Critically Imagining Internet Governance: A Content Analysis of the *Marco Civil da Internet* Public Consultation

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companies, gathering massive amounts of data about Internet users — among them a number of powerful ones, such as Rousseff and German chancellor Angela Merkel (Greenwald, 2014). The Brazilian president's speech galvanized the momentum created by the scandal, and some kind of change in Internet governance arrangements seemed then unavoidable (Mueller, 2014).

The market-led opening of the Internet in the USA during the 1990s brought to the surface the common conviction among Web[1] pioneers that the technology would entail libertarian practices (Naughton, 2000; Abbate, 1999). Writing after the fall of the Berlin Wall, under a neoliberal and deregulatory spell (Curran, 2012), they argued that an open, collaborative, neutral and borderless logical structure would entail self-governed forms of community and information sharing and production (Rheingold, 2000), rendering nation states anachronic (Barlow, 1996). Instead of law-abiding citizens and jurisdictions, there would be digitalized individuals (Negroponte, 1995) freely choosing what rules to follow among the possibilities offered by an optimal e-market (Johnson and Post, 1996).

Nevertheless, the expansion and commercialization of the Web led scholars to re-conceptualize Internet governance – which was seen not simply as a radical form of self-regulation resulting from an untamable neutral technology, but as the plastic management of a socially controllable system. Some of these 'realists' proposed that revamped legal tools could enable states to regain their central role, often in undemocratic ways (Goldsmith, 1998; Reed, 2004; Goldsmith and Wu, 2006; Deibert et al, 2008). Others, following the notion that artifacts have politics (Winner, 1986), claimed that the social shaping of the Internet's digital and physical architecture fundamentally altered governance (Lessig, 1999, 2006; Reidenberg, 1998; Benkler, 2000). From a pessimistic view, computer code was seen as a privately owned dangerous tool of ex ante control that in reality threatened the promise of a new democratic age (Lessig, 1999, 2006). Others understood this possibility as only one part of the Internet's 'generativity', a defining ambivalence that, on its positive and revolutionary side, empowered fragmented and fluid groups of technophiles to govern cyberspace through a common (open,

theoretical proposal, a fully-fledged definition of how Internet governance has been imagined. From Taylor's ideas, she argues that two prevailing backgrounds are often opposed in Internet governance debates.

Unrecognized, these paradoxes lead to stalemates and impair the Internet age likelihood of constructing 'the good society'. A new imaginary is needed, she argues. Instigated by some 'adaptive actions', it would replace the 'either/or' with a 'both/ and' logic, enabling people to achieve 'greater empowerment, freedom, and responsibility' (2012: 176). It considers, first, how the humans, never neutral and autonomous machines, that foster the evolution of this complex and 'intelligent' system allowing for control through public policies. Second, how the paradox of information scarcity would be considered solvable: it is possible to expand the sharing of information without damaging growth.

Although also concerned with the relation between the Internet and forms of government
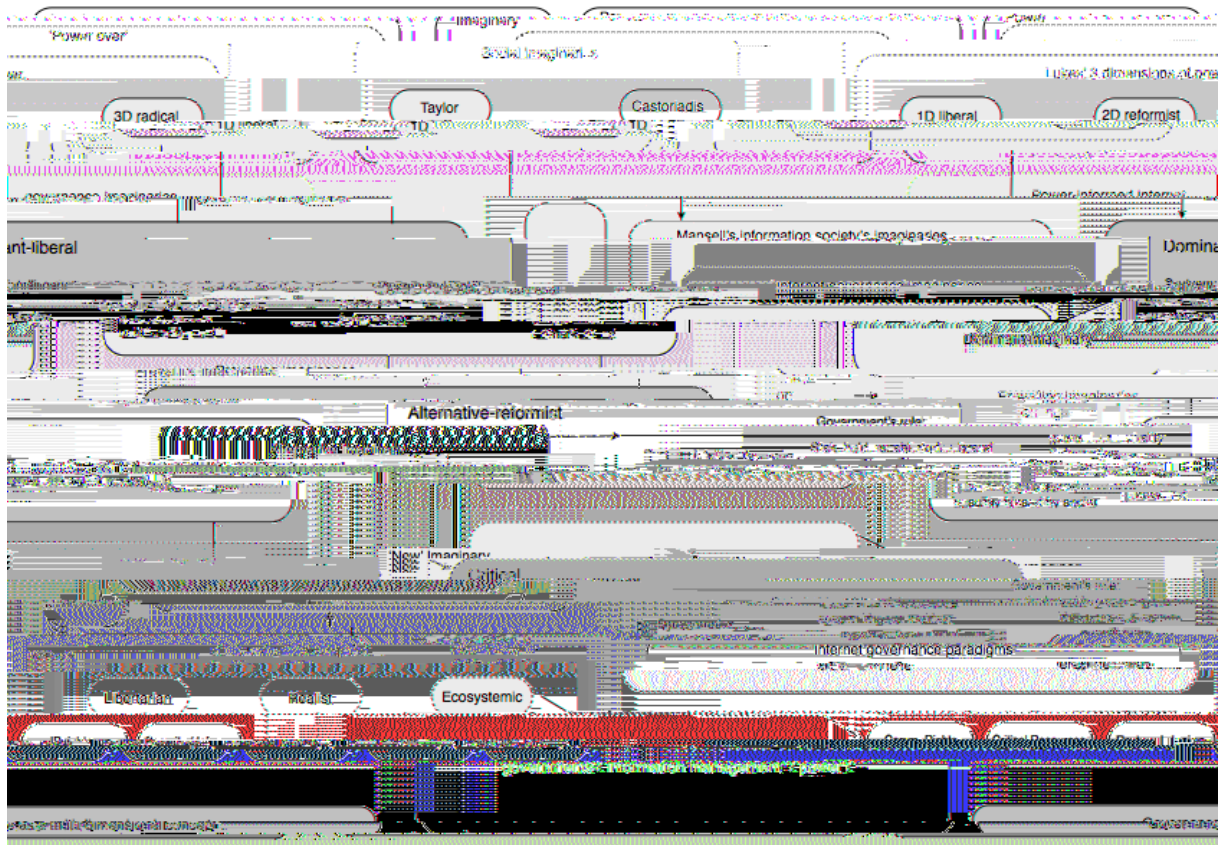
Figure 1: Conceptual Framework. Source: the author, adapted from Mansell (2012) and Lukes (1974/2005).

Research objectives and questions

This conceptual framework aims to fill a theoretic gap (the lack of conceptualization of power) through an alternative analytical tool (social imaginaries) to think of the limits of emergence of Internet governance's contentious areas. It will inform a case study whose objectives are:

1) To question the imagined horizons of those areas of contention to contribute to the debate on Internet governance reform.

2) To test and improve the devised conceptual framework, aiming to make a theoretical contribution to the debate on Internet social imaginaries.

These objectives will be pursued through the following research questions:

> **RQ3: HOW CAN THE GOVERNANCE OF THE INFORMATION FLOW IN THE INTERNET BE IMAGINED?**

> **RQ4: HOW CAN POWER IN INTERNET GOVERNANCE PROCESSES BE IMAGINED?**
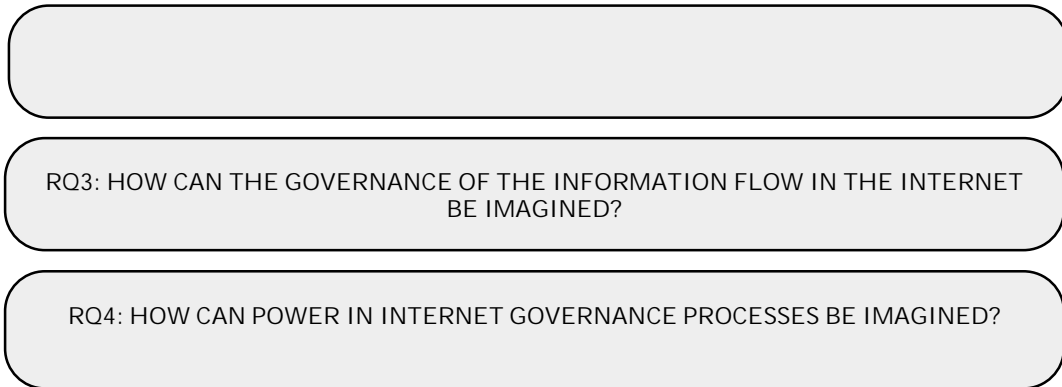
I shall now explain the methodology that will guide the empirical study.

RESEARCH DESIGN AND METHODOLOGY

Choosing a case

Before detailing the methodology and procedures of this study, I would like to further explain the choice of the Brazilian Marco Civil public consultation as the case to be studied here.

It was initially assumed that a developing country[4] is an interesting choice if the objective is to question the limits of the Internet governance imaginary, as governments from those nations have been a disruptive force in diplomatic debates on this theme. During the WSIS (2003–2005), some of them were 'implacable in their opposition to the prevailing regime' (Malcolm, 2008: 335), pushing for the internationalization of the then USA-backed ICANN, advancing serious questions to the private-centered governance model (Mueller, 2010) and demanding a culturally diverse cyberspace (Kummer, 2007) — roughly the same issues raised by Snowden's revelations. Historically, their position is inserted into a more than 40-year-long debate on how to govern global media systems and harness communication flows to preserve local diversity and diminish inequalities between rich and poor countries (see

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[4] The use of terms such as 'developing' is an ideologically loaded problem (Escobar, 1995). Here, it is adopted to merely highlight the general socioeconomic differences between countries.

Macbride, 1980; Nordenstreng, 2011; Mansell and Nordenstreng, 2006). Indeed, the Summit

It had two phases, between 2009 and 2010 (Nolasco, 2014b). During the first phase, contributions were prompted by three generic conceptual axes, gathering 636 contributions. From them federal officials and academics formulated a first draft of the bill, with 34 articles. This draft was the basis for the second phase of the consultation, which, different from the first one, discussed the draft's articles, not general concepts, generating a higher number of contributions (1,318), which were at the same time more specific and varied (Nolasco, 2004a). From this second phase results, a new and final draft was sent to the Brazilian Congress, in which the bill suffered various transformations.

Methodology

To assess the contributions, a qualitative content analysis (QCA, hereafter) was employed. Generally, at least three reasons widely discussed in the literature (Weber, 1990; Neuendorf, 2002; Hansen et al, 1998) justified my decision. First, to systematically explore the various ways in which key elements of Internet governance are imagined, my work needed a technique that could afford the observation of general patterns and trends to undertake concrete comparisons of different narratives, and thus different imaginaries. Second, to map out these differences in a significant way it was necessary to understand the consultation as a whole, involving thus a large number of texts to be assessed. Third, in contrast to the apparent abstractness surrounding the social imaginary, the conceptual framework developed above provided elements from which general and concrete variables and categories could be derived – even in the case of matters regarding power, a typical theme of discourse analysis techniques (Fairclough, 2001), a methodology that could have been used to examine this case, but not to achieve the answers pursued here.

However, this study distances itself from what can be called a 'quantitative' tradition, in which content analysis is understood as a way to describe 'the manifest content of communication' (Berelson, 1952: 18; see also Lasswell et al, 1952). Such a perspective is doubtful if the objective is to code narratives that express social imaginaries, since these

From their less positivist and more self-

content analyses of consultations processes are relatively rare (see though Emke, 1994) and no sampling technique seems to be established. Thus, I decided to sample around 25% of the contributions, allowing for a manageable and, under certain conditions [5], statistically significant number of 300 texts (the units of analysis). Third, a form of stratified sampling was conducted (Krippendorff, 2004: 115) to respect the a priori different weights that different subjects had in the consultation. Hence, the subpopulations were considered to be the clusters of contributions made to each of the 34 articles of the draft. The percentages of each of those 34 subpopulations in the total number of contributions were calculated and their proportions were respected during the choice of the sample —

dismissed: searches on the Internet demonstrated that at least some of the most active contributors did not properly identify themselves – a minority of them were academics. The 'what' of the contributions initially used the taxonomy suggested by DeNardis (2013), but was enriched by the pilots. The third dimension tackled the second RQ (research question); the fourth dimension classified contributions' take on the management of the information flow (RQ3); and the fifth dimension assessed how power in Internet governance processes was

imagined (RQ4).   Therefore, the final analysis revolved around 19 variables and a total of 84   categories.

Inter-coder reliability

Myself and a second coder, also an LSE Media and Communications student, worked in two pilots. After several adjustments, and the adoption of the QCA, Krippendorf (2004: 221-230) inter-coder reliability coefficient achieved an agreement of over 80% in every variable, according to the online platform Recal2[6]. This level is considered satisfactory (Krippendorff, 2004: 241).

Reduction and paraphrasing (see example in Appendix B)

To strengthen this study's replicability and validity, but given its specificities and time constraints, I opted to change and simplify a proposition made by Mayring (1983: 57, cited in Flick, 2009: 325), setting up my own rules of summarization. Roughly, his method advances a structured effort made up of 15 steps to reduce and paraphrase the text before coding it. In contrast, this present study, albeit respecting Mayring's major recommendations, followed four steps. First, parts of the text whose content had no importance to the research questions were excluded. Second, the remaining parts were submitted to a variable-driven segmentation (Schreier, 2012: 120

Still within the communications-related rights area, the possibility of users' identification, in which privacy and freedom of expression

A second variable measured how the narratives embedded in the contributions depicted the ability of states, markets and communities to control the complexity of the system (as defined in the conceptual framework). Results suggest this was hardly a central aspect of the

Figure 5 - Governance leadership
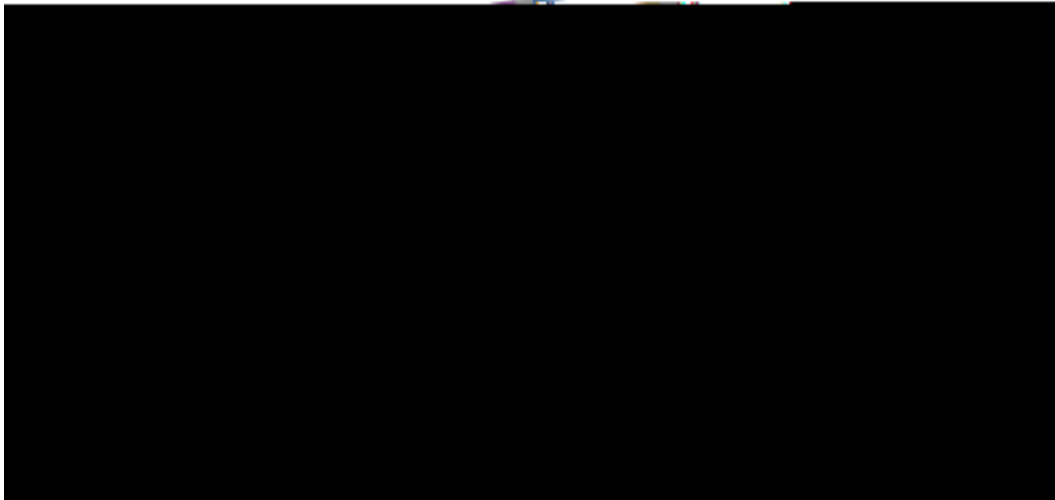
The following excerpt illustrates a very common argument among those who favored state leadership: states are the only resort against the subjective interests of users and companies.

> I do not think one can dispense judicial review and specific orders to withdraw content, since deciding on the legality ... of any material...is something necessarily subjective, in addition to being the exclusive prerogative of the Judiciary, and not the users or providers. (Contribution 2, my translation)

Lastly, contributions were coded in terms of how they described the management of public investment in Internet-related matters. The most important result is that 8 out of 10 texts of the sample do not discuss this question at all. The absence cannot be considered an outcome of the draft design, as it had multiple articles dealt, directly or indirectly, with propositions to ameliorate the 'digital divide'. In the rest of the texts, narratives that proposed the enhancement and expansion of points of access and investment in in-depth critical education prevailed among a plethora of possibilities.

To sum up, in relation to RQ2, data suggests that consultation participants imagined an Internet governance in which:
• State sovereignty is the most legitimate form of government;
• This prevalence is realized in several ways: legislating about whatever issue needed, leading actual governance processes, and exercising its ability to control the complexity of the system;
• Most people, however, might not be aware of this complexity;

- Public investments in the Internet, such as the ones needed to bridge the 'digital divide', are not a central concern.

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RQ3 - How can the governance of the information flow in the Internet be imagined?

It is important to take a closer look at this short but telling excerpt. On the one hand, it describes a kind of interest that is not simply subjectively defined by the actors involved in the conflict (Internet Service Providers and users): even if they could reach a consensus on the storage of the logs, an external actor (the government) still would have to assert the

the critical and the dominant-liberal imaginaries — not between the latter and the alternative one.

The results of this study point to a scenario in which the inter-imaginaries conflicts seem to be less between the two prevailing imaginaries than between them and the critical one. Furthermore, the data on how power is imagined provides evidence that this conflict is not only inter- but also intra-imaginary.

The majority of the contributions presented some form of hybridism, and the complete analysis of them is beyond the limits of this dissertation. I thud want to focus on how the characterization of power relations, as argued above, entailed a specific and significant kind of contradiction, in which stakeholders' interests are described as objective, but the conflicts

and actions' are frozen, becoming 'invisible, transportable, and powerful in hitherto unknown ways as part of socio-

results demonstrate that the Marco Civil and the Brazilian approach to Internet governance should be uncritically taken as a model.

This dissertation argues that, beyond the mainstream political and academic arenas, there are other significant forms of imagining Internet governance that deserve attention from researchers and policymakers.

CONCLUSION

In consonance with the Web's still incomplete nature (Feenberg, 2011), Internet governance,

general research question of this dissertation could only be satisfactorily answered through a multidiscianswered through a

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B

(3) Yes, states should legislate about the Internet, but only to guarantee community sovereignty

(4) States should legislate about the Internet, but only to guarantee market well-functioning

(5) Issue not present in the text

B - Can the system's complexity be controlled? (according to the terms established in the conceptual framework)

(1) No, too complex to be controlled

(2) Yes, can be controlled by Internet community

(3) Yes, can be controlled by public policies

(4) Issue not present in the text

C - Who should lead Internet governances processes? (according to the terms established in the conceptual framework)

(1) No-one in specific, community governs itself

GOVERNANCE LEADER
This draft is not mature enough. I think we should discuss it more. Internet is sacred!

INVESTMENTS
And what about the free access for low-income people, who will pay for it? Transparency by the government should be a moral obligation.

IPRs ENFORCEMENT
-

INFORMATION FLOW
The Internet needs to remain free

STAKEHOLDERS INTERESTS
 t is also important to provision a penalty for the violation of privacy when a user is tracked or tapped without prior court order

SYSTEM'S BIAS

-Internet governance should protect freedom of expression

PRIVACY
Internet governance should protect privacy

USER IDENTIFICATION
Internet governance should protect privacy, and not identify users

NET NEUTRALITY
-

Internet LEGISLATION
Governments should legislate on Internet governance, but respecting community sovereignty

CONTROL OF COMPLEXITY
The example of spam e-mail demonstrates that the Internet can be controlled by public policies

GOVERNANCE LEADER
The Internet is sacred and must be commanded in your community

INVESTMENTS
-Internet governance must seek free access to all
-Internet governance-a must make all governmental information public

IPRs ENFORCEMENT
-

INFORMATION FLOW
Governance of the Internet must preserve the free flow of information

STAKEHOLDERS INTERESTS
States must intervene in subjective arrangements between stakeholders

SYSTEM'S BIAS
Spam shows that the Internet, as a technology, can be distorted and impact relations of power (conflict of interests)

STATE INTERVENTION
Governments should intervene in unequal power relations, as the necessity to prohibit spam demonstrates

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