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From cyber-libertarianism to neoliberalism: Internet exceptionalism, multistakeholderism and the institutionalisation of Internet governance in the 1990s

Jean-Marie Chenou

IEPI-CRII
Université de Lausanne

Jean-marie.chenou@unil.ch
+41 21 692 31 71

IEPI
Quartier UNIL-Mouline
Bâtiment Géopolis
CH-1015 Lausanne

Jean-Marie Chenou is a PhD candidate and teaching assistant at the Institut d’Etudes Politiques et Internationales of the University of Lausanne. He is also a member of the Centre de Recherche sur l’International. His research interests include International Political Sociology and International Political Economy. He is particularly interested in providing a critical account of the creation of a governance system for the Internet in the 1990s and its more recent evolution. He draws upon Bourdieu and the sociology of elites as a way to contribute to critical theories of International Relations. He recently published “Etudes regionales. Relations Internationales et ‘nouveau’ regionalisme” in D. Battistella, (ed.), Relations Internationales. Bilan et Perspectives, Paris: Ellipses, 2013.
Abstract: Although it is often taken for granted that Internet governance should employ the principle of multistakeholderism and that existing governance structures are not suitable for the regulation of the Internet, this article places the emergence of such principles in the context of the 1990s. Drawing on international political sociology and neo-Gramscian scholarship, this paper explores how different elites were able to coalesce around basic principles of Internet governance to create the Internet Corporation for Assigned Names and Numbers (ICANN). These principles were the common elements of distinct discourses and were instrumental in the unification of a power elite. They also helped to create a hegemonic discourse that was acceptable to a broader public. Based on the study of policy documents produced during the debates that led to the creation of the ICANN, this article outlines five different discourses on Internet governance and focuses on the principles of multistakeholderism and Internet exceptionalism as basic elements of a hegemonic discourse. The study of the origins of these principles in the 1990s can shed light on their status in current debates.

Keywords: Internet governance, transnational elites, hegemony, multistakeholderism
Current debates illustrate the importance of some of the basic principles underlying the discussion of Internet governance. The most recent example is the bill proposed by the US Congress “to affirm the policy of the U.S. regarding Internet governance”. The bill states that “it is the policy of the U.S. to preserve and advance the successful multistakeholder model that governs the Internet”. The perceived need for such a bill was generated by the debates in December 2012 during the World Conference on International Telecommunications, which was organised by the International Telecommunications Union (ITU). The negotiations broke down when the Internet was mentioned. Some delegations walked away from the negotiations because they could not tolerate the discussion of Internet governance in an intergovernmental organisation such as the ITU. Thus, the US bill recalls that it is essential that the Internet remain “free from government control”. This ironic statement illustrates the importance of two core principles of Internet governance: Internet exceptionalism and multistakeholderism. According to these two principles, the Internet cannot be regulated through the traditional telecommunication governance system headed by the ITU because of its particular history. The Internet must be governed with the participation of all stakeholders, including (and especially) private actors. The reference to the Internet during the World Conference on International Telecommunication was a violation of both principles and thus triggered a strong reaction by dominant actors, including North American and European governments as well as large transnational Internet firms such as Google, Inc.

These types of principles, which guide policies in the field of Internet governance, can be traced to the original politicisation of the issue in the 1990s. During the 1990s, Internet governance emerged as a relatively autonomous field within global politics. Like political actors, scholars often take for granted the principle of multistakeholderism and the exceptional nature of Internet governance (Kleinwächter 2003; Mathiason 2008). According to this view, multistakeholderism is the participation of any actor who has a personal stake in Internet governance (WGIG 2005). Some authors explain this particular feature as a consequence of the technology itself rather than as a result of any political process. The participative and decentralised nature of the network is believed to require and enforce multistakeholder governance and to make earlier governance models a poor fit (Mathiason 2008: 147). Another perspective on the basic principles of Internet governance treats Internet governance as one consequence of neoliberalism (Sum 2003; Simpson 2004). In this view, Internet exceptionalism, multistakeholderism, and other principles are elements of a neoliberal

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ideology that is applicable to every realm of social life. The structuralist perspective, like technological determinism, ignores the dynamics of the politicisation of the field in the 1990s. The governance of the network as it emerged in the 1990s is certainly compatible with the global neoliberal trend within the global political economy. However, the structuralist view does not explain the need for new institutions or the particularities of the discourse on Internet governance. The last and most important strand of the literature analyses the political debates of the 1990s and actors’ behaviour as a pluralist consensus-building process. The pluralist view rightly addresses the specificities of Internet governance, but it ignores the power struggle between actors and the embedding of Internet governance in the broader context of the global political economy. Pluralists fail to explain how the institutionalisation of Internet governance in the 1990s granted some elite actors a dominant position in the field while excluding others. As in Wright Mills' critique of pluralism in U.S. political science, the question remains of how different elites with different views and interests united around a shared project and excluded non-dominant groups.

This article argues that the principles of Internet exceptionalism and multistakeholderism are part of a hegemonic discourse that emerged in the 1990s. This discourse was instrumental in the formation of a power elite and in generating support from non-dominant groups. It relied heavily on neoliberal visions of Internet governance, but it also drew from the concept of the global public good and the cyber-libertarian discourse. Sovereignist and anti-marketisation perspectives on Internet governance were excluded from the debates, as were their advocates. Although the context has changed since the 1990s, the original hegemonic discourse has deeply influenced the field and has imposed some of its core principles, such as Internet exceptionalism and multistakeholderism, as the “common sense” of Internet governance (Gramsci 2001).

In the first section, I argue that the three explanations that can be found in the literature for the emergence of the core principles of Internet governance are insufficient and that an international politico-sociological perspective can shed some light on the crucial dynamics of the system. In the second section, I briefly outline the main actors and the documents that they produced, thus identifying five discourses on Internet governance. In the third section, I focus on the principles of Internet exceptionalism and multistakeholderism to describe how the hegemonic discourse was instrumental in unifying the power elite and legitimating its domination. In the last section, I present some conclusions regarding the relevance of the five perspectives to the classification of current discourses about Internet governance and the current status of Internet exceptionalism and
multistakeholderism.

1. The emergence of the principles of Internet governance

The emergence in the 1990s of principles such as Internet exceptionalism and multistakeholderism in the field of Internet governance is insufficiently addressed in the existing literature. Whereas the technological determinism and structuralist perspectives ignore the power struggle among actors, the pluralist perspective underestimates the processes of domination and exclusion. An international politico-sociological perspective that draws on the sociology of elites offers a more complete account.

1.1. Common explanations and their limits

Some Internet governance studies rely on technological determinism, arguing that the decentralised nature of the network, its openness, and its private ownership require a privatised multistakeholder governance model (Mathiason 2008). In this approach, the political struggle that led to the emergence of these underlying principles is obscured (Kleinwächter 2004).

Similarly, structuralist approaches rightly insist that Internet governance materialised as an international political issue within the context of a general trend towards commercialisation and privatisation and as the result of a shift towards information-led capitalism (Schiller 1999; Simpson 2004; von Bernstorff 2003; Sum 2003; Lee 2009), but these approaches tend to obscure the specificities of Internet governance, including its principles. Because of their focus on macro structures (Bieler and Morton 2001; Knafo 2010), critical approaches sometimes offer a totalising image of globalisation that ignores the specific dynamics that led to the domination of an ideology or a group of actors in a specific issue area (Cerny 2010). In the realm of telecommunications, for example, neoliberal ideas had already been implemented, especially in the ITU (Hills 2007; Lee 1996). The creation of the ICANN and the emergence of Internet exceptionalism and multistakeholderism as principles of Internet governance reflect power struggles among actors that are specific to Internet governance rather than existing as a direct consequence of the structural domination of neoliberalism. Researchers must further investigate the process of neoliberalisation, defined as the field-specific application of neoliberalism, and the actors that shape a specific policy
Finally, according to a liberal/pluralist framework, the principles of Internet governance resulted from a series of consensuses that were reached at key political moments. In this view, the consensus that led to the creation of the Internet Corporation for Assigned Names and Numbers (ICANN) was negotiated between stakeholders such as the technical community, the U.S. government, intellectual property rights holders and actors from the private sector (Mathiason 2008). The consensus during the World Summit on the Information Society (WSIS) between 2003 and 2005 was concerned with reconciling the views of countries from the North and countries from the South around the issue of Internet governance for development (Kummer, 2007). In the liberal view, the notion of multistakeholderism, taken from organisational studies (Antonova 2007: 40), illustrates that the different actors involved participated on an equal footing. With its focus on stakeholders, the liberal approach does not fully address the struggles that characterise the global political economy. Contrary to the theory of multistakeholderism, the reality of the negotiations reveals the dynamics of power and domination that were involved. The following sections will explore and provide some evidence of the role of a set of dominant principles in the creation of the existing Internet governance system.

1.2. International political sociology perspective

Instead of taking for granted the principles of Internet governance, a non-structuralist international political sociology (IPS) approach explores the role of agents in the emergence of these principles. Indeed, these principles are not structurally determined; rather, they are negotiated by agents at the field level. Drawing upon Bourdieusian sociology, IPS scholars define a field as a relatively autonomous transnational space of struggle (for an overview, see Adler-Nissen 2012) with specific actors, stakes, and variations on historical structures and hegemony. While IPS draws upon distinct traditions, the focus of IPS on practices and agency makes it consistent and, in my view, compatible with non-structuralist readings of Gramsci in global political economy, as exemplified by some studies of European integration (van Appeldoorn 2002; Cafruny and Ryner 2007; Bieler 2010).

I argue that the emergence of principles of Internet governance is closely linked with the emergence of a transnational power elite within Internet governance. A power elite emerged through the
unification of different elite groups around a shared project. Wright Mills (2000) described this type of unification occurring in the U.S. at the beginning of the Cold War: different elite groups with different ideas and interests unified through ideological cohesion and institutional circulation to form a single power elite. This type of analysis can be combined with Bourdieu's vision of a society as divided into relatively autonomous fields to analyse both the competition among different elites and the potential for their unification (Denord et al. 2011; Kauppi and Madsen 2013).

Although this description is useful because it avoids the reification of the dominant group and sheds light on the historical process that leads to the unification of an elite within a field, Wright Mills does not fully consider the relationship of the elite to non-elite groups. He provides two ideal-types of society in characterising the domination of the elite over the non-elites: first, a society of publics, a true democracy in which the government acts under the active scrutiny of the governed and in which the existence of a power elite is impossible; and second, a mass society, “an abstract collection of individuals” in which the power elite faces no resistance (Wright Mills 2000: 301-304). Unlike Wright Mills, Gramscian scholarship imagines a scenario in which mobilisation exists but in which the active rather than passive consent of the public allows the power elite to rule (Burawoy 1982, 2008). Whereas the relative stability of Wright Mills’ power elite results from the apathy of the masses, Gramscian hegemony presupposes that “account be taken of the interests and the tendencies of the groups over which hegemony is to be exercised” (Gramsci 2001: 373). Unlike in the structuralist perspective, agency is crucial and lies in the process of managing active consent (Birchfield 1999).

In this view, hegemony is constructed at an ideological and discursive level by social forces. The principles of Internet governance needed to be shared among dominant actors and accepted by non-dominant groups to become hegemonic. The following study is based on a qualitative content analysis of 15 versions of 4 main policy documents produced between 1996 and ICANN’s creation in 1998. These are the documents that explicitly described a governance model for the Internet. The analysis follows an inductive category-building approach in identifying the common themes of the documents (Boyatzis 1998). I created categories and used them to evaluate the commonalities and differences between the models presented in each document. I then applied the same categories to public comments on these documents as well as to other documents from the same period that did not describe a concrete governance model but that reflected key principles advocated by specific
The results were interpreted as identifying broader discourses about Internet governance (see figure 1) in relation to concepts that can be found in the literature of the late 1990s, such as neoliberalism and global public goods.

2. Elites, documents and discourses

The politicisation of Internet governance in the 1990s can be described as the emergence of a transnational field in which different groups of actors struggled to impose a practical model of Internet governance based on a broader discourse and on more generic principles.

2.1. Four specialised elites and the politicisation of Internet governance

Until the 1990s, the potential of the Internet had not been acknowledged, and thus, the concept was not broached as a political issue beyond a small circle of specialists. The computer scientists who had contributed to the creation of the network were regulating it according to scientific criteria in a relatively autonomous way (Townes 2012). The privatisation and commercialisation of the network in the first half of the 1990s completely changed the situation. In 1993, Network Solutions Inc. (NSI) was chosen as the domain name registration service. In 1995, the National Science Foundation authorised coverage for Internet domains. Suddenly, as the commercial use of the Internet became permissible, as the number of users sky-rocketed, and as the first signs of business potential emerged, it became important to know who controlled the Internet. The debates on Internet governance in the 1990s reflect the emergence of a new political field and the creation of a new market for Internet domain names.

Although the pluralist literature identifies a certain number of stakeholders in the debates of the 1990s, the ambiguity of the notion of stakeholders (Ruwet 2010), the blurriness of the frontiers between stakeholders, and the circulation of actors across the groups undermine the concept’s heuristic value. This section identifies four specialised elites that participated in the drafting of policy documents. Specialised elites rely on distinct institutional affiliations and mobilise different resources. They have different interests and worldviews but might, under certain historical
conditions, unite to form a power elite (Wright Mills 2000).

The first specialised elite was the technical/scientific elite that had managed the Internet before its commercialisation in the early 1990s. This group was organised around the Internet Society, a learned society of computer scientists, and the Internet Engineering TaskForce, a standard-setting body. Although most of the scientists were affiliated with universities in the 1980s and conducted their research with public funding, they gradually strengthened their ties to computer manufacturers and telecommunication firms (Abbate 1999; Hafner 1998). The scientific elite was transnational in scope despite its U.S. origins (Townes 2012).

The second specialised elite was the corporate elite. Large telecommunication firms and computer manufacturers, as well as intellectual property rights-holders, defended an unregulated and private-sector-led market creation process despite their competing interests in the sector. One of the main institutions of the 1990s corporate elite was the Global Internet Project, which represented Internet sector companies such as IBM, Fujitsu, British Telecom, MCI and Netscape. The Global Internet Project serves as an advisory committee within the World Information Technology and Services Alliance (WITSA), the leading consortium of ICT industries.

The third specialised elite was the U.S. political elite, represented by the National Telecommunication and Information Authority of the Department of Commerce and the Internet Czar, Ira Magaziner, who was closely monitored and supported by Vice President Al Gore. The U.S. Department of Commerce assumed a leadership role in Internet-related policy after the commercialisation of the network, consistent with White House efforts to develop e-commerce (Clinton and Gore 1997).

The final specialised elite was the non-U.S. political elite. The stakes of Internet governance were transnational, and non-U.S. actors such as the Australian government and the European Commission rapidly became involved in the debates of the 1990s. This elite was also represented by intergovernmental organisations such as the ITU, the World Intellectual Property Organisation, the Organisation for Economic Co-operation and Development, and the G8. Although these institutions

had different priorities, they shared the will to internationalise Internet governance and to play a role in the regulation of the network.

The competing discourses on Internet governance stemmed from very different actors who held different institutional positions. However, like Wright Mills' specialised elites, the authors of these discourses had some legitimacy in their own domains because of their institutional affiliations with large transnational firms, prestigious universities, governmental institutions, and intergovernmental organisations.

2.2. Policy documents

During the debates on Internet governance, several successive documents proposed different models of governance. Each of the documents listed below was a possible basis for the creation of a governance model because of the institutional status of its authors. The list of documents analysed in this section is consistent with the existing literature on Internet governance debates in the 1990s (particularly Mueller 2002).

- **Draft postel**

The first document, the Draft Postel, was produced by Jon Postel (a key individual in the technical elite) and other Internet Engineering Taskforce members based on a technical and political discussion. The legitimacy of the document’s proposal regarding a new governance system stemmed from the fact that Postel had been in charge of the allocation of domain names and thus claimed the right to continue to do so under new circumstances. The document was published in a series of mostly technical texts that addressed the management of the network. Domain name policies were to be controlled by the scientific/technical organisations created in the scientific field before the commercialisation of the network. Other aspects were intended to be “determined, and coordinated, by contractual agreements between private interests” (Postel 1996: Abstract). The main objectives of the document were to allow open competition in domain name registration and to provide a legal and financial umbrella for the technical elite's activities related to domain names.
policies as “the net becomes larger and more commercial” (Postel 1996: §1.5.3). The document also claimed that open and free-market competition had proven effective in other related service areas (Postel, 1996: 1.5.2). Furthermore, it stated that domain names were not supposed to reflect trademarks and that the trademark problem had no solution, which prompted a variety of reactions.

➤ **GTLD-MoU**

A few months later, the generic Top-Level Domains Memory of Understanding (gTLD-MoU) document was drafted by the International Ad Hoc Committee (IAHC). The committee’s creation had been recommended in the Draft Postel. However, this was not merely a technical committee as described in the Draft Postel, as it included representatives from various intergovernmental organisations, the U.S. National Science Foundation, and trademark interests, as well as intellectual property lawyers. The creation of the committee was the first attempt to create a power elite, although it excluded the U.S. political elite. Its language of the document that the committee released was more political than that of the Draft Postel:

> “The Internet top level domain space is a public resource and is subject to the public trust. Therefore any administration, use and/or evolution of the Internet TLD space is a public policy issue and should be carried out in an open and public manner in the interests and service of the public.” (IAHC 1997)

The IAHC proposed a non-regulatory policy framework in a Memorandum of Understanding (MoU) that was signed by both public and private sector representatives and backed by the ITU. Trademarks were strongly protected with a 60-day publication period for any application for a domain name prior to its inclusion in the database. This period would have left trademark owners with abundant time to investigate possible trademark infringement. This internationalised governance system was the first attempt to introduce a multistakeholder governance system for the Internet. The gTLD-MoU stressed the importance of intergovernmental organisations. This policy document, which had been generated by the technical/scientific elite and was influenced by the ITU as well as the corporate elite network of trademark holders, was on the brink of implementation in
the late 1990s. However, small Internet entrepreneurs and cyber-libertarians, backed by the U.S. political elite, criticised the proposal for not taking their interests into account (Mueller 2002).

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White Paper

Parallel to the gTLD-MoU process, the White Paper on Internet Governance was drafted by the U.S. Department of Commerce after a process of consultation and negotiations. This paper had also benefited from the previous work and collaboration of some of the authors of the previous documents. It took into account the criticisms of the gTLD-MoU and proposed a competitive market for Internet domains. This market was to be regulated by private bodies rather than public organisations:

“the U.S. continues to believe […] that neither national governments acting as sovereigns nor intergovernmental organizations acting as representatives of governments should participate in management of Internet names and addresses.” (NTIA 1998)

The white paper explicitly stated a set of principles that were to be considered in the future governance system: system stability, competition, private and bottom-up regulation, and representation (NTIA 1998).

ICANN By-laws and Memorandum of Understanding with the Department of Commerce

Finally, the ICANN bylaws and Memorandum of Understanding (MoU) are the documents that actually created the institution. These documents were drafted by a group of individuals, including Jon Postel, the leader of the technical elite; employees of Network Solutions, Inc., the company that had the monopoly on Internet registration; and two lawyers. These actors proposed the creation of a new corporation that would follow the rules established by the White Paper on Internet Governance.
This document represents the views of what Mueller (2002) called the “dominant coalition”. As described in the following sections, these documents show the evolution of the governance system towards a consensual form of institutionalisation accepted by distinct elite groups. In this sense, these documents were instrumental in the unification of a power elite as described by Wright Mills (2000). The proposed institution was to be a not-for-profit corporation acting under a Memorandum of Understanding with the U.S. Department of Commerce. The principles detailed in the Memorandum of Understanding between the ICANN and the U.S. Department of Commerce are the same as those stated in the white paper (stability, competition, private bottom-up coordination, and representation). Only the last principle has a slightly different definition, with the introduction of the concept of the “global” nature of the community of Internet users (ICANN and DoC 1998).

2.3. Five discourses on Internet governance

The policy documents that were produced in the second half of the 1990s to create a governance system for the Internet echo three dominant discourses. Two alternative discourses can be found in the commentaries on the policy documents. Finally, the documents that actually created the ICANN reflect a hegemonic discourse in the sense that a consensus developed among the elites in spite of the differences between their favoured discourses. The hegemonic discourse was also able to co-opt non-dominant actors without “touching the essential” of an elite-driven governance system (Gramsci 2001: 373). The discourses involved speak to more than the plan to develop a particular institutional framework to regulate the Internet. They also address the principles that should guide Internet governance. This distinction is essential if we are to understand the potential for a consensual discourse among elite groups and the necessary exclusion or co-optation of differing ideological views of network governance.

➢ The neoliberal discourse

The White Paper on Internet Governance issued by the Clinton administration can be described as a neoliberal project. Neoliberal views also had the greatest influence on the documents that actually created the ICANN. Although neoliberalism is a multidimensional phenomenon, some important elements are a focus on individual freedom and on the protection of private property and a commitment to economic laissez-faire (Harvey 2005). The Clinton administration had described its
vision of the Internet in a more generic document about e-commerce a few months prior to creation of the white paper (Clinton and Gore 1997). The document envisions an active role for the state in the creation of new, loosely regulated markets. As the third principle reads,

"Where governmental involvement is needed, its aim should be to support and enforce a predictable, minimalist, consistent and simple legal environment for commerce.” (Clinton & Gore, 1997: 3)

The main purpose of the neoliberal regulation of the Internet is the creation of a market for domain names (ICANN and DoC, art. II, section C §2). The institutions and rules that are created by the documents are designed to ensure the smooth functioning of the market; they are the by-products of its creation. The role of the institution is to ensure the stability of the network infrastructure, to protect private (intellectual) property, and to foster competition. For neoliberals, the market is the locus of innovation and efficiency, and the problem-solving capacity of a transnational private governance system is based on its promotion of market forces. Multistakeholderism is also praised as more inclusive (and thus more legitimate) than intergovernmentalism because of the participation of individual stakeholders. The role of the state is important in actively creating and supporting transnational institutions to delegate some of its functions to stakeholders:

“the U.S. Government is prepared to recognize, by entering into agreement with, and to seek international support for, a new, not-for-profit corporation formed by private sector Internet stakeholders to administer policy for the Internet name and address system. […] The organization and its board should derive legitimacy from the participation of key stakeholders.” (NTIA 1998)

Multistakeholderism is an individualisation of political participation in which individuals do not rely on institutions to participate in decision-making. The competition and market-based arbitration between individual interests is seen as the most efficient type of regulation. The neoliberal discourse, in summary, is governed by the idea that individualised, market-based competition is superior to other modes of organisation (Mudge 2008: 706–707).

- The Cyber-libertarian discourse
The cyber-libertarian discourse is best illustrated by the Draft Postel. This discourse emerged in the early days of the Internet and can be summarised by its motto: “Hands off the Internet” (Thierer 2009). Cyber-libertarian discourse was very common among IT and networking specialists and within a “cyber-elite” of science fiction writers and young entrepreneurs who organised around *Wired* magazine. The discourse thus was influential within the small population that was aware of the potential of the Internet in the first half of the 1990s (Flichy 2001: 126-133). The basic premise of cyber-libertarianism is Internet exceptionalism: the Internet creates a new world and changes social relations, which renders existing regulations obsolete. Cyberspace is, by definition, a world of freedom and equality, and any intervention might threaten these characteristics.

“Governments of the Industrial World, you weary giants of flesh and steel, I come from Cyberspace, the new home of Mind. On behalf of the future, I ask you of the past to leave us alone. You are not welcome among us. You have no sovereignty where we gather. [...] we cannot accept the solutions you are attempting to impose.” (Barlow, 1996)

The cyber-libertarian positions on commercial aspects of the Internet are less clear. They favour market solutions over regulation and strongly defend individual economic freedom. Although some cyber-libertarians seem to reject the concept of property in cyberspace and its implications for intellectual property rights protection (Atkinson 2010: 2), others defend intellectual property rights as an extension of traditional property rights (Thierer 2009). For this reason, figure 1 shows the compatibility of the cyber-libertarian discourse both with the anti-marketisation discourse, as illustrated by the hacker/free culture discourse, and with neoliberal ideas, as evidenced by the hegemonic discourse of the 1990s (see section 3). In this view, the Internet challenges the idea of sovereignty, and Internet governance is conceptualised as existing outside the power structures of the global political economy. The Draft Postel does not explicitly refer to cyber-libertarian ideas, although the proposed model and some of its authors are clearly inspired by these views. The self-organisation of the Internet community through its own institutions and the total absence of any reference to government contracts is an implicit endorsement of a cyber-libertarian discourse.

➢ *The Global Public Good discourse*
Although the concept of global public goods has only been popularised since the end of the 1990s by researchers from the United Nations Development Program (Kaul 1999), the discourse on the need for international cooperation to manage trans-boundary flows and threats was present throughout the 1990s. As far as Internet governance is concerned, the global public good discourse is visible in the declarations by intergovernmental organisations and some non-governmental organisations. The gTLD-MoU, authored by members of the technical community with representatives from IGOs, reflects this discourse to some extent. Public goods are defined in the economics literature as goods that are non-rival in consumption (i.e., consumption by one person does not prevent further consumption) and nonexclusive (no people or groups of people can be excluded from the use of the good). Kaul et al. (1999: 2-4) add a criterion for global public goods: their benefits are quasi-universal in terms of countries (they cover more than one group of countries), people (they accrue to several or preferably all population groups), and generations (they extend to both current and future generations, or they at least meet the needs of current generations without foreclosing development options for future generations). Drawing upon Kaul et al.’s definition, Spar (1999) defines the Internet as a public good. According to this discourse, Internet governance requires state intervention at both the national and the multilateral level (Spar 1999: 356-358). As a global public good, the Internet needs to be managed internationally to fulfil the criterion of universality. These considerations were strongly acknowledged by the gTLD-MoU, which was written in the name of the Internet community as a whole, as well as in the ICANN bylaws, which stressed the importance of international representativeness. The global public good discourse is ambiguous regarding the respective roles of the state, the market and intergovernmental organisations. Depending on the type of global public good, the particular balance among these institutions changes. Drawing upon Lowi’s three categories of public policies (1964), Cerny differentiates three categories of public goods (Cerny 1995). Regulatory public goods involve the creation of a functioning market, with some mechanisms to protect the market from its own failures. Productive/distributive public goods require a direct participation of the state as owner and/or provider of public services. Finally, redistributive public goods aim at the welfare of a given population. The Internet is considered a regulatory global public good by the global public good discourse (IAHC 1997), which favours a market-driven governance model supported by states and intergovernmental organisations.
Marginalised discourses were absent from the proposed models of Internet governance. However, they clearly appear in the comments on and reactions to the proposals. They also emerged in more scholarly discourses as the institutionalisation of Internet governance was debated. The status of these discourses changed over time, and they were the basis of the challenge to the neoliberal model. The sovereignist and the anti-marketisation discourses underpinned the resistance to the ICANN and the alternatives that have been proposed since its creation.

First, a sovereignist discourse envisions a governance system in which states play a crucial role for different reasons. During the 1990s, some people in the U.S. developed a mercantilist discourse on Internet governance that influenced the U.S. Congress. The Internet had been created by U.S. citizens with U.S. taxpayers’ money, and thus could not be “given away” to competitors (Parisi 1998). These kinds of arguments were called upon by U.S. industry representatives during the congressional hearings on the Domain Name System (US House of Representatives 1997). National security issues and geopolitical interests were also evoked. Indeed, the sovereignist discourse often focuses on security and the threat of Internet use for criminal purposes and terrorist activities (G7/P8 1996). Nationalist discourses also exist in other countries as reactions to American domination of the Internet. The sovereignist discourse insists on the need to protect sovereignty in an interconnected world. As a general rule, the legitimacy of Internet governance institutions lies in the state. According to this view, national portions of the Internet should correspond to existing national jurisdictions to allow governmental control over the network. Intergovernmentalism should be the way to address global Internet policy issues. In this sense, multistakeholderism was not seen as a viable mode of regulation of the network, and the Internet did not represent an exception to existing regulations.

The anti-marketisation discourse is unconvinced by the premises of the information society and the new economy. Although the anti-marketisation discourse was already weakened in the mid-1990s by the previous commercialisation of the Internet, it was still an important discourse in social science faculties and non-dominant universities. As Birdsall puts it, in a controversial speech given at the I'Net 96 conference,
“I do not accept that it is the Internet that is transforming society. [...] I maintain that the Ideology of Information Technology is a set of values and propositions that represents an inherent extension of capitalism’s drive to commodify all spheres of economic and cultural life. This ideology links the adoption of information technology with free-market values and the commodification of information.” (Birdsall 1996)

According to the anti-marketisation discourse, the main change that was occurring together with the emergence of the “information age” was the commodification of information as a new realm of capitalist development. The Internet is one of the elements of digital capitalism (Schiller 1999). The embedding of the global network in capitalistic structures prevents the emancipatory use of the Internet and favours dominant actors and big businesses (Simon 1998). It was argued that for the Internet to fulfil its emancipatory potential, a real political arena had to be created in which Internet governance could be debated beyond elite circles (Birdsall 1996). According to this discourse, multistakeholderism cannot address social issues because of its narrow scope. Moreover, it does not offer sufficient participation or legitimacy and represents an institutionalisation of neoliberalism. Like the sovereignist discourse, this viewpoint was barely acknowledged in the 1990s.

Figure 1. Internet governance discourses and hegemony

Figure 1 summarises the different discourses related to Internet governance and the compatibility between certain discourses. The hegemonic discourse of the 1990s relies primarily on neoliberal discourse but also draws on the cyber-libertarian and global public good discourses. It thus presents elements of a technocratic discourse, a minimalist vision of global public good and a focus on the creation of a cyber-marketplace.
3. Internet exceptionalism, multistakeholderism: The hegemonic discourse on Internet governance

The hegemonic discourse described in figure 1, a mainly neoliberal discourse that includes elements of cyber-libertarianism and the concept of global public goods, is best illustrated by two core principles that permitted an ideological consensus between specialised elites and that facilitated the broader acceptance of the new governance model: Internet exceptionalism and multistakeholderism.

3.1. A common basis for the cohesion among elite groups: Internet exceptionalism

The idea of a major change in social, political, and economic life brought about by the Internet is shared by the neoliberal, cyber-libertarian, and (to some extent) global public good discourses. The expression “Internet exceptionalism” (Wu 2010) is derived from the notion of American exceptionalism, which can be traced back to Alexis de Toqueville (de Toqueville, 1840: 36-37). According to Internet exceptionalism, cyberspace is a terra nullius in which social relations and laws have no historical existence and must be re-invented. Thus, proponents of Internet exceptionalism advocated the abolition of existing rules and the creation of a totally new governance system in which the overarching role of the state was to be replaced by the initiatives of individual actors.

The notion of Internet exceptionalism is most obviously advocated by cyber-libertarians who see the information age as the age of freedom, separate from traditional government and state sovereignty (Huber 1997; Postel 1996). However, Internet exceptionalism can also be found in neoliberal thinking on the network, as advocated by the Clinton administration (Clinton and Gore 1997: 1). The global public good discourse, as used by the UNDP, advocates significant involvement of governments and international organisations in world politics. It is not clearly sympathetic to the notion of the information society (Kaul 1999). The proponents of the global public good discourse, however, acknowledge that the power of the state is undermined by globalisation and especially by the Internet. Although the Internet is considered a public good, authors such as Spar rule out the public provision of the network. Spar even sees the regulation of private provision as “unwieldy” because of the specific history of the Internet. According to Spar,
the only solution left to the state is to intervene where the market does not (Spar 1999: 355-356). In acknowledging the specificity of the Internet, the global public good discourse was not in a position to offer an alternative to the Internet exceptionalism thesis. Thus, the discourse accepts the idea that the Internet transforms the ways in which governments can intervene. The gTLD-MoU, which utilises this type of discourse, thus recognises “the unique characteristics of the Internet” (IAHC 1997: 1) and proposes a self-regulatory structure (IAHC 1997: 2) in an attempt to re-invent global public good governance beyond multilateralism. Therefore, the global public good discourse did not oppose hegemonic principles.

The by-passing of the ITU and the creation of the ICANN as a private not-for-profit institution regulating a global network follow the principle of Internet exceptionalism. As a strictly private institution, the ICANN Board does not include official representatives of national governments or intergovernmental organisations (ICANN 1998: art. V, section 5). The organization does not support intergovernmental governance and only allows (inter-)governmental participation through an advisory committee that consults with the corporation’s board. Furthermore, unlike other advisory committees, the Governmental Advisory Committee does not have the power to initiate advisory procedures on its own: the Board instead notifies the committee of any proposal upon which it seeks comment (ICANN 1998: art. VII, section 3a). The documents that created the ICANN Board extend beyond the limited role of the state as advocated by neoliberal discourse. The market-enabling institutional role is carried out not by the state but rather by a private, transnational, not-for-profit corporation due to the specific history of the network.

3.2. The manufacturing of consent around the notion of multistakeholderism

Institutions are an expression of hegemony (Cox 1996: 137), and the ICANN can be described as an expression of the hegemony of a transnational power elite within the area of Internet governance. The power elite in this area had to make some concessions for their domination to be accepted by non-elite groups. To be able to speak in the name of “the Internet Community”, as the gTLD-MoU claims (IAHC 1997: 1), the power elite had to describe its leadership in terms of Internet users’ general interests. The emerging power elite had to institutionalise Internet governance in a way that provided space for the participation of actors with diverging views without endangering its own dominance. Thus, after the introduction of the initial Draft Postel that proposed an expert group, the
notion of participation appeared more frequently as new documents were drafted, and several options were envisaged. Different notions are used in the various documents (i.e., participation, representation, openness, inclusiveness), but all are based on the idea that the new governance system had to include a variety of Internet governance actors and Internet users. This necessity paved the way for the creation of a multistakeholder governance system. The notion of multistakeholderism first appears in the White Paper on Internet Governance (NTIA 1998). Because of the unclear definition of the concept of stakeholders (Ruwet 2010), this was a non-binding measure to allow participation.

Intergovernmental participation as proposed by the gTLD-MoU (IAHC 1997: introduction and art. II, section 6) and consistent with a global public good approach was ruled out by the U.S. government and consequently disappeared from other official documents. It was replaced by the less precise notion of multistakeholderism, which recommends the inclusion of the various interest groups with stakes in Internet governance. The notion of multistakeholderism facilitates the participation of selected powerful states and intergovernmental organisations without endangering the discursive cohesion among the elite. Multistakeholderism also foresees the participation of non-elite actors and is thus at the heart of manufacturing consent.

The Internet governance debates in the 1990s aroused relatively strong interest beyond elite circles. Many newcomers, outsiders and small businesses were not taken into account when the ICANN was created. The International Forum on the White Paper (IFWP), which was designed to discuss the issues raised by the White Paper on Internet Governance and to imagine the new governance institution, was bypassed by well-connected members of the emerging elite with the drafting of the ICANN. Mueller, who was an IFWP participant, offers a first-hand account of this development (Mueller 2002). The issue of participation was thus crucial to the ability to gain support or at least to prevent vocal hostile reactions from non-elite actors. The ICANN structure is clearly dominated by the Board. The advisory committees, particularly the governmental advisory committee, were given little power. However, the mere inclusion of non-dominant actors in the structure of the institution gestures toward the use of a softer form of domination based on consensus. Although the notion of Internet exceptionalism appeals to powerful actors who might see regulation or government involvement as a threat to their power, the notion of multistakeholderism is targeted toward the non-elite groups that seek an arena in which to express their concerns in a more or less
democratic way. Multistakeholderism is the central notion around which the consensual aspect of domination by the power elite is constructed.

3.3. The elitist nature of Internet governance

The principles of Internet exceptionalism and multistakeholderism were discursive tools that were used to create a hegemonic discourse. As we have seen in the introduction, they are still used to forestall any challenge to the existing system. However, it is important to note that these are discursive tools rather than actual commitments. The governance of the Internet as designed in the 1990s relied heavily on existing structures such as the U.S. federal state and some intergovernmental forums, and multistakeholder participation was very limited.

The U.S. Department of Commerce retained a crucial role in Internet governance. The description of this role can be found in the Memorandum of Understanding between the U.S. Department of Commerce and the ICANN (ICANN and DoC 1998) rather than in the by-laws. The MoU was written after the creation of the ICANN and after heated debates between specialised elites. The Department of Commerce was responsible for providing oversight for ICANN’s work (ICANN and DoC 1998: art. V, section A) and was expected to fund a quarter of the organisation’s expenses in the first six months (ICANN and DoC 1998). Moreover, the role and the expertise of intergovernmental organisations such as the World Intellectual Property Organization were acknowledged (ICANN and DoC 1998: art. V, section C). The European Commission and the Australian government also participated informally in the nomination process for the ICANN board (Mueller 2002: section 8.2.3). On a discursive level, the role of governments and intergovernmental organisations was negated. This negation was consistent with the idea of Internet exceptionalism, which was instrumental to the cohesion of the power elite. In practice, however, powerful governments (especially the U.S.) and some intergovernmental organisations played an important role in the new governance system.

The same process occurred with the principle of multistakeholderism. The power elite constructed a hegemonic discourse that referenced multistakeholder participation. However, the implementation of genuine participation was left to future agreements. The White Paper on Internet Governance
remains unclear about the actual role of the stakeholders who will participate in the new institution, but the ICANN by-laws describe in great detail the ways in which participation should be carried out. The ICANN by-laws, as of November 1998, provide for three types of participation or representation (ICANN 1998: article VI):

- The supporting organisations (SO) are intended to have substantial power in the institution (initiative) and the capacity to elect Board members;
- The advisory committees are intended to have far less power (an advisory role on their own initiative or as requested by the Board); and
- At-large membership, which the drafting team was reluctant to include and whose actual creation and powers remain vague in the by-laws.

Whereas the elite comprised the people who chose the initial Board members, the Board members themselves, and the supporting organisations (see figure below, taken from Mueller (2002: section 9.1), the participatory discourse was aimed at the actors who were likely to be represented by the at-large membership and the advisory committee. The undefined category of at-large membership was included in the main body that was open to public participation. The by-laws left the task of defining the conditions of participation to the board. The Governmental Advisory Committee was, during the first years of ICANN’s operation, a secondary body that acted only at the board’s request. Despite the discourse about multistakeholderism, the ICANN remained dominated by the power elite. In practice, multistakeholderism was divided between elite stakeholders and the general public. However, the discourse about multistakeholderism was convincing enough against the significant criticism of the ICANN’s lack of participation (Froomkin 2000, 2002; Zittrain 1999) and helped the ICANN to survive both U.S. congressional hearings and the debates during the World Summit on the Information Society with only marginal reforms (US Congress 1999, WSIS 2005).
4. Conclusions

Although the principles of Internet exceptionalism and multistakeholderism were not genuinely implemented in the institutionalisation of Internet governance in the 1990s, they acquired a status of doxa (Bourdieu, 1977), or “common sense” (Gramsci 2001), in the field of Internet governance. Few actors question their application today, and the instrumental role that they played in the unification and institutionalisation of a transnational power elite within Internet governance is generally obscured. The present study explores the role of two core principles of Internet governance in the construction of a hegemonic discourse by the power elite. These principles are those of Internet exceptionalism and multistakeholderism. Although the status of the different discourses that are outlined in this article has evolved over the years, principles such as multistakeholderism and Internet exceptionalism remain at the core of the unquestioned characteristics of Internet governance. These principles have gained relevance beyond the policy field of Internet governance and have become concepts that are widely used by scholars in the study of Internet governance. A critical international politico-sociological perspective locates these
concepts within the context of an elitist attempt to produce a hegemonic discourse in the 1990s. The assertion that Internet governance must be multistakeholder and cannot be embedded in existing governance structures cannot be taken for granted and requires further investigation, as these arguments were constructed in a specific context by an emerging elite.

The five discourses described in this article represent the key arguments that were made in the debates of the 1990s, but these arguments also continue to be made today. The sovereignist discourse in particular has gained importance in the field in the last decade. Current debates can be understood as integrating the sovereignist discourse into the hegemonic discourse. This inclusion is required because of the emergence of countries such as Brazil and China, in which the state plays a crucial role, and also because of the increasing focus on security issues in dominant countries. As a result, the sovereignist discourse may be included in the hegemonic discourse along reformist lines, compatible with the notion of global public goods, or as an attempt to involve the state in the securitisation of a deregulated Internet economy (see figure 1). As illustrated by recent revelations, the combination of massive state surveillance programmes and free market economics is not limited to authoritarian countries. The neoliberal cybersecurity discourse, combining elements of the sovereignist and the neoliberal discourses might replace the hegemonic discourse of the 1990s. Again, the classification of broad discourses on Internet governance is important if we seek to situate the arguments in context and analyse the evolution of hegemonic principles. The contemporary framing of multistakeholderism, Internet exceptionalism, and other Internet governance principles can be better understood if we assume a historical perspective on the construction of Internet governance discourses.

References


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