been marred by irregularities, harassment, intimidation, ballot rigging, and even outright murders by supporters of the government; the EPRDF-led government appoints and refused to reorganize the election board into a neutral body; and extra-judicial arrests and even killings have been reported over the years. Critics charge EPRDF of favoritism to unaudited TPLF-owned mega-business empires and parastatals that monopolize key sectors of the Ethiopian

economy; intimidation of the rural masses are prevalent through confiscation of farmlands and denial of fertilizers in retribution to opposition party support; widespread jamming, content filtering, blocking, online surveillance over information communication technologies have been practiced targeting dissidents; and diversion of international aid as a tool to maximize control and submission (ALBIN-LACKEY AND HUMAN RIGHTS WATCH, 2005; HUMAN RIGHTS WATCH, 1998; HUMAN RIGHTS WATCH, 2005; KENDIE, 2003; MCCRACKEN, 2004; PAUSEWANG, TRONVOLL and AALEN, 2002; RAWLENCE, LEFKOW, and HUMAN RIGHTS WATCH, 2010; VESTAL, 1999).

While perceptions on EPRDF remain contested, it is difficult to dispute the ruling party's abysmal track record on freedom of expression. The Ethiopian press today is characterized by extensive instability where private newspapers and other periodicals have a very short lifespan due to state-sponsored intimidation that oftentimes culminates in the imprisonment or exile of journalists, editors and publishers (DIRBABA and O'DONNELL, 2012). In a country of 100 million people, broadcasting continues to be a state-controlled enterprise with the nationwide Ethiopian Radio and Television Agency and 8 regional state-owned broadcasters dominating the airwaves. Internet service, which is commonly shut down in times of protests, is only accessible through the sole state-owned telecommunications provider, Ethio-Telecom (WORKNEH, 2016a). Internet, when it is accessible, is very expensive. Despite price cuts that were announced in 2016, mobile Internet access costs ETB 5 (US$ 0.25) per day for 25 MB of data or ETB 3,000 (US$ 140) per month for 30 GB (WORKNEH, 2016b). Considering how navigating websites containing 1 GB of multimedia content could cost US$ 9 a day (FREEDOM HOUSE, 2016), these packages are unaffordable for many Ethiopians whose daily income, according to the World Bank (2018), averages $1.4 per day. Freedom House (2016, p. 3) reports that "Ethiopians can spend an average of US$85 per month for limited mobile or fixed wireless Internet access. Better quality services in neighboring Kenya and Uganda cost less than US$30 a month." For many critical observers, this is a reflection of EPRDF's hegemonic construct that aims to limit accessibility of mediated communication, both through a monopoly ownership structure and exorbitant costs, that is deemed to be disruptive to its rule.

EPRDF's response to this criticism has usually been to create a blanket caricature of the media as "enemies" of the State's development agenda. This is in spite of how the Ethiopian media landscape is acutely lopsided in favor of government ownership where

both print and electronic media are controlled by state or are sympathetic to the ruling party (MESERET, 2013; SHIMELIS, 2000). EPRDF has historically defended its hegemonic rule by branding itself as a vanguard elite of economic development, a priority that relegates other social concerns, including freedom of expression. The "developmentalism" rhetoric of EPRDF funneled through the various state-owned media is so strong that criticism of the party has become to be framed as an attack on economic development. It is common practice for state media in Ethiopia to characterize opposition groups and private press *as tsere limat* (anti-development) and/or *ashebari* (terrorist), implicitly stating that "EPRDF" and "development" are one and the same: Criticism of one is invariably an attack on the other. The danger here is that, under pretense of developmentalism, EPRDF can justify the suppression of what it deems as a non-permissible, *tsere limat*, *ashebari*, speech (WORKNEH, 2015).

Internet Governance Policy Frameworks and Freedom of Expression in Ethiopia

Despite being the second most populous country in Africa, Ethiopia has one of the lowest Internet penetration rates in the world. Although Internet penetration in Ethiopia has increased from 4.2% to 15.4% between 2012 and 2016 (INTERNATIONAL TELECOMMUNICATIONS UNION, 2017), several factors continue to impede users from utilizing the Internet in a productive manner. Firstly, the sole state-owned ISP in Ethiopia continues to suffer from a last-mile connectivity challenge even though the government has invested substantially on bedrock fiber-optics infrastructure (LI, 2017). Secondly, lack of competition in the telecommunications sector has contributed to a culture of complacency in delivering high-speed Internet to de facto users of the monopolized ISP (WORKNEH, 2015). Thirdly, the Ethiopian government continues to terminate 3G and 4G mobile Internet access in an attempt to contain ongoing protests across the country (SOLOMON, 2017). Fourthly, Internet access in Ethiopia is very expensive compared to fees in other African countries (FREEDOM HOUSE, 2016).

Questions of access, quality and affordability of Internet are invariably related to the Internet governance frameworks put in place by the Ethiopian government. Most of these legal frameworks that govern Internet accessibility and usage in Ethiopia are characterized by their restrictive provisions and claw-back clauses. The purpose and effects of these laws are different and complex. On one hand, they play a proactive role by dictating what kind of activities users should and should not perform, and what type

of content they should or should not use, process or produce. On the other hand, they play a more reactive, practical role of criminalizing alleged offenders. They provide a legal façade for the government to prosecute individuals that are deemed to have committed an offense. Critics opine these laws institutionalize the Ethiopian government's crackdown of dissidents (HUMAN RIGHTS WATCH, 2014). Three laws, namely the Ethiopian Information and Communication Technology Development Authority Establishment Proclamation, the Telecom Fraud Offense Proclamation, and the Anti-Terrorism Proclamation, are notable for being influential in conditioning Internet access and usage in Ethiopia.

The Ethiopian Information and Communication Technology Development Authority Establishment Proclamation No. 360/2003 mandates the stated Authority to use ICT "in such a way that it contributes to the nation's socio-economic development and the building of democracy and good governance" (FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA, 2003, p. 2327). While the proclamation provides clauses that uphold support to concerned stakeholders to protect violations of social and individual constitutional rights that may be caused by the use of the technology and, therefore, sustain Internet freedoms, it also empowers the Authority "to deter and offset national security problems that may arise from the utilization of information and communication technology" (FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA, 2003, p. 2327). The latter provision clearly capacitates the state to filter and block content that it deems "dangerous," or "inappropriate," thereby curbing online freedom significantly.

Perhaps one of the most important laws adopted by the Ethiopian government that has a direct bearing on users is the Telecom Fraud Offense Proclamation No. 761/2012. Section 9 of this controversial proclamation provides exclusive rights to the state monopoly telecom service provider, Ethio-Telecom, to engage in telecommunication infrastructure development (FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA, 2012). According to the Proclamation, anyone who bypasses the telecom service provider's infrastructure and provides "any domestic or international telecom service" can be sentenced to 10-20 years in prison (FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA, 2012, p. 6551). A financial fine that is ten times the revenue the infringer has potentially earned shall complement imprisonment. Users of these services are also subject to a sentence between three months and two years in addition to a fine of US$134-US$1,070. This could mean an Internet kiosk along with its users may be charged and sentenced if service such as Voice

Over Internet Protocol (VOIP) is rendered for commercial purposes. While the government claims telecom fraud "is a serious threat to the national security beyond economic losses," (FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA, 2012, p. 6547) dissidents believe the law targets activists who use services like Skype (FISHER, 2012). While VOIP services are not protected by the Telecom Fraud Offense Proclamation, Section 15 empowers the government to use digital or electronic evidences, evidences gathered through interception or surveillance, and information obtained through interception conducted by foreign law enforcement bodies in courts as evidences (FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA, 2012). Perhaps a clause that is one of the most vague provisions of the Proclamation is Section 6 which states: "Whosoever uses or causes the use of any telecom network or apparatus to disseminate any terrorizing message connected with a crime punishable under the Anti-Terrorism Proclamation" (FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA, 2012, p. 6550). For critics, this provision migrates the offender to the highly controversial Anti-Terrorism Proclamation.

The Anti-Terrorism Proclamation No.652/2009 that came into force in August 2009 has probably been put into retributive effect more than any other legal framework related to communication involving electronic media in Ethiopia. One of its provisions states whosoever publishes a statement "likely to be understood by some or all of the members of the public to whom it is published as a direct or indirect encouragement or other inducement to them to the commission or preparation or instigation of an act of terrorism" can be imprisoned for 10-20 years (FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA, 2009, p. 4831). The Proclamation empowers the state with the authority to intercept or conduct surveillance on the telephone, fax, radio, Internet, electronic, postal and similar communications of a person suspected of terrorism; enter into any premise in secret to enforce the interception; or install or remove instruments enabling the interception.

The Proclamation further stipulates communication service providers are obliged to cooperate NISS when interception and surveillance is requested. Failure to comply can lead to imprisonment between three and ten years (FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA, 2009). Eleven journalists have been convicted and sentenced in 2011 under the Anti-Terrorism Proclamation (HUMAN RIGHTS WATCH, 2013a). The Anti-Terrorism Proclamation was invoked in December 2009 to prosecute two Swedish journalists,

Martin Schibbye and Johan Persson, who were convicted for "rendering support to terrorism" and entering the country illegally "to commit an act that is a threat to the well-being of the people of Ethiopia" (HUMAN RIGHTS WATCH, 2013b). The Anti-Terrorism Proclamation has received widespread criticism from rights groups across the world including Human Rights Watch and Committee to Protect Journalists that deem the law to be too "broad" and "vague" and one that blurs that difference between dissidence and terrorism (COMMITTEE TO PROTECT JOURNALISTS, 2009; HUMAN RIGHTS WATCH, 2013b).

Although the Anti-Terrorism Proclamation was conceived as a means by which the Ethiopian State can legally circumvent existing laws of criminal justice—which is commonly practiced in other countries with similar legal frameworks—these trends indicate the Proclamation has been excessively used to criminalize domestic political opposition and critical speech. In is in this context I will discuss how the Ethiopian government's version of such legal framework has been indiscriminately used to intimidate critical expression, a scenario which oftentimes creates subdued political participation born out of fear and self-censorship amongst Ethiopian online communities.

The Rise, Significance, and Consequences of Counter-Terrorism Laws in the 21st Century

The terrorist attacks of September 11, 2001 in the United States as well as other similar incidents in different countries have caused profound changes in the political, economic, and social relations of the world. From communication systems to immigration flows to financial transactions, nations have aggressively sought a wide range of mechanisms to proactively curb potential threats. While executive branches such as law enforcement bodies and even militaries are commonly part of the anti-terrorism apparatus, the most conspicuous common denominator across nations has been the rise of what came to be known as counter-terrorism laws.

The recent prominence of counter-terrorism laws across the world has had significant implications to the study of global terrorism from legal and policy perspectives, especially in terms of determining what constitutes (and does not) an act of terrorism. In this regard, the lack of a universal definition of terrorism is not only unsurprising but may also be an impossible task. Although such fluidity of the term is not new, the

executive delimitation of terrorism has been conditioned by Resolution 1373 of the United Nations Security Council that was issued on September 28, 2001 following the terrorist attacks on the United States earlier on the same month. The Resolution, among other things, called nations to criminalize acts of terrorism as well as financing, planning, preparation and support for terrorism. In order to expedite the directive, the Security Council created a new Counter-Terrorism Committee that was tasked with overseeing counter-terrorism actions adopted by member states. While the resolution directed member states to step-up their counter terrorism efforts, it didn't provide a framework to define what constitutes an act of terrorism. Roach *et. al.* (2012) note that this left individual nations to define terrorism according to their contextual concerns. This approach is not unexpected given how international counter-terrorism law and policy involve multiple layers of actors as well as "interplay between international, regional and domestic sources of law" (ROACH, HOR, RAMAJ, and WILLIAMS, 2012, p. 3).

The broad framing of terrorism coupled with the rise of counter terrorism laws across nation states has brought renewed concerns about infringement of basic human rights. Well known post-9/11 counter-terrorism activities in Guantanamo Bay or US-American "black sites" in some European countries as well as rendition sites in countries like Egypt have demonstrated there is a thin line between curbing terrorist acts and violating the basic right to be free from torture and degrading treatment (SETTY, 2012). In addition to concerns over torture and degrading treatment, counter terrorism efforts have also ignited debate on striking the right balance between thwarting terrorism and expressive, associational and assembly freedoms (SCHNEIDERMAN and COSSMAN, 2002). Of critical importance here is how the UN Security Council endorsed counter terrorism laws have created an added impetus for authoritarian governments to criminalize legitimate forms of domestic dissent (ROACH, 2015). Today, many authoritarian and quasi-authoritarian states have aligned themselves with what came to be loosely known as the "war against terrorism" global front. However, these states have intensified the use of counter terrorism apparatus, including legal framework, to attack civic liberties, free press, civic organizations, and communication systems.

Contextualizing the Discourse of Counter-terrorism in Ethiopia

An influential player in geopolitical and diplomatic affairs of the African continent, the Federal Democratic Republic of Ethiopia (FDRE) is a key ally to the United States in

combating terrorism and terrorist groups in the Horn of Africa. The United States and FDRE have established multiple counter-terrorism partnerships that specifically target designated terrorist groups such as Al Shabab in neighboring Somalia. In spite of a poor human rights record, Ethiopia continues to be regarded highly by the United States and its allies due to the strategic alliance it offers in combating terrorism. Nevertheless, for Ethiopia's ruling party, this partnership is as much about combating terrorism as it is about extending its grip on political power which has now lasted for nearly three decades (CLAPHAM, 2009). EPRDF has been accused of repurposing counter-terrorism apparatuses—intelligence and surveillance systems, military equipment, and technical knowhow—financed and set up by its Western allies to quell critical expression, organization and assembly domestically (TURSE, 2017). In spite of years of United States Department of State country reports that document state-sponsored human rights abuses, the United States continues to follow a policy of appeasement toward the Ethiopian government, possibly to avoid the disruption of its geopolitical priority in the region. In this sense, it is plausible to argue that EPRDF views this as a critical leverage, one that is aimed at keeping outside political interference at bay, thereby effectively silencing external pressures of political reform. In the interest of maintaining its strategic priorities, EPRDF's Western partners have chosen to be "oblivious to or even ignorant of Ethiopia's worsening political exclusivity" (WORKNEH, 2015, p. 103), allowing the former to, without meaningful accountability, undermine basic human rights under the guise of counter-terrorism efforts.

Although Ethiopia prominently participated in the so-called "global war on terrorism" bloc since the United Nations Security Council resolution on counter-terrorism in 2001, most notably when U.S. backed Ethiopian forces joined the Somali Transitional Federal Government (TFG) to defeat the Al Qaeda affiliated Islamic Court Union (ICU) in 2006 (RICE and GOLDENBERG, 2007), it didn't adopt a counter-terrorism legal framework until 2009. Enacted by the EPRDF dominated Ethiopian Parliament, the Anti-Terrorism Proclamation of the FDRE (Proclamation No. 652/2009) has been intensively used to prosecute a great number of individuals who range from reporters to opposition political party members to civil society groups. For example, Kibret (2017) has identified more than 120 cases under which the Federal Public Prosecutor has charged nearly one thousand individuals by citing the provisions of the Anti-Terrorism Proclamation. In many ways, the Ethiopian government's actions since the adoption of the Anti-Terrorism

Proclamation in 2009 justified concerns of human rights groups who have heavily criticized the law for being dangerously vague in framing terrorist acts, violating international human rights law, and dismantling criminal justice due process standards. The consensus amongst many observers today is that the Ethiopian Anti-Terrorism Proclamation has become the most potent tool to stifle legitimate forms of critical expression, organization, and assembly (KIBRET, 2017; SEKYERE and ASARE, 2016).

The fatal consequences of Ethiopia's adoption of an anti-terrorism framework to freedom of speech was mostly predictable because of the Ethiopian government's abysmal track record on human rights violations. Several nations' rush to adopt global anti-terrorism laws has been motivated by the idea of creating a lawful means to bypass existing criminal justice procedures that may not be speedy or effective enough to respond to national security threats (DANIELS, MACKLEM, and ROACH, 2002). In this sense, anti-terrorism laws empower governments to exercise a "state of exception" where, under perceived or real terrorism threats, normal procedures of jurisprudence in criminal law may be circumvented in the spirit of upholding "the greater good." As Roach et al. (2012, p. 10) succinctly summarized, the intent here is "accommodating terrorism and emergencies within the rule of law without producing permanent states of emergency and exception." It is plausible to perceive, without overlooking critical loopholes, how countries with established democratic traditions would have better institutional mechanisms to combat corrosive uses of counter-terrorism laws. In a democratically fragile country like Ethiopia where all branches of government including the judiciary are set up to buttress the self-proclaimed hegemonic project of the ruling party, the Anti-Terrorism Proclamation has become the rule and not the exception.

Curbing Digital Freedoms through Counter-Terrorism Laws

Although the various charges carried out under the premises of the Anti-Terrorism Proclamation by the Ethiopian government differ in their scope and nature, a sizable number of the cases have serious implications to the state of freedom of expression, especially mediated critical speech, in Ethiopia. In this sense, it is no surprise that the Ethiopian Anti-Terrorism Proclamation has probably been put into retributive effect more than any other legal framework related to communication involving electronic media. Since its enforcement, the law has disproportionately targeted community

members who are involved in the dissemination of information through traditional and digital media platforms, including bloggers, journalists, and freelance writers.

It should be noted that concerns over appropriating counter-terrorism legal frameworks for authoritarian ends is not a uniquely Ethiopian phenomenon. For example, Egypt adopted its own version of counter-terrorism law in 2015 that significantly curbed rights of freedoms of assembly, association and expression. Formally referred to as the Law of Organizing the Lists of Terrorist Entities and Terrorists, Egypt's counter-terrorism legislation gives mandate to the government to legally exercise surveillance over Egyptians as well as penalize those who oppose or criticize state policies and practices. Egypt's counter-terrorism law has been criticized for criminalizing dissent, usually through conflating crimes committed by violent groups to peaceful acts of expression that are critical to the government. By employing vague language that is prone for arbitrary interpretation, Hamzawy (2017, p.17) notes that the terrorism law "does not require the government's accusations of terrorist involvement to be proven through transparent judicial proceedings before individuals are placed on the list."

Another African country that has adopted a counter-terrorism law recently with controversial outcomes is Cameroon. The Law on the Suppression of Acts of Terrorism in Cameroon (No. 2014/028) was enacted in 2014 against a backdrop of containing threats from designated terrorist organizations, most notably Nigeria's Islamist Jihadist group, Boko Haram. While the law won notable support originally, its eventual application raised serious concerns over infringement of rights of expression protected under the Cameroon Constitution and international human rights law. According to a report by the Committee to Protect Journalists (2017, p.7), the counter-terrorism legislation has been especially criticized for penalizing journalists by conflating "news coverage of militants or demonstrators with praise," resulting in journalists not knowing "what they can and cannot report safely, so they err on the side of caution." One of the most notable cases involved Radio France Internationale (RFI) journalist Ahmed Abba, who is serving a 10-year prison sentence on terrorism charges for his reporting on the militant group Boko Haram after he was convicted by a military tribunal of "non-denunciation of terrorism" and "laundering of the proceeds of terrorist acts" (CPJ, 2017, p.7).

The Ethiopian case, however, is distinctively problematic for the sheer scale of counter-terrorism legislation induced charges involving online communities as well as journalists. For example, in *Soliana Shimeles et al. v the Federal Public Prosecutor*, the

state charged 10 bloggers and journalists by claiming that the defendants have ties with Ginbot 7 and the Oromo Liberation Front (OLF), foreign based opposition parties that are designated as terrorist groups by the EPRDF-controlled Ethiopian parliament. In *Ethiopian Satellite Television and Oromia Media Network* v *The Federal Public Prosecutor*, U.S. based television stations Ethiopian Satellite Television (ESAT) and Oromia Media Network (OMN) were accused of disseminating information deemed to be in the interest of Ethiopian government designated terrorist groups Ginbot 7 and OLF. The underlying argument of the Federal Prosecutor was based on the assumption that disseminators of information involving terrorist-designated groups act as accessories of terrorism. The Anti-Terrorism Proclamation renders a very broad and ambiguous language that criminalizes speech deemed to be an "encouragement" of terrorism, whatever the latter may be, through the interpretive lens of the Ethiopian government. Consider Article 6 of the Proclamation:

> Whosoever publishes or causes the publication of a statement that is *likely to be understood by some or all of the members of the public* to whom it is published as a direct or indirect encouragement or other inducement to them to the commission or preparation or instigation of an act of terrorism...is punishable with rigorous imprisonment from 10 to 20 years (emphasis of the author).[285]

When the determination of what encompasses an encouragement of a terrorism act is made based on the "likely" understanding of "members of the public," the outcome warrants a scenario of arbitrary interpretation, jurisprudence, and execution of the law. In other words, by keeping the law as vague and broad as possible, the government can choose to use it haphazardly in order to stamp out legitimate acts of political expression and dissent. Consider the case of Reeyot Alemu Gobebo, former contributor of the weekly newspaper *Feteh*. She was convicted on three counts under the terrorism law for her writings that were highly critical of the ruling party and the former Prime Minister of Ethiopia, Meles Zenawi, who was persistent in his characterization of members of the

[285] See The Federal Democratic Republic of Ethiopia, **A Proclamation on Anti-Terrorism**. Addis Ababa: Federal Negarit Gatzeta, 2009.

free press as “messengers” of terrorist groups (ABIYE, 2011). Although Reeyot Alemu was formally convicted of having ties with terrorist groups—a common blanket accusation the Ethiopian government infers to arrest journalists and freelance writers—it is important to note that Alemu and other journalists that were imprisoned with terrorism charges were targeted by the government for their continued journalistic practices that were viewed by EPRDF as divergent to its hegemonic rule.

Some context is important here. When the EPRDF controlled parliament designated opposition political parties such as Ginbot 7 and OLF as terrorist groups, its underlying premise was that they aspired to overthrow the government through armed struggle. Both Ginbot 7 and OLF as well as their supporters characterize their approach as a liberation movement. They defend their armed struggle by arguing EPRDF has clamped down any possibility of democratic transition of power throughout its nearly three decades of authoritarian rule that has been marred by protests, human rights abuses, and disregard to the rule of law. Ironically, when EPRDF ascended to power in 1991 after years of armed struggle, it defended its actions by citing the former military regime left them no choice but to pursue the military route. In this sense, it is plausible to conceive how Ginbot 7, OLF, and other groups that wage an armed struggle against the Ethiopian government currently see their movement as one motivated by liberation.

The appropriation of counter-terrorism laws to frame domestic political dissent as an act of terrorism is not unique to Ethiopia, which brings us back to normative debates surrounding the definition of terrorism. As Roach *et al.* (2012) note, regardless of terrorism’s contemporary legal application it should be conceptually district from national liberation struggles. They remind us a good chunk of the challenge of formulating a comprehensive definition of terrorism is “stymied by long-standing concerns over the legitimate use of political violence by national liberation movements” (p. 6). Many state-sponsored counter-terrorism legal frameworks today suffer from “under-inclusion” because of their narrow—and usually self-serving—conceptualization of terrorist acts that disregards state terrorism or disproportionately targets liberation movements (ROACH, 2012, p. 114). Some countries such as South Africa have incorporated language that broadly addresses the tension between counter-terrorism efforts and liberation movements in their counter-terrorism laws. As Roach (2015, p.23) highlights, South Africa has made a “freedom fighter exemption” in its 2004 counter

terrorism law[286] which recognizes ANC's history of evolving from being "a proscribed terrorist organization to South Africa's governing party." In explaining this dilemma, Roque (2012, pp. 315-316) cites this lengthy—but very illuminating—commentary by the Supreme Court of the Philippines in *David v. Macapagal-Arroyo*:

> Remarkable confusion persists in regard to the legal categorization of acts of violence either by states, by armed groups such as liberation movements, or by individuals.
>
> The dilemma can be summarized in the saying 'One country's terrorist is another country's freedom fighter.' The apparent contradiction or lack of consistency in the use of the term terrorism may further be demonstrated by the historical fact that leaders of national liberation movements such as Nelson Mandela in South Africa, Habib Bourgouiba in Tunisia, or Ahmed Ben Bella in Algeria, to mention only a few, were originally labeled as terrorists by those who controlled the territory at the time, but later became internationally respected statesmen.
>
> The dilemma facing the international community can best be illustrated by reference to the contradicting categorization of organizations and movements such as Palestine Liberation Organization (PLO)—which is a terrorist group for Israel and a liberation movement for Arabs and Muslims—the Kashmiri resistance groups—who are terrorists in the perception of India, liberation fighters in that of Pakistan – the earlier Contras in Nicaragua—freedom fighters for the United States, terrorists for the Socialist camp – or, most drastically, the Afghani Mujahedeen (later to become the Taliban movement): during the Cold War period they were a group of freedom fighters for the West, nurtured by the United States, and a terrorist gang for the Soviet Union. One could go on and on in

[286] Section 1(4) of the Protection of Constitutional Democracy Act exempts: any act committed during a struggle waged by peoples, including any action during an armed struggle, in the exercise or furtherance of their legitimate right to national liberation, self-determination and independence against colonialism, or occupation or aggression or domination by alien or foreign forces, in accordance with the principles of international law.

> enumerating examples of conflicting categorizations that cannot be reconciled in any way—because of opposing political interests that are at the roots of those perceptions. How, then, can those contradicting definitions and conflicting perceptions and evaluations of one and the same group and its actions be explained? In our analysis, the basic reason for these striking inconsistencies lies in the divergent interest of states. Depending on whether a state is in the position of an occupying power or in that of a rival, or adversary, of an occupying power in a given territory, the definition of terrorism will 'fluctuate' accordingly. A state may eventually see itself as protector of the rights of a certain ethnic group outside its territory and will therefore speak of a 'liberation struggle', not of 'terrorism' when acts of violence by this group are concerned, and vice-versa.[287]

Despite its history of armed struggle, EPRDF's Ethiopia has not made any exceptions with regard to national liberation struggles in its counter terrorism legal framework.[288] This in turn has dire consequences for media professionals doing their public mandated watchdog role. In other words, when journalists such as Reeyot Alemu report about groups such as Ginbot 7 and OLF, their actions are justified because of the enormous public interest imperative that is at stake. If and when a journalist, in the words of the Anti-Terrorism Proclamation, "publishes or causes the publication of" groups or individuals designated as terrorists by the Ethiopian government, they will run the very likely risk of being imprisoned. Everyday journalist routines of establishing a source, conducting an interview, or simply relaying a press release involving designated "terrorist organizations" can easily be prosecutable acts. Consequently, the law has been used to convict other prominent Ethiopian media practitioners including Eskinder Nega, a journalist and blogger who received the 2012 PEN Freedom to Write Award, sentenced to serve 18 years in prison. Another convicted journalist is 2012 Hellman-Hammett Award winner Woubshet Taye, who was sentenced to serve a 14-year prison time under the Anti-Terrorism Proclamation. Temesgen Desalegn, editor and writer of the now

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[287] G.R. No. 171396, 3 May 2006.

[288] EPRDF's founding member party, the Tigrayan People's *Liberation* Front, has started as a liberation movement. Note how "liberation" forms an integral lexicon of the party's name.

defunct independent magazine *Feteh*, is one of the journalists tried for offenses under the criminal code. Other journalists and media practitioners who faced charges under the anti-terrorism proclamation include Mastewal Birhanu, Yusuf Getachew and Solomon Kebede (HUMAN RIGHTS WATCH, 2013).

While the appropriation of Ethiopia's Anti-Terrorism Proclamation to target media professionals by tying them to controversially terrorist designated political groups is by itself an attack on the freedom of expression enshrined in the Ethiopian Constitution[289], the more dangerous consequence is probably the chilling effect this "example" has set to ordinary citizens. The indiscriminate use of "terrorist" to refer to journalists reporting on opposition groups has now evolved to include individuals whose political, economic, social or human rights opinions differ from EPRDF's narrative. For example, Workneh (2015) notes how legal frameworks such as the Anti-Terrorism Proclamation adopted by the government have created a cloud of insecurity and fear in Ethiopian online communities when it comes to political opinions. The thin line between "dissent" and "terrorism" leads users to unwittingly undergo different forms of self-censorship, a scenario that enables the government to create a subdued public that is reluctant in participating in a counter-hegemonic narrative. In this sense, it is no surprise that "government control and interference" and "violations to privacy" are the two most important challenges facing the Internet in Ethiopia today next to "lack of access" (WORKNEH, 2015).

This "fear factor" born out of the government's criminalization of critical speech is compounded by the Anti-Terrorism Proclamation's empowerment of the state with the authority to intercept communication that endows the National Intelligence and Security Service (NISS), upon getting court warrant to intercept or conduct surveillance on the telephone, fax, radio, Internet, electronic, postal and similar communications of a person suspected of terrorism; enter into any premise in secret to enforce the interception; or install or remove instruments enabling the interception. As Endalkachew Chala, member of the online blogging collective Zone 9[290] recounts, the

[289] Article 29 (2) of the Ethiopian Constitution states: "Everyone shall have the right to freedom of expression without interference. This right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through other media of his choice."

[290] The Zone 9 bloggers are a blogging collective in Ethiopia who mainly write about political and social subject matters. The Zone 9 bloggers came to the international spotlight when the Ethiopian government arrested six members of the group in 2014 on terrorism charges. The charges have since been dropped

public prosecutor has presented transcripts of phone conversations obtained through wiretapping by the government as evidence in a court of law in *Soliana Shimeles et al. v the Federal Public Prosecutor*.[291] The frequency in which the government infiltrates into the private communications of Ethiopian citizens—especially activists and journalists with critical opinions—has become a common practice since the Anti-Terrorism Law was put in place in 2009.[292]

While the vast power bestowed upon NISS by the Anti-Terrorism Proclamation in soliciting information from private Ethiopian citizens reinforces the Ethiopian government's trajectory as a police state, there are important implications to be drawn from another provision of the law that requires communication service providers to "cooperate" with intelligence units. Article 14 (3) of the Anti-Terrorism Proclamation states that any communication service provider "shall cooperate when requested by the National Intelligence and Security Service to conduct the interception." The significance of this provision, especially to digital freedoms, or lack thereof, in Ethiopia is that all Internet services can only be accessed through the sole Internet service provider, the state-owned Ethio-Telecom. The telecommunications sector in Ethiopia is characterized by a vertically integrated market run by a state-owned enterprise outside the realm of competition (WORKNEH, 2016). Although the Ethiopian government has defended its state monopoly model of the telecommunications sector by citing economic rationales, several critics have argued the monopoly model has little to do with economic imperatives but rather is set in place to exert control over *de facto* users. Several instances corroborate these collusion fears. During the 2005 general elections, for example, the Ethiopian government ordered the sole telecommunication provider to shut down the SMS system after opposition groups successfully deployed text-based campaigns (ABDI AND DEANE, 2008). A 2014 Human Rights Report entitled *"They Know Everything We Do": Telecom and Internet Surveillance in Ethiopia*, provides a detailed account of how the Ethiopian government acquires surveillance technologies from several countries that oftentimes are integrated with Ethio-Telecom operations, resulting in unrestricted access to call records, Internet browsing logs, and instant messaging platforms (HUMAN RIGHTS WATCH, 2014; MARQUIS-BOIRE *et al.*, 2013). In

after several months of online campaigns and protests. The Zone 9 bloggers mostly write in Amharic at their blog http://www.zonenineners.com/

[291] Personal correspondence, October 15, 2017

[292] See Kibret (2017) for a complete list of cases involving the Ethiopian Anti-Terrorism Proclamation.

2015, a massive online data dump involving the Italian commercial surveillance company, Hacking Team, showed numerous evidences including email transcripts, invoices, and technical manuals that directly implicated the Ethiopian government. The Hacking Team's surveillance products were used by Ethiopia's Information Network Security Agency (INSA) to acquire communication involving journalists affiliated with Ethiopian Satellite Television (ESAT), a US and Europe based network known for its critical views on EPRDF's rule (CURRIER and MARQUIS-BOIRE, 2015). In this sense, the Anti-Terrorism Proclamation's directive for communication providers in Ethiopia—Ethio-Telecom by default—to relinquish private information of users only formalizes what many considered to be a long-standing exercise of institutional control of the public. It should be noted, however, that the incorporation of language enabling NISS to solicit communication of private citizens in the Anti-Terrorism Proclamation gives unprecedented protection to those in the position of power at the expense of citizens' basic rights of expression.

Concluding Remarks

The discussion on the role the Ethiopian Anti-Terrorism Proclamation has played in criminalizing critical speech involving online communities cannot be seen separately from the longstanding intimidation, imprisonment, and exile of media practitioners in traditional print and electronic platforms. However, there are important distinctions to be made when it comes to EPRDF's approach to curbing dissent in the digital sphere. Traditional media platforms such as newspapers are characterized by spatial specificity, i.e., they operate from physical offices that are known and identifiable; the media practitioners involved are recognizable and accessible; the production and distribution of the industry takes place in a palpable pattern involving known actors. As a result, the Ethiopian government commonly took predictable and usually effective strategies of persecuting, oftentimes through extra-judicial means, journalists, editors, and owners of newspapers and magazines that usually culminate in self-censorship, verbal and physical abuse, imprisonment, exile, and disappearances. This was complemented by levying hefty fines on critical newspapers and magazines with the intent to debilitate institutional operation. It is also common practice for publishing houses, out of fear of retaliation from government, to refuse printing critical content (DIRBABA and O'DONNELL, P, 2012; MESERET, 2013; SHIMELIS, 2000). The overall result is the constant

disruption of journalistic institutions through direct government action made possible by their "spatial specificity."

When it comes to online platforms, one line of thinking revolves around why the Ethiopian government would bother to police digital users when the country only has a modest 15% Internet penetration rate.[293] Digital platforms are yet to be sufficiently accessible to create an online-savvy critical mass in what is still a predominantly agrarian society relying on subsistence farming. This is in addition to substantial challenges of access to electricity to power digital participation, leave alone challenges of literacy. The Ethiopian government's control of traditional print and electronic media platforms, particularly broadcasting systems, made sense in light of the danger these platforms could pose on the ruling elite by disrupting existing hegemonic narratives. Without the Internet being a medium of access and reach, it seems that the assault on online communities on the Ethiopian digital sphere, even from the perspective of EPRDF supporters, may seem premature and haphazard (WORKNEH, 2015).

It is sensible to argue that the Ethiopian government's actions through the Anti-Terrorism Proclamation could be seen as a long-term proactive strategy of creating a legal-rational bureaucracy that is subject to arbitrary interpretation and execution at the will of the State. The result is the making of an online public that is unsure of what could be considered as a "terrorist" message as opposed to "normal" speech, who, in an attempt to not take the risk altogether, may look to avoid participating in political discourse. Consequently, the much-publicized prosecution of Zone 9 bloggers and other online political activists in Ethiopia today through the Ethiopian Anti-Terrorism Proclamation and other legal frameworks is not necessarily an exercise of stifling the views of the defendants *per se*, but rather what they represent in terms of a young, critical and digitally literate Ethiopian populace that is in the making.

[293] See International Telecommunication Union (2017)

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A Política Externa Brasileira na Governança da Internet: do Direito à Privacidade ao Direito à Participação

Thaíse Kemer

Introdução

Num mundo crescentemente globalizado, a Internet, ao interconectar diferentes culturas, desafia uma ordem mundial baseada exclusivamente na lógica estadocêntrica e cria novos espaços para a atuação internacional do Brasil. Uma das ilustrações mais paradigmáticas desse fenômeno é a governança da Internet, uma vez que essa temática evidencia tanto a crescente interconexão mundial nos níveis transnacional e internacional quanto a necessidade de o Brasil defender seus interesses internacionais considerando as novas formas de interação global presentes no âmbito digital. Nesse sentido, Daniel Oppermann (2012, p. 12) destaca duas importantes tendências da atualidade: (1) serviços de todos os tipos estão disponíveis na Internet, a qual pode ser acessada por um número progressivamente maior de dispositivos tecnológicos e; (2) um conjunto crescente de serviços públicos passa a ser fornecido pelos Estados aos cidadãos por meio da Internet (OPPERMANN, 2012, p. 12). Essas tendências reforçam a centralidade do debate sobre a governança da Internet, a qual assume relevância tanto para o âmbito individual quanto no âmbito coletivo *(idem*). Assim, a participação dos Estados nas discussões sobre a Internet constitui característica inescapável das relações internacionais no século XXI, haja vista que esses atores devem assegurar aos cidadãos seus direitos básicos, como educação e saúde, cujo acesso está, em grande medida, relacionado à Internet.

Nesse contexto, o objetivo do capítulo é analisar os princípios que fundamentam a Política Externa Brasileira relativamente ao direito à privacidade e à participação[294] no

[294] O capítulo adota o vocábulo "participação" para se referir à atuação, por parte de todos os atores interessados, nos processos relacionados à governança da Internet. Para saber mais sobre a relação entre a utilização da Internet e iniciativas democráticas, como governo eletrônico e deliberação, recomenda-se a leitura de Mauro Cerbino e Alice Richero (2006).

contexto da era digital. Essas temáticas ganharam novo destaque em junho de 2013, quando foi noticiada a espionagem realizada pelos Estados Unidos em telefonemas e mensagens de e-mail de diversos chefes de Estado, entre os quais a ex-Presidenta Dilma Rousseff e a Chanceler da Alemanha Angela Merkel, e de empresas do Brasil (SANTORO E BORGES, 2017; PILATI E OLIVO, 2014). Em particular, José I. Pilati e Mikhail V. C. Olivo (2014, p. 285) destacam que o Brasil teve 2.3 bilhões de telefonemas e mensagens de e-mail violados pelos Estados Unidos. Esse acontecimento suscitou, por parte do Brasil, uma ampliação do debate tanto sobre o direito à privacidade no contexto da Internet quanto sobre a participação do Brasil nos debates sobre a governança da Internet. Além disso, o evento teve consequências internas para o país, na medida em que contribuiu para reforçar a relevância de um Marco Civil para a Internet no Brasil, o qual foi aprovado em 2014.

À luz desse debate, o capítulo está dividido em três seções. A primeira seção analisa a evolução do conceito de governança da Internet e a inclusão dessa temática no contexto das Nações Unidas. Para tanto, a seção apresenta as origens da Internet e evidencia a centralidade dos Estados Unidos no contexto desse sistema. Posteriormente, a seção demonstra que, não obstante a Rede Mundial de Computadores apresente uma forma descentralizada de gestão, os Estados Unidos desempenham um papel de liderança nessa seara, na medida em que atuam na administração de sistemas que são imprescindíveis ao funcionamento da rede, como é o caso do "Sistema de Nomes de Domínio" (*Domain Name System*, ou DNS)[295]. Nesse contexto, argumenta-se que o acesso à gestão da informação da *World Wide Web* constitui, na atualidade, um recurso imprescindível de poder, uma vez que permite não apenas o acesso a conhecimentos relevantes para a sociedade, como informações científicas e tecnológicas, mas também uma participação mais assertiva em debates internacionais aos países que estão envolvidos nessa gestão. Essa constatação evidencia a relevância dos debates sobre a governança da Internet no âmbito das Nações Unidas, como foi o caso da Cúpula Mundial sobre a Sociedade da Informação (CMSI), a qual foi realizada em duas fases, em Genebra, no ano de 2003, e na

[295] Segundo Lígia Costa (2001, p. 47), o Sistema de Nome de Domínio, ou *Domain Name System* (DNS), é um sistema que permite atribuir "nomes", como ".edu", ".gov" e ".org" aos diferentes endereços da Internet. Esses endereços são os Protocolos de Internet (*Internet Protocol, ou IPs*), que são conjuntos de números atribuídos a cada dispositivo computacional, de forma a possibilitar o tráfego de dados via Internet. Assim, em razão de os IPs serem compostos por números de difícil memorização, o DNS, para facilitar o acesso dos usuários à Internet. Para um aprofundamento sobre as questões técnicas dos protocolos que formam a estrutura da Internet, ver Milton Mueller (2004) e Diego Canabarro (2014).

Tunísia, em 2005. Essa Cúpula não apenas deu publicidade ao conceito de governança da Internet, mas também ensejou a ampliação do debate sobre a importância dessa, tanto como um veículo de disseminação e de produção de conhecimento quanto como um espaço de conflito e cooperação no que concerne à gestão da informação nas relações internacionais contemporâneas.

Com base nesse contexto, a segunda seção trata do direito à privacidade, com vistas a evidenciar seu enquadramento tanto na perspectiva mais ampla do Direito Internacional quanto no contexto particular da Internet. A seção apresenta o conceito de direito à privacidade e debate o enquadramento desse direito no contexto da proteção jurídica internacional dos direitos humanos.

Por fim, a terceira seção discute as implicações do episódio de espionagem para a ampliação do debate, no Brasil, sobre o direito à privacidade e o direito de participação, por parte de todos os atores interessados, na definição das regras para a governança da Internet na era digital. A seção demonstra que o Brasil atuou de forma protagônica no contexto dos debates contemporâneos sobre a governança da Internet. Nesse sentido, com a revelação dos casos de espionagem, o Brasil adotou uma postura proativa no âmbito das Nações Unidas, pois situou o direito à privacidade na era digital no marco mais amplo dos direitos humanos. Além disso, o país evidenciou, nos planos nacional e internacional, a necessidade tanto de defender o direito à privacidade quanto de democratizar os debates sobre a governança da Internet. Assim, o governo brasileiro tomou medidas tanto no âmbito de sua política externa – a exemplo da mobilização internacional para a aprovação de uma Resolução nas Nações Unidas sobre essa temática - quanto no contexto da política doméstica, por meio da aprovação, em 2014, do Marco Civil da Internet. Dessa forma, num contexto em que a Internet passa a ser, progressivamente, um referencial de comunicação praticamente incontornável da vida contemporânea, a diplomacia brasileira tratou o caso da espionagem de forma produtiva, buscando tanto defender o direito à privacidade quanto propondo formas mais democráticas e inclusivas para a participação dos cidadãos e dos países na governança da Internet.

A Evolução do Conceito de Governança da Internet

A compreensão do conceito de governança da Internet na contemporaneidade pode ser enriquecida mediante uma breve digressão ao momento do surgimento dessa tecnologia.

De acordo com Jovan Kurbalija e Eduardo Gelbstein (2005), a Internet começou como uma iniciativa governamental quando, no final da década de 1960, os Estados Unidos criaram a Rede da Agência de Projetos de Pesquisa Avançada do Departamento de Defesa (ARPANet), cujo objetivo foi a concepção de uma forma de comunicação capaz de resistir a possíveis ataques nucleares (KURBALIJA E GELBSTEIN, 2005, p.10-15). Nesse sentido, o caráter intrinsecamente descentralizado da rede era compatível com o cenário internacional da Guerra Fria, pois essa característica minimizaria eventuais perdas de dados, no caso de ataques ao sistema informacional dos Estados Unidos. Apesar de ter sido gestada na esfera governamental, a Internet teve um caminho diverso de outras tecnologias, pois prescindiu, desde seus primórdios, de um planejamento governamental centralizado (KURBALIJA E GELBSTEIN, 2005, p.10). Nas palavras de Wolfgang Kleinwächter (2007):

> Enquanto inovações tecnológicas mais antigas, como o telégrafo ou a transmissão por rádio, em princípios do século XX, foram imediatamente objeto de regulação governamental na forma de leis de telecomunicações e de transmissão, não houve atividades governamentais comparáveis quando da emergência da Internet. A regulamentação necessária era principalmente de natureza técnica e feita por técnicos, provedores e usuários da Internet (KLEINWÄCHTER, 2007, p. 41).

De fato, uma das primeiras iniciativas para ordenar esse sistema veio de Jon Postel, estudante de graduação em Engenharia da Universidade da Califórnia (UCLA) (INTERNET SOCIETY, 2016). Em 1972, Postel, com a anuência do grupo de pesquisadores da Arpanet, tornou-se a autoridade central "*de facto*" para atribuir e manter o acompanhamento dos "identificadores" da Internet[296] (INTERNET SOCIETY, 2016). Como consequência dessa atuação, Postel fundou, em 1988, a Autoridade para Atribuição de Números da Internet (*Internet Assigned Numbers Authority,* ou IANA), vinculada ao Instituto de Ciências da Informação da Universidade do Sul da Califórnia (OPPERMANN, 2012, p. 31). Esse

[296] Os "identificadores" são mecanismos que permitem o reconhecimento dos dispositivos computacionais conectados à Internet. Como exemplos de identificadores, Oppermann (2012, p. 96) menciona o DNS e os protocolos de Internet (IP).

Instituto, por sua vez, foi contratado pelo Departamento de Comércio dos Estados Unidos para gerir o DNS e exercer outras funções regulatórias (*Idem*).

Na década de 1980, o uso da Internet foi progressivamente disseminado, fenômeno que pode ser exemplificado pela criação da Força-Tarefa da Engenharia da Internet (*Internet Engineering Task-Force*, ou IETF). A IETF foi uma comunidade de *designers* de rede, operadores, vendedores e pesquisadores cujos esforços contemplaram a evolução da arquitetura e da operação da Internet (IETF, 2014). À medida que houve a ampliação do número de usuários da Internet, o planejamento desse sistema passou a incluir a atuação de setores privados. Nesse sentido, em 1993, a Fundação Nacional da Ciência dos Estados Unidos contratou a *Network Solutions Inc.* (NSI), uma empresa de consultoria de tecnologia fundada no Estado da Virgínia (EUA), para a prestação de alguns serviços, entre os quais a administração de alguns Domínios de Alto Nível[297] (KURBALIJA E GELBSTEIN, 2005, p.10). Com isso, a *Network Solutions* tornou-se a primeira e única registradora[298] de nomes de domínio até 1999, quando a indústria de nomes de domínio foi aberta à competição (NETWORKSOLUTIONS, 2015). Conforme Kurbalija e Gelbstein (2005, p. 10; 2007, p. 197 - 198), essa iniciativa dos Estados Unidos desencadeou uma "Guerra dos DNS", uma vez que entidades internacionais, como a *Internet Society*[299], buscaram, por anos, que a gestão do DNS passasse ao domínio público.

Na esteira desse processo, em 1998, foi criada a Corporação para Atribuição de Nomes e Números na Internet (*Internet Corporation for Assigned Names and Numbers,* ou ICANN), uma organização sem fins lucrativos, com sede na Califórnia, Estados Unidos, que passou a coordenar as funções anteriormente desempenhadas pela IANA, como a gestão de endereços de IP e do Sistema de Nomes de Domínio (DNS) (ICANN, 2012). Nesse contexto, a IANA continuou a existir como um dos departamentos da ICANN. Oppermann (2012, p.

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[297] Os Domínios de Alto Nível, ou TLD, são os nomes que estão no topo da hierarquia DNS (ICANN, s.d.).

[298] A *Network Solutions Inc.* (NSI) era responsável tanto pela função de registro ("*registry*") quanto de registradora ("*registrar*"). Tanto "registro" quanto "registradora" referem-se a pessoas jurídicas; contudo, enquanto o registro é responsável pela administração de domínios de topo (TLD), a registradora atua na revenda desse tipo de domínio. Para tanto, cada registradora deve fazer um contrato com a ICANN denominado Acordo de Acreditação da Registradora (*Registrar Accreditation Agreement*) e, posteriormente, escolher os TLDs que deseja revender a seus clientes (ICANN, 2013). De acordo com as normas da ICANN, cada registro de domínio genérico - que incluem domínios como, por exemplo, ".com", mas não abrangem os domínios de países, como ".br" - deve, necessariamente, oferecer suas extensões por meio de uma empresa revendedora (registradora).

[299] A *Internet Society* é uma associação sem fins lucrativos, criada em 1992, com sede nos Estados Unidos e na Suíça e com atuação internacional, cujos objetivos são promover a liderança no desenvolvimento dos padrões Internet e fomentar iniciativas educacionais e políticas públicas ligadas à rede mundial de computadores (ISOC, 2015).

31) explica ainda que a criação da ICANN resultou de um processo de ampliação do número de usuários da Internet, o que ensejou novas formas de gestão desse sistema. O arranjo consubstanciado na ICANN, no entanto, foi objeto de intensos debates, haja vista que, por um lado, diversos atores, entre os quais Jon Postel, fizeram esforços no sentido de ampliar a participação de diferentes agentes na gestão da Internet; por outro, o governo dos EUA buscou não perder o controle sobre a administração desse sistema. De fato, Oppermann (2012, p. 31) evidencia a proximidade entre a ICANN e o governo americano, pois, em 1998, a ICANN celebrou um memorando de entendimento com o Departamento de Comércio dos Estados Unidos e, em períodos posteriores, outros acordos foram celebrados entre a ICANN e outras esferas governamentais daquele país. Esses fatos demonstram o papel de destaque exercido pela administração dos EUA no tocante à gestão do uso da Internet no mundo.

A despeito da intensa atuação do governo dos EUA no processo de consolidação do uso dessa rede, a expressão que se consolidou para a Internet não foi a expressão "Governo", mas, sim, "Governança", de forma a evidenciar a atuação de múltiplos atores para seu desenvolvimento. Segundo Kurbalija e Gelbstein (2005, p. 10), a ideia de "governança da Internet" é objeto de amplos debates, os quais não constituem mero exercício retórico, mas, sim, revelam percepções e expectativas políticas distintas. Nesse sentido, os autores destacam, por exemplo:

> Especialistas em telecomunicações vêem a questão da Governança da Internet através do prisma do desenvolvimento de infraestruturas técnicas. (...) Ativistas dos direitos humanos vêem a Governança da Internet a partir da perspectiva da liberdade de expressão, da privacidade e de outros direitos humanos básicos. (...). Os diplomatas preocupam-se principalmente com o processo e a proteção de interesses nacionais. A lista de perspectivas profissionais potencialmente conflitantes sobre a questão da Governança da Internet pode estender-se copiosamente (KURBALIJA E GELBSTEIN, 2005, p. 13).

Assim, com intensificação do uso da Internet no mundo contemporâneo, o conceito de governança da Internet tornou-se objeto de debates internacionais, os quais incluem não apenas a participação de Estados, mas também de entidades privadas e da sociedade

civil. Destaca-se, nesse contexto, a grande relevância do tema da governança da Internet para as relações internacionais contemporâneas, pois, conforme argumentam Lilian Marques e Marta Pinheiro (2013, p. 117), o controle das tecnologias de informação e comunicação pode ser utilizado como formas de exercício de poder. Nesse sentido, Adriana Abdenur (2014) argumenta que, não obstante o fato de a ICANN ser uma organização sem fins lucrativos, sua localização nos Estados Unidos - e, portanto, sua submissão ao direito dos EUA - pode possibilitar a esse país vantagens competitivas no que concerne ao desenvolvimento da Internet, uma vez que favorece a prevalência de parâmetros legais dos Estados Unidos no contexto da definição das diretrizes dessa rede. Isso possibilita que os Estados Unidos se coloquem à frente dos demais países no que se refere à utilização da rede e a seus desenvolvimentos, pois reduz os esforços de adequação técnica e normativa que, provavelmente, seriam demandados aos Estados Unidos caso a Internet fosse desenvolvida em outros países[300].

Dessa forma, o adensamento dos debates sobre a forma de utilização da Internet no mundo contemporâneo propiciou um terreno fértil para que o tema da governança da Internet fosse incluído no contexto das conferências realizadas no âmbito das Nações Unidas. Nesse sentido, com base em uma proposta do governo da Tunísia que recebeu o apoio da União Internacional de Telecomunicações, foi realizada, em 2003, a Cúpula Mundial sobre a Sociedade da Informação. Essa Cúpula foi dividida em duas fases, sendo a primeira delas em Genebra, na Suíça, de 10 a 12 de dezembro de 2003, e a segunda em Tunis, na Tunísia, de 16 a 18 de novembro de 2005. A primeira fase teve o objetivo de desenvolver as fundações de uma "Sociedade da Informação para todos", a qual foi caracterizada como:

> (...) uma Sociedade da Informação centrada em pessoas, inclusiva e orientada ao desenvolvimento, onde todos possam criar, acessar, utilizar e compartilhar informações e conhecimento, permitindo aos indivíduos, comunidades e pessoas o alcance da plenitude de seus potenciais, por meio da promoção do desenvolvimento sustentável e da melhoria da qualidade

[300] Para um debate mais aprofundado sobre as disputas políticas que estiveram presentes na definição dos protocolos da Internet, recomenda-se a leitura de Laura DeNardis (2009, p. 35-39).

> de vida, baseada nos propósitos e princípios da Carta das Nações Unidas e no respeito à Declaração Universal dos Direitos Humanos"[301] (CMSI, 2003).

A ideia de uma Sociedade da Informação surgiu da constatação de que, por um lado, o mundo contemporâneo presencia uma "revolução digital", uma vez que a Internet assume um papel central em termos econômicos, sociais, políticos e culturais, o que a torna fundamental para o alcance dos Objetivos de Desenvolvimento do Milênio[302]; por outro, argumentou-se que essa revolução caracteriza-se por uma "exclusão digital", pois uma parcela expressiva da humanidade não possui acesso a essa ferramenta (CMSI, 2005). Cristina G. B de Oliveira e Rafael M. Silva (2016, p. 114) caracterizam o fenômeno da exclusão digital como sendo o resultado de três fatores inter-relacionados, a saber: (a) a falta de acesso aos equipamentos tecnológicos necessários à participação no mundo virtual; b) a ausência de recursos para a aquisição de conteúdos de qualidade; c) a dificuldade de regulamentação do acesso e do volume de informações disponíveis na Internet. Assim, ao tratar sobre governança da Internet, a Cúpula Mundial sobre a Sociedade da Informação evidenciou a necessidade de um debate mais aprofundado não apenas no tocante à dimensão tecnológica dessa temática, mas também à dimensão da estrutura socioeconômica vigente no mundo contemporâneo.

Sob esse pano de fundo, a primeira fase da Cúpula Mundial culminou com o lançamento da Declaração de Princípios de Genebra e do Plano de Ação de Genebra, nos quais foram apresentadas propostas tanto para maximizar os benefícios advindos da revolução digital quanto para buscar a superação da exclusão digital. Em linhas gerais, a Declaração de Princípios de Genebra trouxe a defesa de uma "Sociedade da Informação" pautada pela inclusão digital, ao defender que todos os indivíduos devem estar aptos a

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[301] Tradução da Autora. Original em inglês: "(…) *common desire and commitment to build a people-centred, inclusive and development-oriented Information Society, where everyone can create, access, utilize and share information and knowledge, enabling individuals, communities and peoples to achieve their full potential in promoting their sustainable development and improving their quality of life, premised on the purposes and principles of the Charter of the United Nations and respecting fully and upholding the Universal Declaration of Human Rights"* (CMSI, 2003).

[302] Os Objetivos de Desenvolvimento do Milênio das Nações Unidas foram um conjunto de oito objetivos criados no ano 2000 com o propósito de promover o desenvolvimento da humanidade. Esses objetivos compreendiam: (1) Acabar com a fome e a miséria; (2) Oferecer educação básica de qualidade para todos; (3) Promover a igualdade entre os sexos e a autonomia das mulheres; (4) Reduzir a mortalidade infantil; (5) Melhorar a saúde das gestantes; (6) Combater a Aids, a malária e outras doenças; (7) Garantir qualidade de vida e respeito ao meio ambiente; (8) Estabelecer parcerias para o desenvolvimento. Em 2015, esses objetivos foram substituídos pelos Objetivos de Desenvolvimento Sustentável, um conjunto de 17 metas que atualiza e reforça os Objetivos traçados no ano 2000 (ODM, s.d.).

criar, utilizar e compartilhar informação e conhecimento. Essa lógica inclusiva permitiria a redução da exclusão digital e favoreceria o alcance dos Objetivos do Milênio (CMSI, 2003). O Plano de Ação de Genebra, por sua vez, teve como objetivo ampliar a inclusão digital como um meio indutor do desenvolvimento (CMSI, 2003b). Nesse contexto, além de destacar iniciativas que deveriam ser promovidas pelos governos nacionais, como a ampliação do acesso à Internet em seus territórios, o Plano de Ação de Genebra definiu a criação de um grupo de trabalho, composto por Estados, entes privados e representantes da sociedade civil, para desenvolver uma definição para a noção de governança da Internet (CMSI, 2003b). Assim, no contexto da segunda parte da Conferência, em Túnis, em 2005, surgiu a definição que, conforme Everton Lucero (2011, p. 76 - 80), passou a ser referência internacional para a compreensão contemporânea dessa temática:

> Governança da Internet é o desenvolvimento e aplicação por governos, setor privado e sociedade civil, em seus respectivos papéis, de princípios comuns, normas, regras, processos decisórios e programas que moldam a evolução e o uso da Internet (CMSI, 2005b, par. 34)[303].

Nota-se, portanto, que o conceito de governança da Internet elaborado no contexto das Nações Unidas abrange atores de diferentes setores da sociedade, os quais devem não apenas ter acesso à utilização dessa ferramenta, mas também atuar no desenvolvimento dos princípios, normas e processos decisórios que a fundamentam. Esse debate nas Nações Unidas fomentou a ampliação das discussões internacionais do conceito de governança na Internet.

O caso da América Latina é emblemático desse alargamento dos debates sobre a governança da Internet. Atualmente, esse tema tornou-se objeto de debates no contexto latino-americano no âmbito de diferentes áreas do conhecimento, como, por exemplo, nas Relações Internacionais (AZOCAR, 2016; SABIGUERO *et al*., 2016; SANTORO E BORGES, 2017), na Antropologia (SOUZA *et al*., 2014), no Direito (OLIVEIRA E SILVA, 2016) e na Geografia (PIRES, 2014).

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[303] Tradução da autora. Original em inglês: *"(...) 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 programmes that shape the evolution and use of the Internet"* (CMSI, 2005b, par. 34).

Nesse sentido, Aguerre e Galperin (2015, p. 4) argumentam que, antes das revelações sobre o caso de espionagem dos Estados Unidos, a governança da Internet não tinha destaque no contexto da maioria das agendas de política tecnológica da América Latina. De acordo com os autores, após esse fato, entretanto, o tema da governança da Internet passou a ser amplamente discutido tanto na mídia quanto na política regional (*idem*). Nesse contexto, os autores estudaram a formação de políticas da Internet com base nos estudos de caso de Argentina, Costa Rica e México, com vistas a contribuir para um esforço mais amplo de compreender o papel de nações que não tomaram parte dos esforços iniciais de desenvolvimento da Internet (*idem*, p. 4). Os autores destacam que, até a realização da Cúpula Mundial sobre a Sociedade da Informação (CMSI), a governança da Internet vinha sendo conceitualizada a partir de uma perspectiva eminentemente técnica que marginalizava os países em desenvolvimento, haja vista a escassa participação desses nos desenvolvimentos que culminaram com a criação da Internet (AGUERRE E GALPERIN, 2015, p. 6). Nesse contexto, Azocar (2016, p. 5) pondera que se, por um lado, o Sul Global viu suas expectativas frustradas em razão da dificuldade de o CMSI ampliar os fundos para o desenvolvimento digital em escala global, por outro, esse evento ampliou o espaço para a diversificação dos atores que participam dos debates sobre a governança da Internet. De fato, Aguerre e Galperin (2015, p. 7) destacam a criação de diferentes mecanismos internacionais e regionais sobre essa temática, como o Fórum de Governança da Internet (IGF), que surgiu na esteira da Cúpula Mundial sobre a Sociedade da Informação, e, na América Latina, a Reunião Preparatória para o Fórum de Governança da Internet (LACIGF). De acordo com sua página institucional, o LACIGF constitui "(...) um espaço de encontro regional para o diálogo político multissetorial em que atores de governos, setor privado e acadêmico, comunidade técnica e organizações da sociedade civil apresentam e discutem as suas perspectivas" (LACIGF, s.d.).

Além desses debates, três iniciativas de destaque no âmbito regional são a Escola de Governança da Internet no Brasil (EGI, 2017), o Programa DiGI, da Universidade de San Andrés e Escola do Sul de Governança da Internet. A Escola de Governança da Internet no Brasil teve início em 2014, por iniciativa do Comitê Gestor da Internet no Brasil (CGI) e do Núcleo de Informação e Coordenação do Ponto BR, ou NIC.br (EGI, 2017), com o objetivo precípuo de fomentar os estudos e a pesquisa no Brasil sobre a governança da Internet. No contexto regional, o programa "*Diplomatura en Gobernanza da Internet*", ou DiGI, é

uma iniciativa de ensino acadêmico sobre governança da Internet que tem, entre seus propósitos: (1) oferecer uma perspectiva interdisciplinar para compreender as bases do fenômeno da governança da Internet; (2) analisar propostas atuais relacionadas à governança da Internet, com ênfase na América Latina e, em particular, na Argentina e; (3) constituir um espaço de formação nessa temática tanto para profissionais do setor público e privado quanto para estudantes em nível avançado (CETYS, 2017). A Escola do Sul de Governança da Internet, por sua vez, teve início em 2009, e seu objetivo é envolver estudantes e profissionais da América Latina no debate sobre a governança da Internet (SSIG, 2017). Diferentemente do que o nome sugere, a SSIG não é um curso, mas, sim, um evento no qual os patrocinadores e representantes de empresas e de organizações do ecossistema regional da Internet têm a oportunidade de participar de painéis nos quais debatem assuntos relacionados à governança da Internet.

A despeito desses esforços, Azocar (2016) evidencia, por meio do caso do Chile, que a participação de países latino-americanos nos debates sobre a governança da Internet enfrenta alguns obstáculos. No caso do Chile, existe a dificuldade em dar seguimento, em termos de políticas públicas, à multiplicidade de debates de políticas públicas que são gerados nesses foros (AZOCAR, 2016, p. 192). Em consequência dessa dificuldade, a atual participação chilena nesses debates é caracterizada por esse autor como sendo "*free browsing*" e "*free riding*", na medida em que esse país busca, respectivamente, observar e apoiar as intervenções de outros países latino-americanos nos principais foros de debates e aderir a algumas de suas propostas (AZOCAR, 2016, p. 192). Assim, embora o Chile reconheça a relevância dos debates sobre a governança da Internet, existem, ainda, desafios a serem superados para que esse debate possa ser operacionalizado de maneira mais ampla nesse país.

Outra vertente de estudos latino-americanos sobre a governança da Internet busca compreender esse conceito a partir de uma perspectiva de cunho estrutural, como é o caso dos estudos que associam os estudos sobre a Internet e o feminismo. Um dos exemplos dessa vertente é trazido por Graciela Natansohn (2014, p. 2), que evidencia a necessidade de uma ampliação dos debates sobre a forma de funcionamento do mundo digital. Segundo a autora, esse âmbito é fortemente marcado pelo androcentrismo, uma vez que: (1) a atuação de mulheres em questões técnicas é, em muitos casos, minimizada e subestimada e; (2) sob o lema da inclusão social e digital, a formulação tecnológica pautada eminentemente em uma perspectiva masculina reproduz, muitas vezes, as

exclusões que afirma combater (NATANSOHN, 2014, p. 3). Nesse contexto, as feministas compreendem os estudos sobre a "*digital divide*" como uma das manifestações de uma estrutura científica e tecnológica que expulsa as mulheres desse campo (NATANSOHN, 2014, p. 3). Dessa forma, Natansohn (2014, p. 3) constata que existe a necessidade premente de: "...transversalizar as questões de gênero para o tratamento dos temas da governança da Internet, do acesso aberto e livre, da liberdade de expressão, da privacidade, da segurança e dos direitos de homens e de mulheres."[304] A perspectiva analítica trazida por Natansohn (2014) dialoga com a análise de Rebeca Souza e outros pesquisadores (2014, p. 167), segundo os quais a Internet deve ser entendida não apenas como uma estrutura técnica, mas, sim, como um sistema cultural "(...) no qual estão implicadas certas formas de pensar e significar o mundo no qual estamos inseridos, seja este 'real' ou 'virtual'".

Assim, os exemplos apresentados evidenciam uma tendência de ampliação do debate internacional sobre o conceito de governança da Internet. Nesse sentido, a Internet passa a ser vista, no século XXI, tanto como um veículo de disseminação e de produção de conhecimento quanto como um espaço de conflito e cooperação no que concerne à gestão da informação nas relações internacionais contemporâneas. Dessa forma, a democratização dos debates sobre o futuro da governança da Internet faz-se necessária para assegurar a proteção de direitos de abrangência universal, como é o caso do direito à privacidade. Com base nessas considerações, a próxima seção contextualiza o direito à privacidade, uma das dimensões relacionadas à governança da Internet, à luz do Direito Internacional, e debate as medidas adotadas pelo governo brasileiro nas Nações Unidas relativamente aos episódios de espionagem de 2013.

O Direito Humano à Privacidade: uma Breve Perspectiva Histórica

A presente seção trata do direito humano à privacidade, com vistas a fundamentar o debate sobre a atuação do Brasil para a defesa desse direito na era digital. Para tanto, apresenta-se, inicialmente, o conceito e a origem histórica desse direito e, em seguida, discute-se seu enquadramento no contexto mais amplo no contexto do Direito Internacional dos Direitos Humanos.

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[304] Tradução da autora. Original em espanhol: "…*la necesidad de transversalizar la mirada de género para el tratamiento de los temas sobre la gobernanza de internet, sobre el acceso abierto y libre, la libertad de expresión, la privacidad, la seguridad, y los derechos humanos de mujeres y hombres*" (NATANSOHN, 2014, p.3).

O avanço das tecnologias da Internet traz impactos em diversas áreas da vida moderna e impõe novos desafios ao Direito Internacional (DI) contemporâneo. Se, por um lado, o DI enfrenta uma escassez de normas no que se refere especificamente à espionagem eletrônica (ABDENUR, 2014; SENADO FEDERAL, 2014, p. 28), por outro, as denúncias de violação de correspondências oficiais do Brasil e de outros países em 2013 revelam o desrespeito a um direito historicamente consagrado: o direito à privacidade. Ainda que a definição terminológica desse direito seja objeto de amplos debates (MONTEIRO, 2007; DE GREGORI E HUNDERTMARCH, 2013; PILATI E OLIVO, 2014), o presente capítulo considera a definição de privacidade trazida por José Afonso da Silva (2009, p. 206), segundo o qual a privacidade engloba:

> (...) o conjunto de informações acerca do indivíduo que ele pode decidir manter sob seu exclusivo controle, ou comunicar, decidindo a quem, quando, onde e em que condições, sem a isso poder ser legalmente sujeito. A esfera de inviolabilidade, assim, é ampla, abrange o modo de vida doméstico, nas relações familiares e afetivas em geral, fatos, hábitos, local, nome, imagem, pensamentos, segredos e, bem assim, as origens e planos futuros do indivíduo (SILVA, 209, p. 206).

De acordo com Pilati e Olivo (2014, p. 289-290), o delineamento desse direito surgiu, pela primeira vez, no contexto do trabalho *The Right to Privacy*, de Samuel Warren e de Louis Brandeis, que foi publicado em 1890, no contexto da revista *Harvard Law Review* (WARREN E BRANDEIS, 1890). Pilati e Olivo (2014, p. 290) recordam que Warren e Brandeis são autores vanguardistas no contexto do debate sobre o direito à privacidade, na medida em que defendem, em seu artigo, o direito de "estar só". A comparação com a noção ampla de privacidade proposta por José Afonso da Silva revela que, com o tempo, o direito à privacidade teve seu escopo alargado, de forma a contemplar aspectos como a vida doméstica e as relações familiares dos indivíduos (PILATI E OLIVO, 2014, p. 290). De fato, Monteiro (2007, p. 33) ressalta que:

> Atualmente o direito à privacidade difere muito daquele conteúdo delineado em sua origem – o direito a estar só. A sociedade mudou e o singelo caráter de isolamento já não dá conta de toda a realidade. Um

> conceito mais dinâmico do instituto abarca também o direito a controlar o uso que outros fazem das informações pessoais, como projeção do respeito à vida privada e à intimidade (MONTEIRO, 2007, p. 33).

Assim, Monteiro (2007, p. 33) evidencia que o direito à privacidade experimentou uma mutação ao longo do tempo, de maneira a acompanhar a evolução das sociedades e de suas tecnologias. Essa evolução também foi acompanhada por uma crescente proteção do direito à privacidade no contexto do Direito Internacional. Nesse sentido, a Declaração Universal dos Direitos Humanos, proclamada em 1948, por meio de resolução da Assembleia Geral das Nações Unidas, já dispunha, em seu artigo 12, que "[n]inguém sofrerá intromissões arbitrárias na sua vida privada, na sua família, no seu domicílio ou na sua correspondência, nem ataques à sua honra e reputação. Contra tais intromissões ou ataques toda a pessoa tem direito a proteção da lei" (OHCHR, 1966; PORTELA, 2012, p. 809). De acordo com Paulo H. G. Portella (2012, p. 809-810), embora a Declaração seja uma resolução da Assembleia Geral, o que a tornaria não-vinculante para os Estados, na atualidade, é majoritário o entendimento de que seus dispositivos são obrigatórios aos Estados, tanto por já terem sido positivados por tratados posteriores quanto por serem considerados como regras costumeiras do Direito Internacional.

Na esteira da Declaração de 1948, o Pacto Internacional sobre os Direitos Civis e Políticos (PIDCP), adotado pela XXI Sessão da Assembleia Geral das Nações Unidas, em 16 de dezembro de 1966, preconizou, em seu artigo 17, que: "1. Ninguém poderá ser objetivo de ingerências arbitrárias ou ilegais em sua vida privada, em sua família, em seu domicílio ou em sua correspondência, nem de ofensas ilegais às suas honra e reputação (...)". (PLANALTO, 1992b). É interessante notar que esse Pacto surge no contexto internacional da Guerra Fria, na qual a polarização ideológica entre Estados Unidos e União Soviética foi tão intensa que teve reflexos na construção de normas para a proteção internacional dos direitos humanos. Nesse sentido, em 1966, foram gerados, também no âmbito das Nações Unidas, o Pacto sobre os Direitos Civis e Políticos (PLANALTO, 1992b) e o Pacto dos Direitos Econômicos, Sociais e Culturais (PLANALTO, 1992c), os quais foram defendidos, respectivamente, pelos países capitalistas e pelos países socialistas (BELLI, 2009, p. 59). Ainda de acordo com Benoni Belli (2009, p. 59), a existência de dois tratados distintos materializou diferentes ênfases entre os blocos antagônicos: enquanto o bloco ocidental ressaltou a importância dos direitos civis e políticos, entendida como a liberdade política

e individual, o bloco socialista enfatizou a defesa dos direitos econômicos, sociais e culturais, pois associou esses direitos ao histórico do movimento operário para a melhoria das condições de vida dos trabalhadores (BELLI, 2009, p. 59-60). Nesse contexto, Belli (2009, p. 61) evidenciou que os países do bloco ocidental, liderado pelos Estados Unidos, atribuíram grande valor aos direitos individuais, os quais incluíam a proteção da privacidade dos indivíduos: "Para o Ocidente, os direitos civis e políticos constituíam o cerne da noção de direitos humanos, já que eram a garantia de que os indivíduos poderiam se expressar livremente, viver vida autônoma e isenta de interferências arbitrárias" (BELLI, 2009, p. 61). Assim, verifica-se que a proteção individual contra interferências arbitrárias foi objeto de importantes debates no contexto de bipolaridade que marcou a segunda metade do século XX.

Essas discussões sobre o direito à privacidade repercutiram, também, no plano latino-americano. Nesse sentido, a Convenção Americana de Direitos Humanos, conhecida como Pacto de San José da Costa Rica (1969) e ratificada pelo Brasil em 1992, afirmou que "Toda pessoa tem direito ao respeito de sua honra e ao reconhecimento de sua dignidade" (PLANALTO, 1992) e, ainda, que: "(...) Ninguém pode ser objeto de ingerências arbitrárias ou abusivas em sua vida privada, na de sua família, em seu domicílio ou em sua correspondência, nem de ofensas ilegais à sua honra e reputação" (PLANALTO, 1992).

A década de 1990, por sua vez, marcou um período de grande disseminação da utilização da Internet, o que ampliou a necessidade de proteção do direito à privacidade no contexto dessa tecnologia. Nesse sentido, a Declaração de Viena, resultado da Conferência Mundial dos Direitos Humanos, no ano de 1993, asseverou, em seu parágrafo 11:

> A Conferência Mundial sobre Direitos Humanos observa que certos avanços, notadamente nas ciências biomédicas e na tecnologia da informação, podem ter consequências potencialmente adversas para a integridade, a dignidade e os direitos humanos dos indivíduos. Assim, a Conferência clama pela cooperação internacional para assegurar que os direitos humanos sejam completamente respeitados nessa área de preocupação universal (A/CONF.157/23, 1993, par. 11).[305]

[305] Tradução da Autora. Original em inglês: *"The World Conference on Human Rights notes that certain advances, notably in the biomedical and life sciences as well as in information technology, may have*

Verifica-se, portanto, que, ao longo do século XX, houve a intensificação de esforços multilaterais para a proteção do direito à privacidade no contexto do regime[306] internacional de proteção aos direitos humanos. Nesse sentido, verifica-se que o direito à privacidade vem sendo progressivamente enfatizado no contexto de legislações internacionais para áreas específicas. No caso da Medicina, por exemplo, foi promulgada, no ano de 2005, a Declaração Universal sobre Bioética e Direitos Humanos da Unesco (Organização das Nações Unidas para a Educação, Ciência e Cultura). Essa Declaração enfatizou a necessidade de proteção de dados individuais, na medida em que afirmou a necessidade de consentimento prévio para a utilização ou publicação desses dados (UNESCO, 2005). Leandro Martorell e outros pesquisadores (2016, p. 21) destacam, nesse contexto, a relevância da proteção de dados de pacientes contra exposições não autorizadas na Internet, haja vista que o ambiente virtual, assim como o ambiente não virtual, requer o respeito do direito à privacidade.

Deve-se ressaltar, no entanto, que, a despeito da existência de diferentes normas internacionais associadas ao direito à privacidade, a efetiva implementação dessas normas depende da atuação discricionária dos Estados, no sentido de criarem mecanismos jurídicos e institucionais nacionais que assegurem seu cumprimento no plano interno. Para ilustrar esse argumento, e considerando as denúncias de espionagem dos EUA em 2013, é conveniente analisar a postura dos Estados Unidos no contexto do Pacto Internacional dos Direitos Civis e Políticos (PIDCP) e do Pacto de San José da Costa Rica. No que concerne ao Pacto Internacional dos Direitos Civis e Políticos (PIDCP), verifica-se a existência de um mecanismo de monitoramento denominado Comitê de Direitos Humanos[307], ao qual os Estados Unidos estão submetidos. Ainda assim, o Protocolo Opcional ao PIDCP, adotado pela Assembleia Geral da ONU em 1966, que permite ao Comitê receber reclamações de indivíduos, não foi ratificado pelos EUA

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potentially adverse consequences for the integrity, dignity and human rights of the individual, and calls for international cooperation to ensure that human rights and dignity are fully respected in this area of universal concern" (A/CONF.157/23, 1993, par. 11).

[306] Adota-se, no presente capítulo, a definição de Regimes Internacionais utilizada por Stephen Krasner (1982), segundo o qual: "Os regimes internacionais são definidos como princípios, normas, regras e procedimentos de tomada de decisões de determinada área das relações internacionais em torno dos quais convergem as expectativas dos atores" (KRASNER, 1982).

[307] De acordo com o Escritório do Alto Comissariado das Nações Unidas para Direitos Humanos, o Comitê de Direitos Humanos é um órgão composto por *experts* independentes que monitoram a implementação do Pacto de Direitos Civis e Políticos. Todos os Estados-Partes são obrigados a submeter relatórios periódicos ao Comitê a respeito da forma como esses direitos estão sendo implementados (OHCHR, 2015).

(SENADO FEDERAL, 2014, p. 34; OHCHR, 1966b). Assim, a aplicação do PIDCP no contexto desse país encontra obstáculos para sua completa aplicação. Com relação ao Pacto de San José da Costa Rica, de 1969, por sua vez, verifica-se que os Estados Unidos apenas incluíram sua assinatura, sem, contudo, ratificá-lo até os dias atuais (CIDH, 2015). Esses exemplos ilustram o fato de que a defesa do direito à privacidade, na esfera internacional, sujeita-se, em grande medida, aos desígnios dos Estados.

Dessa forma, verifica-se que a defesa do direito à privacidade não constitui uma tarefa simples, sobretudo porque, em tempos de terrorismo, o direito à privacidade é, por vezes, visto como um direito que deve ser balanceado com o direito dos Estados de garantir sua defesa e segurança. De fato, o direito à privacidade foi relativizado pelo governo dos EUA no ano de 2013, haja vista que, após as denúncias de espionagem daquele ano, o presidente dos Estados Unidos, Barack Obama, discursou, por ocasião da 68º Assembleia Geral das Nações Unidas:

> E, da mesma forma que nós revisamos a forma pela qual nós implementamos nossas extraordinárias capacidades militares de forma a atingir nossos ideais, nós começamos a revisar a forma pela qual coletamos inteligência, de forma que possamos balancear adequadamente as legítimas preocupações de segurança dos nossos cidadãos e aliados com as preocupações com a privacidade que são compartilhadas por todas as pessoas (OBAMA, 2013)[308].

Assim, o discurso do presidente Barack Obama evidenciou uma visão segundo a qual o direito à privacidade é "balanceado" frente a questões de segurança nacional dos EUA, e a defesa da Segurança Nacional é utilizada como justificativa para a excepcionalidade no tratamento desse direito (PILATI E OLIVO, 2014, p. 282). Nesse contexto, embora Pilati e Olivo (2014, p. 282) afirmem a relevância do desenvolvimento de tecnologias de coleta de dados para a segurança de um país, a próxima seção argumenta, por meio do caso brasileiro, que essas tecnologias devem respeitar o arcabouço do direito internacional, o qual, na atualidade, enfatiza não apenas o respeito à soberania dos Estados, mas também

[308] Tradução livre da autora. Trecho original em inglês: "*And just as we reviewed how we deploy our extraordinary military capabilities in a way that lives up to our ideals, we've begun to review the way that we gather intelligence, so that we properly balance the legitimate security concerns of our citizens and allies with the privacy concerns that all people share*" (OBAMA, 2013).

o direito humano à privacidade. É precisamente no marco dessa argumentação que se desenvolveu a atuação do Brasil frente ao episódio de espionagem descoberto em 2013.

A Perspectiva do Brasil sobre o Direito à Privacidade e à Participação na Era Digital

A presente seção discute as implicações do episódio de espionagem para a ampliação do debate, no Brasil, sobre o direito à privacidade e o direito de participação na era digital. A seção demonstra que, no caso da revelação dos casos de espionagem de 2013, o Brasil adotou uma postura proativa no âmbito das Nações Unidas, na medida em que situou o direito à privacidade na era digital no marco mais amplo dos direitos humanos e, a partir dessa lógica, fomentou o debate nacional e internacional sobre a relevância da defesa desse direito, no contexto de uma Internet mais plural.

A preocupação com a democratização da governança da Internet reflete os anseios do governo brasileiro de participar de forma proativa do processo mais amplo descrito na primeira seção, no qual a Internet pode ser concebida não apenas como instrumento central para o aprimoramento científico e tecnológico das sociedades modernas, mas também como oportunidade para a construção de uma ordem internacional inclusiva, na qual todos os países tenham iguais oportunidades de participação na construção e na operacionalização da governança da Internet. Nesse sentido, a busca pela democratização da Internet pode ser compreendida a partir de uma perspectiva mais ampla da Política Externa Brasileira (PEB), a qual buscou, tradicionalmente, participar da elaboração das normas internacionais. A esse respeito, Cervo (2008, p. 27) descreve a valorização do multilateralismo normativo, que corresponde à construção de uma ordem internacional baseada em regras transparentes e emanadas de negociações multilaterais, como um dos padrões de conduta que compõem o acumulado histórico da diplomacia brasileira.

A reação aos episódios de espionagem de 2013 evidencia um claro exemplo da busca, pela diplomacia brasileira, desse multilateralismo normativo, o qual é materializado por um novo ímpeto do protagonismo internacional do Brasil no que concerne à sua participação no delineamento dos princípios presentes no desenvolvimento da governança da Internet (MRE, 2013a). Em discurso na 68º Assembleia Geral das Nações Unidas, em setembro de 2013, a Presidenta Dilma Rousseff enfatizou que as interceptações de comunicações nacionais constituíam, além de grave de violação dos direitos humanos e das liberdades civis, matéria que afeta a totalidade da comunidade internacional, na

medida em que diz respeito a todos os cidadãos do mundo (PLANALTO, 2013). Nesse sentido, a Presidenta defendeu, na ocasião, o estabelecimento de mecanismos multilaterais para a rede mundial capazes de garantir princípios como os seguintes:

> 1) Da liberdade de expressão, privacidade do indivíduo e respeito aos direitos humanos.
>
> 2) Da Governança democrática, multilateral e aberta, exercida com transparência, estimulando a criação coletiva e a participação da sociedade, dos governos e do setor privado.
>
> 3) Da universalidade que assegura o desenvolvimento social e humano e a construção de sociedades inclusivas e não discriminatórias.
>
> 4) Da diversidade cultural, sem imposição de crenças, costumes e valores.
>
> 5) Da neutralidade da rede, ao respeitar apenas critérios técnicos e éticos, tornando inadmissíveis restrições por motivos políticos, comerciais, religiosos ou de qualquer outra natureza (PLANALTO, 2013).

À época do discurso, tais princípios não constituíam novidade para a legislação brasileira, uma vez que foram objeto de resolução de 2009 do Comitê Gestor da Internet no Brasil (CGI)[309], intitulada "Princípios para a Governança e uso da Internet no Brasil (CGI.br/RES/2009/003/P, 2009). O cenário internacional propiciou, entretanto, o lançamento de nova luz ao tema, de forma que esses princípios motivaram a atitude protagônica da política externa brasileira relativamente à governança da Internet.

Nesse contexto, após o discurso de Dilma Rousseff na 68º Assembleia Geral, Brasil e Alemanha, cuja Chanceler federal, Angela Merkel, também havia sido alvo espionagem

[309] O CGI foi criado por meio do Decreto nº 4.829, de 3 de setembro de 2003, com vistas, entre outros, a: (1) estabelecer diretrizes estratégicas relacionadas ao uso e desenvolvimento da Internet no Brasil; (2) elaborar diretrizes para a execução do registro de Nomes de Domínio e a alocação de Endereço IP (*Internet Protocol*) e; (3) promover estudos que permitam a manutenção do nível de qualidade técnica e inovação no uso da Internet (CGI, 2014). De acordo com Aguerre e Galperin (2015, p. 3), o "CGI" constitui uma das mais bem-sucedidas experiências de um mecanismo formal, nacional e *multistakeholder* no que se refere ao tema da governança da Internet.

digital, co-patrocinaram duas resoluções[310] intituladas "O direito à privacidade na era digital", no contexto da Assembleia Geral das Nações Unidas (ONU, 2014; A/RES/68/167, 2013; A/RES/69/166, 2014). Ambas as resoluções enfatizam que os mesmos direitos que as pessoas têm *offline* devem ser também protegidos *online*, o que inclui o direito à privacidade (A/RES/68/167, 2013; A/RES/69/166, 2014). Segundo o ex-Ministro das Relações Exteriores do Brasil, Luiz Alberto Figueiredo Machado, esse enunciado é corolário do Pacto Internacional sobre Direitos Civis e Políticos da ONU, de 1966, o qual já consagrava, conforme delineado na segunda seção, a proibição de ingerências ilegais na vida dos cidadãos (MACHADO, 2013).

A resolução de 2014, por sua vez, ampliou o debate iniciado na resolução de 2013, ao problematizar o uso de metadados[311] e, ainda, ao enfatizar o papel das empresas para a proteção do direito à privacidade. Nesse sentido, a resolução A/RES/69/166 afirmou que os metadados trazem, também, informações pessoais e, portanto, sua utilização deve contemplar o direito à privacidade (SANTORO E BORGES, 2017, p. 4; A/RES/69/166, 2014, p. 2). Assim, embora as resoluções das Nações Unidas não tenham citado nominalmente o governo dos Estados Unidos (SANTORO E BORGES, 2017, p. 4), o conteúdo dessas resoluções guarda relação com o caso de espionagem americana, pois a Casa Branca havia alegado, em 2013, que a coleta de dados revelada na mídia internacional compreendia apenas os metadados, mas não o conteúdo das comunicações (PILATI E OLIVOS, 2014, p. 286). No que concerne às empresas, por sua vez, a resolução de 2014 também destacou a relevância do respeito ao direito à privacidade (A/RES/69/166, 2014, p. 3). Esse enunciado é particularmente relevante para a regulação do ambiente digital, no qual grandes corporações detêm o acesso a uma quantidade crescente de dados de indivíduos, de organizações e de Estados.

Na esteira desse processo, o Brasil sediou, em 23 de abril de 2014, a conferência NETMundial – Encontro Multissetorial Global Sobre o Futuro da Governança da Internet. O encontro, que foi organizado em uma parceria entre o Comitê Gestor da Internet no Brasil (CGI) e a 1Net[312], teve como foco o debate para a elaboração de princípios de

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[310] Santoro e Borges (2017, p. 5) recordam que, embora as resoluções da Assembleia Geral não sejam vinculantes elas são, frequentemente, o primeiro passo para atingir um acordo formal no plano do Direito Internacional.

[311] De acordo com Pilati e Olivo (2014, p. 286), o termo metadado refere-se, por exemplo: "(…) à hora e ao local de uma ligação telefônica, mas não ao teor do que foi conversado nessa ligação".

[312] De acordo com sua página institucional, o 1Net autodefine-se como uma plataforma *multistakeholder* que reúne entidades internacionais dos vários setores envolvidos com a governança da Internet (NET,

governança global da Internet e a proposta de um roteiro para sua evolução futura (NETMUNDIAL, 2014). Nesse sentido, a declaração final do evento destacou que a governança da Internet deveria compreender, entre outros princípios, a proteção dos direitos humanos, entre os quais o direito à privacidade, e a garantia de uma arquitetura de Internet aberta e distribuída, que seja construída com base em processos democráticos e pautados pela participação de atores governamentais, do setor privado, da sociedade civil, das comunidades técnica e acadêmica e de usuários (NETMUNDIAL, 2014b, p. 5). Essa declaração destaca ainda que os processos de governança da Internet devem ser pautados por princípios como a promoção de consensos participativos e abertos, a transparência, a "prestação de contas" (*accountability*), a inclusão, a participação equânime e a colaboração (NETMUNDIAL, 2014b, p. 6). Assim, ao co-patrocinar a Declaração Final da NETMundial, o Brasil associou o direito à privacidade ao direito à participação em processos de governança da Internet, para que diferentes atores colaborem na construção de um ambiente no qual os direitos humanos estejam protegidos.

Após esse evento, o Brasil sediou, pela segunda vez, o Fórum de Governança da Internet realizado em 2015, que foi convocado pelo Secretário-Geral das Nações Unidas e, desde a sua primeira edição, em 2006, se tornou o principal fórum internacional sobre políticas públicas relacionadas à governança da Internet (NAÇÕES UNIDAS, 2015). O Fórum de Governança da Internet (IGF) tem como objetivo "(...) ser uma plataforma de diálogo e intercâmbio de pontos de vista multissetorial, imparcial e independente, e de compartilhamento de conhecimentos e melhores práticas sobre políticas relativas à Internet" (NAÇÕES UNIDAS, 2015). Assim, o Brasil hospedou, em 2014 e em 2015, duas grandes conferências relativas ao tema da governança da Internet, de forma que, para Maurício Santoro e Bruno Borges (2017, p. 5):

> Ambas as conferências são centrais para o debate sobre a governança global da Internet e a decisão de realizá-las no Brasil foi tomada após o discurso de Dilma Rousseff nas Nações Unidas, em reconhecimento ao papel de liderança desempenhado pelo país. (...) receber duas dessas

2017). Assim, o 1Net, que atualmente está inativo, consistiu em um grupo de pessoas que dialogava sobre a governança da Internet, tanto por meio de lista de emails quanto no contexto de sua participação em eventos sobre o tema.

> conferências demonstra o reconhecimento da comunidade global relativamente à relevância do pleito defendido pelo Brasil (SANTORO E BORGES, 2017, p. 5)[313].

Além dessas conferências, em março de 2017, o Brasil apresentou, em conjunto com Alemanha, Áustria, Liechtenstein, México e Suíça, uma resolução sobre o direito à privacidade na era digital no âmbito da 34ª sessão do Conselho de Direitos Humanos das Nações Unidas (CDH) (A/HRC/RES/34/7, 2017). Essa resolução foi aprovada por consenso e reafirma o direito à privacidade, conforme previsto na Declaração Universal de Direitos Humanos e no Pacto Internacional de Direitos Civis e Políticos (MRE, 2017). Assim, a atuação do Brasil no contexto das Nações Unidas evidencia a materialização de uma política externa pautada pelo multilateralismo normativo (CERVO, 2008), por meio do "(...) estabelecimento das bases para que, futuramente, se torne possível a criação de um tratado internacional sobre a privacidade e a Internet" (SANTORO E BORGES, 2017, p. 5).
Assim, as ações do Brasil em matéria de Política Externa permitem afirmar que o direito à privacidade e a proteção da segurança nacional devem não apenas ser "balanceados", mas, sim, respeitados em sua integralidade. A esse respeito, note-se, em primeiro lugar, que o Brasil compromete-se com a assunção e o respeito das normas às quais se vincula, adotando, tradicionalmente, uma postura legalista, no sentido de buscar o respeito aos acordos internacionais e ao direito internacional público (CERVO, 2008). Além disso, o Brasil ratificou as principais convenções internacionais em matéria de direitos humanos da atualidade e tem acordo de Acordo de Assistência Judiciária em Matéria Penal com os Estados Unidos (PLANALTO, 2001). Por meio desse acordo, o Brasil e os Estados Unidos obrigam-se a prestar assistência mútua em matéria de investigação, inquérito, ação penal, prevenção de crimes e processos relacionados a delitos de natureza criminal (SENADO FEDERAL, 2014, p. 44). Conclui-se, portanto, que as ações do Brasil no plano internacional caracterizam-se tanto pela proteção dos direitos à privacidade quanto pela proteção da segurança nacional.

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313 Tradução da Autora. Original em inglês: *Both conferences are key in the debate about the global governance of Internet and the decision to host them in Brazil was taken after Rousseff´s speech at the United Nations, in recognition to the leadership role that the country assumed. (…) to receive both of them is a recognition by the global community of the relevance of the Brazilian statements* (SANTORO E BORGES, 2017, p. 5).

Além disso, é importante destacar que os acontecimentos internacionais tiveram grande impacto, também, no plano do Direito Interno Brasileiro. Nesse sentido, após as denúncias de espionagem, a Presidenta Dilma Rousseff solicitou a tramitação da proposta do Marco Civil da Internet, que estava há dois anos na Câmara dos Deputados, em regime de urgência constitucional (SENADO FEDERAL, 2013). De acordo com Santoro e Borges (2017, p. 8), o Marco Civil constitui "(...) um conjunto de leis que regulam e definem o uso da Internet por cidadãos, firmas e provedores de Internet"[314]. Nesse contexto, os autores destacam alguns dos desafios inerentes à construção de normas para regulamentar a Internet, na medida em que: (1) os processos legislativos não são capazes de acompanhar a rápida evolução dessa tecnologia; (2) o sistema da Internet é inerentemente internacional, de forma que a legislação nacional coexiste com uma rede de legislações de outros países e; (3) a maioria das empresas de Internet que atuam no Brasil têm origem estrangeira, o que impõe questionamentos quando às políticas de uso de dados (SANTORO E BORGES, 2017, p. 8).

A despeito desses desafios, o Marco Civil foi aprovado por meio da Lei nº. 12.965, de 23 de abril de 2014, a tempo de ser apresentado na Conferência NETMundial, estabelecendo os princípios, as garantias, os direitos e os deveres para o uso da Internet no Brasil (PLANALTO, 2014; 2015). Essa legislação foi desenvolvida em 2009, com base em um debate público organizado pelo Ministério da Justiça e pela Fundação Getúlio Vargas (FGV) (PLANALTO, 2015). Destaca-se ainda que, para viabilizar esse processo, foi criada uma plataforma *online* que permitiu a contribuição de todos os interessados no tema (PLANALTO, 2015). Essa medida, por si só, foi bastante inovadora, pois foi a primeira vez que o Ministério da Justiça lançou um debate público para a discussão de um decreto (MJ, [s.d]). Assim, embora Santoro e Borges (2017, p. 11-13) destaquem que o Marco Civil é parte de um processo de regulamentação da Internet no Brasil que é objeto de disputas[315] e, está, ainda, em construção, evidencia-se que o episódio de espionagem foi tratado de forma produtiva no que concerne ao ordenamento jurídico interno, de forma a produzir consequências de longo prazo no que tange à regulação da Internet no Brasil.

Dessa forma, as ações nacionais e internacionais do Brasil coadunaram-se em torno do propósito de concretizar os princípios mencionados pela Presidenta Dilma Rousseff no

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[314] Tradução da Autora. Original em inglês: *"It is a set of laws that regulate and define the use of the Internet by citizens, firms, and Internet providers"* (SANTORO E BORGES, 2017, p. 8).

[315] Para um aprofundamento do debate sobre o Marco Civil da Internet brasileiro, recomenda-se a leitura de Tomasevicius Filho (2016), Silveira (2014) e de Segurado et al. (2015).

contexto do discurso da Assembleia Geral das Nações Unidas de 2013, entre os quais a defesa dos direitos humanos e a governança democrática da Internet (PLANALTO, 2013). Assim, ao relacionar o caso de espionagem à defesa dos direitos humanos, à regulamentação da Internet no Brasil e à pluralização da "ordem mundial virtual", o Brasil deu passos decisivos para debates que se fazem tão necessários quanto urgentes.

Conclusão

O presente capítulo analisou e discutiu duas temáticas centrais para a compreensão da atuação da diplomacia brasileira no contexto da revelação do caso da espionagem dos EUA: a governança da Internet e o direito à privacidade. Nesse sentido, a primeira seção traçou um breve histórico do conceito de governança da Internet, com vistas a evidenciar não apenas o papel protagônico exercido pelo governo dos EUA no desenho e na gestão dessa tecnologia, mas também a crescente contribuição de novos atores e perspectivas analíticas para o alargamento dessa temática. Para tanto, a seção evidenciou a democratização dos debates sobre governança da Internet e apresentou exemplos para o contexto latinoamericano. A pluralização desse debate faz-se necessária para que os países em desenvolvimento e outros atores com diferentes demandas sociais participem, de maneira ativa, da construção diária de um ambiente "virtual" que se tornou parte praticamente incontornável da realidade contemporânea.

A segunda seção, por sua vez, demonstrou que o direito à privacidade reflete as mudanças sociais dos séculos XX e XXI, na medida em que deixou de significar apenas o "direito de estar só" para ser considerado um direito humano inalienável e protegido por meio de diferentes dispositivos normativos internos e internacionais. Assim, não obstante os Estados busquem garantir a segurança de seus nacionais, argumentou-se que o Brasil parte do princípio de que essa busca deve acontecer em respeito ao Direito Internacional.

Assim, no contexto da revelação do episódio de espionagem, a terceira seção evidenciou que o Brasil buscou fazer valer um direito não apenas dos cidadãos do país, mas de toda a humanidade. Nesse sentido, o Brasil, ao mesmo tempo em que defendeu o direito à privacidade no marco do regime internacional para a proteção dos direitos humanos, atuou, também, para que a governança da Internet seja pautada por processos mais democráticos e inclusivos, os quais assegurem a proteção do direito à privacidade. O Brasil, portanto, envidou esforços para a construção de uma Internet mais plural e atenta

à proteção dos direitos humanos, tanto por meio de iniciativas internacionais, como o apoio a resoluções no âmbito das Nações Unidas e a hospedagem de encontros internacionais sobre a governança da Internet, quanto de nacionais, como a aprovação do Marco Civil da Internet. Dessa forma, num contexto em que a Internet ganha cada vez mais relevância em diferentes áreas da vida contemporânea, a diplomacia brasileira tratou o caso da espionagem de forma produtiva, buscando tanto defender o direito à privacidade quanto propondo a democratização dos debates sobre a governança da Internet. Essa democratização é necessária para que a Internet do futuro não configure um retrocesso social em termos da proteção dos direitos humanos e da garantia das liberdades fundamentais de homens e de mulheres.

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