The Brazilian Multistakeholderism on Internet Governance

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Abstract

This work analyzes the Brazilian Internet Steering Committee’s (CGI.br), a pioneering experience of multistakeholderism in the field of Internet governance, since 1995. It describes the CGI.br’s development that culminates in a self-sustainable financial model, the establishment of an election process to choose the civil society representatives, and the emergence of different kinds of multistakeholderisms within the organization. This work shows how the government has had a central role in the construction of the current CGI.br, sponsoring multistakeholder efforts since its conception, elaborating its decree and assenting to be subject to a homogeneous hierarchy among other stakeholders. It analyzes some of the controversies that emerge from the institutional design of CGI.br, its legal sponsorship and the openness to more participation, revealing the challenges of its current procedural rules. Considering the CGI.br a successful case in multistakeholderism and also in policy, this work proposes improvements, in terms of rules and design, to leverage their consistence and the diversity of interests within the organization. This work is informed by a 2-month fieldwork research conducted through participatory observations and in-depth interviews at the executive office of CGI.br and at events supported by it. Based on that, suggestions for future research are proposed.

Keywords: national Internet governance, multistakeholderism, participation, representation, electoral colleges, Brazil.

1. Introduction

The purpose of this study is to analyze the Brazilian Internet Steering Committee’s (CGI.br)\(^1\) trajectory, an experience of multistakeholderism in the field of Internet governance at a national level. Considering that the inconsistencies in the country’s political life have generated the inclination to constant policy and institutional changes as well as discontinuity (Frey, 2000), the fact that CGI.br is a 21-year-old institution makes it a prominent policy case study\(^2\).

While CGI.br is framed here as part of the policy realm, the present work problematizes this categorization through an examination of the organization institutional design and the CGI.br

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multistakeholderisms, which can be defined as both representative, and emergently participatory.

This work critically reflects on the literature on multistakeholderism and issues that emerged in a 2-month field work research project where the researcher, guided by a qualitative and ethnographic approach, conducted participatory observations and in-depth interviews (Lofland, Snow, Anderson, & Lofland, 2006; Duneier, 2011, Maxwell, 2013) at the Brazilian Center for Information and Coordination of dot-BR (NIC.br). NIC.br is subordinated to CGI.br, and it hosts its monthly meetings. During the field work, participatory observations were also conducted at events such as the Brazilian Internet Governance Forum (the Brazilian IGF), in Porto Alegre; the School of Internet Governance in Brazil (EGI), organized by NIC.br in São Paulo, and the Expotec, a technology exhibition partially supported by NIC.br, with debates and seminars that took place in João Pessoa.

This article, first, presents a brief history of the conception of CGI.br, focusing on its development trajectory, the different multistakeholder efforts used to build the institution, and the role of government in the process. Then, it describes the types of multistakeholderisms identified within CGI.br and the procedural rules that define its current operation. Finally, it discusses the challenges that have emerged from the design and the rules of the institution, problematizing some of the research findings, pointing out areas for future study, and proposing alternatives for improving the mechanisms of social participation.

By raising some yet unexplored issues in the debate, this paper aims to contribute to join efforts to better understand the multistakeholderism dynamics, and to leverage more inclusive, transparent and democratic models of Internet governance.

2. The multistakeholderism debate

While the Internet has been running for years, with a growing number of both actors involved in its governance, and new users, it was not before 2005 that a definition of the term Internet governance emerged. As a result of the first phase of the World Summit on Information Society (WSIS) in 2003, the Working Group on Internet Governance (WGIG), composed by representatives of government, private sector and civil society, defined that “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.” (WIS/WGIG, 2005, p. 4).

While the WGIG sought to build a “... descriptive, concise and process-oriented” definition (WIS/WGIG, 2005, p. 3), normative analyses of it are recurrent, emphasizing meanings related to inclusion, participation, transparency, openness and bottom-up policy development meanings (Kleinwächter, 2011), to name a few.

First, this expresses how political and social discourses are embedded in the Internet governance debates, even when such discussions are said to be guided by one of the WSIS principles, specifically concerned with the network technical aspects, or “the stable and secure functioning of the Internet” (WIS/WGIG, 2005, p. 4). It reveals the impossibility of dissociating properties of the same phenomenon, in a clear example of how what is considered technical is inherently political (Latour, 1994; DeNardis, 2014).
Second, the definition stated the necessity of collaboration between three sectors, namely, government, private sector and civil society, laying an implicit conception of a generic multistakeholder model into the Internet governance characterization. With such a broader concept, previous and future experiences, even if not based in principles stated by the WSIS documents, were able to be accommodated. The historical circumstances that the group was expected to answer (Raymond & DeNardis, 2015) are also important to understand the definitions that evolved by that time. The search for equal footing among nations, the reduction of the United States prominence, and the participation of non-governmental parties in the arena where Internet governance issues were discussed, were then at the center of the debate (Mueller, 2010).

Third, the conditions and the participants who were involved in that debate within WGIG also contribute to understand the dilemmas behind the scenes. While some scholars consider that the WGIG had a good balance and diversity in terms of its 40 participants (Mueller, 2010; Epstein, 2013), Raymond and DeNardis (2015) take a critical approach. They emphasize, on the one hand, the considerable number of government officials and countries that are recognizably adept of repressive Internet policies, among the participants, and on the other hand, the absence of the United States in the group. For these authors, “the formulation of an international definition of multistakeholderism was arguably not a multistakeholder effort” (Raymond & DeNardis, 2015, p. 587). Such divergences show the importance of the expanding multistakeholderism scholarship to deepen our understanding on the kinds of self-nominated multistakeholder models in practice.

Through the empirical analysis of the dynamics of the IGF, Epstein (2012) found out that there is a “multiplicity of practices of multistakeholderism” within the forum (p. 208). In studying multistakeholder arrangements, he shows that not only the types of forum activities matter, but also the actors who participate.

Raymond and DeNardis (2015) define two types of multistakeholder models with focus on procedural rules and the type of authority among actors: the heterogeneous polyarchy, “in which distinct actors (or classes of actors) possess different formal powers (such as the division of authority between branches of government)” (p. 580) and the homogeneous polyarchy, “where actors have similar formal powers (such as individual voters in a democracy where each citizen receives an equal vote)” (idem).

The authors are emphatic in stating the authority of rules to establish the common governance in a multistakeholder institution. These rules can verse about the types of actors who will participate, the terms of participation, etc., and ensure the consistency of an organization (Raymond & DeNardis, 2015, pp. 580-581). In this regard, it is important to recognize the procedures for membership of an organization, and the guiding logics behind it, such as if they are based on hierarchical processes of representativeness or a liberal model of participation (Epstein, 2013).

Beyond the procedural aspects, the plurality of stakeholders’ interests needs to be considered. Previous works have emphasized that traditional sectorial divisions - such as government, civil society, private sector - , although useful to contrast approaches and worldviews in some situations, do not imply a total alignment within these groups (Mueller, 2010; Belli, 2015). Instead, “political views held within each of these categories are extremely diverse.” (Mueller, 2010, p. 265). Hence, Belli (2015) proposes a step forward, suggesting that the nature of a
multistakeholder approach should consider not only the kind of institutions that the
stakeholders represent, but the interests that they in fact defend.

Based on the elements discussed above, the Brazilian Internet Steering Committee (CGI.br)
figures as a substantive case to be analyzed.

3. The conception of CGI.br

3.1. First phase: a fully government-sponsored multistakeholder organization

The history of the Brazilian Internet Steering Committee (CGI.br) can be told, at least in part,
by a list of federal executive ordinances and a decree. In May 1995, a joint-ministerial
ordinance of the Ministry of Communication and the Ministry of Science and Technology
created the organization, defining its attributions, criteria for participation and the length of
mandate. At that time, the committee’s composition was defined as including five
representatives from government, and four from civil society, including one from the
“academic community”, one from “service providers”, one from the “business community”
and one from the “community of Internet service users”. The committee members were
nominated for a period of two years, through a new joint-ministerial ordinance in July of the
same year. Some of the attributions of the organization, at that time were:

“monitor the provision of Internet services in the country; establish recommendations
concerning: implementation strategy and interconnection networks, analysis and selection
of technology options, and functional roles of companies, educational institutions, research
and development (…);” “recommend standards, technical and operational procedures and
the use of code of ethics for all Internet services in Brazil; coordinate the assignment of IP
(Internet Protocol) and the registration of domain names; recommend network
management operational procedures; collect, organize and disseminate information on the
Internet service in Brazil” (Brazil, 1995a).vi

In 1995, the telecommunication services were a state-owned monopoly, under Telebrás, a
company founded in the 1970s, during the military dictatorship. In order to create different
business models to the Internet development, another ministerial ordinance, known as Norm
# 4, was released by the Ministry of Communications at the same day that CGI.br was
conceived. It defined that the Internet is not a telecommunication service, but rather a “value
added service”, which supplements a telecommunication network to create new uses and
activities (Brazil, 1995b). In this scenario, the government authority on the Internet would not
come from its direct market exploration, as it used to occur with telecommunication services
until then.vii In regard to the network technical aspects, with its initial focus on the registration
domain names, it was put formally the CGI.br’s responsibility.

The assignment of the country code top-level domain (ccTLD) .br to Brazil was done back in
1989, directly from Jon Postel to Demi Getchko (Adachi, 2011). The latter is known for his
important role in the first TCP/IP Brazilian connection while working at the São Paulo Research
Foundation (FAPESP) – a well-known academic state foundation that used to be the main authority of names and numbers in Brazil before the creation of CGI.br, evidencing part of the academic root of the Internet in Brazil.

Under an unusual design for a research foundation, FAPESP continued to be responsible for names and numbers, but then under the auspicious of CGI.br. Hartmut Glaser was the Special Advisor to the FAPESP’s Chairman and became responsible for leading the project that would respond to the brand-new CGI.br for 10 years more, with some substantial changes from the beginning. After 1998, CGI.br defined that the registration of domain names, until then conducted free of charge, should be charged according to “values compatible with existing internationally” (CGI.br, 1998).

At that moment, the government was no longer the financial supporter of the CGI.br activities, although it continued to be, in a federal level, its legal sponsor, through the joint-ministerial ordinances that conceived and structured it, and its political-sponsor, through the nominations and selection of the CGI.br participants. In a State level, the government continued to be its executive arm through FAPESP.

The fact that FAPESP was a research foundation brought questions about how much the nature of the CGI.br project fit the mission of the institution, since this was not a typical research and development project (CARVALHO, 2006). It was not before the new presidential term, in 2003, that the idea of making a transition from FAPESP to another organization was fully developed. In parallel to that, there were also critiques from civil society about the limited social participation in the CGI.br, and proposals to change it (RNP, 2003).

3.2. Second and current phase: the transition to a more participative multistakeholder model

The political change in the federal government in 2003, from the Brazilian Social Democracy Party to the Workers Party, meant immediate changes for CGI.br. Three months after the new government began, a joint-ministerial ordinance of the Executive Office of the Presidency of the Republic (Civil House), the Ministry of Communications and the Ministry of Science and Technology defined a new composition for the committee, with a temporary mandate of less than 8 weeks. In the new composition, the number of participants, all of them nominated by the Federal Government, increased from 9 to 17, corresponding to 7 representatives from the federal government, 1 from the State government, 7 from non-government organizations and 1 from the academic community, seat that was occupied by the president of the National Research Network (RNP), an organization linked to Ministries of the Executive branch. Thus, the academic seat in the temporary composition of CGI.br was also government.

The priority established for the new steering committee was to “study and propose a new model for Internet Governance in Brazil” (Brazil, 2003a).
Table 1. CGI.br temporary composition, in 2003, in charge of defining a new Internet Governance model

<table>
<thead>
<tr>
<th>I. Federal Government</th>
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<tbody>
<tr>
<td>1. Ministry of Science and Technology (coordinator)</td>
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<td>2. Civil House - Executive Office of the Presidency of the Republic</td>
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<tr>
<td>3. Ministry of Planning, Budget and Management</td>
</tr>
<tr>
<td>4. Ministry of Communications</td>
</tr>
<tr>
<td>5. National Telecommunications Agency - ANATEL</td>
</tr>
<tr>
<td>7. National Counsel of Technological and Scientific Development – CNPq</td>
</tr>
<tr>
<td>8. Academics Community</td>
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<tr>
<th>II. Private Sector</th>
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<tr>
<td>9. Telecommunications Infrastructure Providers</td>
</tr>
<tr>
<td>10. Internet Service and Access Providers</td>
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<tr>
<td>11. Informatics and Software Industry</td>
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<td>12. Business Community</td>
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<th>III. Others (1 seat)</th>
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<tr>
<td>13. Cultural and Educational Community</td>
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<tr>
<td>14. Internet Users Community</td>
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<tr>
<td>15. Third Sector (NGOs)</td>
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<td>16. Information Technology Workers</td>
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<td>17. National Forum of State Secretaries for Science and Technology Issues</td>
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Source: Based on Brazil (2003a). In blue, seats remained from the previous composition.

At least three members of the transitory CGI.br body would be active actors at the World Summit on Information Society (WSIS), two years after, in 2005. Arthur Pereira Nunes (Ministry of Science and Technology), the coordinator of the committee, would join the Brazilian representation at the summit. Carlos Afonso (NGO) and José Alexandre Bicalho (ANATEL) would be part of the working group that built the definition to the global Internet Governance as a multistakeholder activity (WGIG, 2005). This is in fact

This transitory steering committee composition encompassing from the Executive Office of the Presidency to IT workers shows that the effort to create a multistakeholder group was contextual and contingent. From a broader perspective, the period of 2003-2010 was characterized by an increasing number of social participation mechanisms in the federal government, as assessed by previous research, establishing what has been defined as social participation as a government method (Pires & Vaz, 2012). Interestingly, well-known civil society actors became part of government at that time. Sergio Amadeu, from the Executive Office of the Presidency, office that created the CGI.br transitory body, is one example of that.

Among the main resolutions of the transitory body is the definition of a quadripartite multistakeholder model, that corresponds to the CGI.br model until now. It is based on the representation of government, private sector, third sector (that is civil society organizations or NGOs), and scientific and technological community. The federal government now holds 8
seats and the state governments 1 seat. The federal government was also assigned the right to nominate a notorious knowledge representative on Internet issues. The private sector and the NGOs hold 4 seats each, while the scientific community holds 3 seats, totalizing 21 places. Unlike the government, who nominates its representatives, the civil society elects them (as it will be discussed in the next section).

These changes in the seats composition have clearly impacted the strengthening of non-government actors in the steering committee. Comparing with the CGI.br first design, the private sector and the scientific and technological community gained two more seats, while the NGOs passed to be recognized as part of the Brazilian multistakeholder model, with four seats. Government also amplified its participation with three more Ministries, including the Ministry of Defense, the Ministry of Planning, Budget and Management and the Civil House, which is the Executive Office of the Presidency.

Table 2. CGI.br current composition defined by a presidential decree, in 2003

<table>
<thead>
<tr>
<th>I. Federal Government</th>
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<tr>
<td>1. Ministry of Science and Technology (coordinator)</td>
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<tr>
<td>2. Civil House - Executive Office of the Presidency of the Republic</td>
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<td>3. Ministry of Communications</td>
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<td>4. Ministry of Defense</td>
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<td>5. Ministry of Development, Industry and Foreign Trade</td>
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<td>6. Ministry of Planning, Budget and Management</td>
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<td>7. National Telecommunications Agency</td>
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<td>8. National Counsel of Technological and Scientific Development - CNPq</td>
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<td>II. Private Sector</td>
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<tr>
<td>9. Telecommunications Infrastructure Providers</td>
<td></td>
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<tr>
<td>10. Internet Access and Content Providers</td>
<td></td>
</tr>
<tr>
<td>11. Computer, Telecommunications and Software industry</td>
<td></td>
</tr>
<tr>
<td>12. Enterprises that use the Internet</td>
<td></td>
</tr>
<tr>
<td>III. Scientific and Technological Community</td>
<td>3 seats</td>
</tr>
<tr>
<td>IV. Third Sector (NGOs)</td>
<td>4 seats</td>
</tr>
<tr>
<td>Others (1 seat)</td>
<td></td>
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<tr>
<td>20. Notorious Knowledge in Internet issues</td>
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</table>

Source: Based on Brazil (2003c). In yellow, seats remained from the previous composition.

Another fundamental resolution of the temporary committee was the openness to create a new organization to constitute the executive office of the multistakeholder committee, replacing the FAPESP role as the Brazilian registry and registrar in the domain name system. The references of registries at that time showed a range of distinct models. In the decree, it was established that the new organization under the CGI.br should be either a public or a
private non-profit institution. Behind this decision, there was the perception that the .br domain was a public good on the Internet, or the Brazilian “cyber-flag”, as it was described by Hartmut Glaser**, who left FAPESP to keep his position as the head of the CGI.br executive office in the new organization.

The Brazilian Center for Information and Coordination of dot-BR (NIC.br) was created in 2003 under the CGI.br. It is a civil, private and non-profit legal entity that not only assumed, in 2005, FAPESP activities developed to CGI.br, but also amplified its scope with specific areas dedicated to different aspects of the Internet and the web operations since then divided by different areas. Currently, its activities involve coordinating the domain name system (Registro.br), studying and responding to security incidents (CERT.br), studying network technologies (CEPTRO.br), producing indexes on information and communication technologies (CETIC.br), implementing and operating the Internet Exchange Points (IX.br), enabling the participation of the Brazilian community in the global web forums and supporting new public policies (CEWEB.br), and housing the W3C office in Brazil (W3C.br), among others**. According to the authors’ observations, these areas are very independent among them, having, including their own logos and websites, following together the purpose of working “for an Internet increasingly better in Brazil”**. The atmosphere, the facilities, the human resources policies, the financial management and audit are very business-oriented, deserving organizational studies under the realm of public administration.

With the new activities delegated to NIC.br, in 2005, the centrality of government had once more its role reduced in the national Internet governance. Additionally, the attributions of the CGI.br as defined in 2003 became more strategic. They reaffirm the steering committee as the main authority to define the policies regarding the DNS within the country, to promote studies and technical and operational standards for guaranteeing the security of networks and the leverage of Internet use, and to legitimize it to have representations in national and international forums (Brazil, 2003c). This is especially important, because ANATEL, the telecommunication agency regulator, is the official Brazilian representative at the International Telecommunication Union ITU. In some sense, CGI.br has officially received an international authority on Internet issues, having representatives at ICANN, IETF, and other organizations.

Although the CGI.br actions are not the focus of the present work, it is worth mentioning that, beyond the day-to-day activities that keeps the Internet in Brazil working, CGI.br’s resolutions have contributed to build equilibrium among competitive forces that try to enact their proposals for shaping the Internet resources. It has also supported major political decisions even without any regulatory power. The creation of the “Principles for the Governance and Use of the Internet”, also known as the CGI Decalogue** (CGI, 2009), which was used as a framework to build the public consultations of the Marco Civil (Almeida, 2015), and the coordination of the NETmundial Meeting in 2014 are some of the CGI.br actions that highlight its place in the national and global Internet governance.

4. The multistakeholderisms of CGI.br and their characteristics

As it happens in other multistakeholder institutions, the CGI.br has more than one model of multistakeholderism. A representative multistakeholderism can be found in its main body,
following the general lines defined in the decree that conceives it. A non-representative with participatory mechanisms follows a participative format and is called consulting chambers\textsuperscript{xx}.

4.1. The Representative model: the CGI.br main body

A structural change in the previous CGI.br model occurred with the resolution that non-government representatives should be elected by their own sectors, instead of being nominated by the government. This measure faced a considerable resistance from some government representatives, but it was defended by key governmental voices (Amadeu, 2008).

To Rogerio Santanna, from the Ministry of Planning, Budget and Management at that time, such institutional modifications were important to bring legitimacy to Brazil’s position of advocating the need to democratize the Internet and its infrastructure management in the global level (Amadeu, 2008, p. 6). Beyond the momentum of Brazilian politics, the global and local relations seemed to have served as a motivating factor to such changes.

4.1.1. The electoral colleges

Every three years, CGI.br forms an electoral college to elect 11 representatives, out of which 10 are nominated. To be precise, 6 electoral colleges are formed through the registration of organizations that want to vote. The multiple electoral colleges are necessary because each sector has its own voters, which are institutions whose nature of action can be classified within that sector. Among the private sector, the organizations need “to express in its constitution document the purpose of defending the interests of the segment” (Brazil, 2003c) in which they want to sign up. Among the scientific and technological community, the entities need to both have a scientific or technological nature and be representative of entities or scientists and researchers from that category. Finally, among the third sector (NGOs), the requirement to be a voter is to be classified within that sector. The entity does not need to be a representative organization as in the other sectors\textsuperscript{xx}. This brings consequences that will be discussed below.

As a voluntary voting process, the formation of the electoral colleges every three years depends on the effort of some candidates to convince organizations to register. Thus, campaigning also means working on the formation of the college. Although the NIC.br communication releases information about the electoral process on their website and social media, the responsibility for increasing the awareness of the CGI.br and its elections is massively dependent on either the candidates or voluntary organizations and individuals who see the importance of doing it. The NIC.br’s legal department is responsible for checking the documentation of such entities and approving their registration. An electoral commission is also formed to be in charge of specific questions during the process.

4.1.2. The voting process

Once the electoral colleges are closed, each entity can indicate one candidate. In accepting the indication, these individuals become the official candidates. NIC.br, then, sends the entity-
electors e-mails for them to vote. The voting process is electronic, based on the e-mail registered in the beginning of the process. According to the rules, the vote need to come from the legal representative of each entity (Brazil, 2003c), which is sought to be assured by the initial e-mail registration. It is also allowed to issue a letter of attorney giving power to another person to vote. This is a non-secret voting process, and the final results are published on the web.

Unlike the other sectors, the third sector (NGOs) entities could vote for four candidates since 2004, given that the segment holds four seats. In 2016, the CGI.br changed this procedure (CGI.br, 2016a), allowing only one vote per institution in order to avoid the creation of informal tickets, where voters could be inclined to vote for a pre-defined group of four candidates, facilitating their decision process. With this action, the CGI.br has changed what was defined in the decree that conceives the committee, interpreting that this detail should be considered part of its own internal rules, thus, subject to the committee’s autonomous definition. Officially, it is not, though.

The number of votes defines the holders and the alternates for each position and it varies substantially per sector. This occurs, in part, because of the campaigning process, but also because, unlike the private sector and the scientific and technological community, whose voters are representative entities, the third sector (NGO) voters are defined to be any single entity classified within that group. In 2013, for instance, the most voted holder of the scientific community got 4 votes, while the telecommunications infrastructure provider got 12 votes, the users-business sector reached 90 votes and the most voted third sector holder had 165 votes (CGI.br, 2013b).

There is lack of information on how the nominations from government occurs, but it commonly follows the decisions took by previous Ministers, nominating who is in charge of certain roles in the organizations. For instance, the National Secretary for Information Technology Policy of the Ministry of Science, Technology, Innovation and Communications is commonly nominated to be the coordinator of CGI.br.

Once part of the steering committee, all participants have similar formal powers, characterizing a homogeneous polyarchy, in Raymond and DeNardis’s terms (2015).

4.2. The participation model: the Consultative Chambers

As a way to leverage participation from civil society and government agencies which are not represented in the CGI.br main body (CGI.br, 2015), four thematic consultative chambers were created: Security and Rights on the Internet, Innovation and Technological Capacity Building, Content and Cultural Goods, and Universalization and Digital Inclusion. They were reformulated in 2015, but from the committee meeting minutes and from its webpage, it is not clearly stated yet the inputs that such arrangements should bring for the dynamics of the CGI.br meetings. They come as part of some broader efforts to make the CGI.br more public and open to contributions of other actors (CGI.br, 2013a). The expectations are that the steering committee also encompasses itinerant open meetings, online public consultations and public hearings on specific topics (idem).
The chambers are coordinated by current conselours and have permanent participants and specialists invited by them. These can be think tanks, NGOs, academia and government representatives, the CGI.br’s alternate members, NIC.br staff, among others.

In 2016, the chambers were also the trails of discussion in the Brazilian IGF. With the coordinators and the permanent participants, the trails were also public meetings of the chambers, where the common audience also participated in the discussions. While interesting, the dynamics of participation will probably need some improvements. According to the authors’ observations in the Security and Rights on the Internet chamber, information is lost when dependent on the systematization of one facilitator, who is responsible for sharing the results of small groups discussions with the whole chamber. The time constraints also limited participation, showing the trade-off between the format and the content.

Mechanisms to leverage participation and to guarantee that varied groups in terms of sectors, race, gender, cultural identity and other particular interests are heard, need to be developed. Nothing assures at this point actual participation has been really multi-stakeholder and diverse. Forms of accountability to make possible for ordinary participants to see how the content produced are integrated in the CGI.br discussions are also necessary to make the chambers an inclusive and supportive instrument for the main body of CGI.br.

5. Challenges of the CGI.br multistakeholderisms

5.1. The authority of procedural rules

Considering the CGI.br composition, a fundamental distinction can be noticed between the private sector, the third sector (NGOs), and the scientific and technological community. While the private sector has 4 subdivisions (see Table 2 above), and each of them is supposed to have its own electoral college to define one representative, the other two sectors do not have such subdivisions, which affects the profile of representatives.

In 2013, the elections of the scientific and technological sector resulted in representatives with background from three different areas: informatics, computer science, and communication. Interviews with current and former CGI members conducted during the field research show tensions associated to this result. Since the elections started at CGI.br in 2004, it was the first time that a member from the applied social sciences became part of the group. On the one hand, how much “technical” the representatives of this sector should be (Anastácio, 2015) seems to be a relevant question for the counselors. On the other hand, according to interviewees, intense rivalry during the meetings, given the different approaches brought by so distinct profiles, requires effective mediation to avoid confrontation. Not only there is a dispute about what “scientific and technological” means, but also there are implicit challenges to the authority of the procedural rules, which consider this sector open to any area of knowledge which has “Internet among its objects or initiatives and activities” (CGI, 2016a).

While those who defend more profiles specialized in the network operations are concerned with leveraging the Brazilian participation in the “technical” Internet debates, such as the Internet Engineering Task Force (IETF) (Anastácio, 2015), those who argue for more diversity in the body of the scientific sector recognize, according to the interviews, the value of having
different perspectives added to the debate, and the importance of areas, such as communication, law, medicine and others, for the Internet governance discussions. The conflicts make explicit the lack of consensus about the current rules.

Regarding the elections for the third sector (NGOs), controversies have intensified recently. As a result of the rules and the sector amplitude, a myriad of very diverse organizations has been part of the third sector electoral college, for instance, Regional Councils of Accounting, Service of Family Orientation, Cooperative of Agricultural Producers, Association of Fishermen, Friends and Residents, Environmental Support Center, among others. This situation has attracted a variety of criticisms, including the fact that many organizations are not closely related to Internet issues (Anastácio, 2015); the regional concentration of many of these organizations, and the lack of knowledge among the voters about what the role of CGI.br is (Wiziack, 2016).

These critiques reveal different understandings of what the CGI.br should be for some stakeholders. They, once more, challenge the authority of the institution procedural rules, which does not circumscribe the voters to Internet-related organizations, but imply that any organization is legitimate to vote for a representative at the CGI.br.

Regarding the critiques on the regional concentration, brought by the interviewees, the study of the process shows that this can be a result of, at least, three factors, all related to the electoral process:

a) the cost of voting in a non-mandatory election process – the institutions need to both know about the process and be convinced to vote;

b) the centrality of candidates to build electoral colleges – the candidates are the responsible for leveraging public awareness and convincing entities to vote; and

c) the campaigning strategies – the candidates tend to focus on the regions and fields that they are closer to.

If regional representativeness starts to be considered a key element for composing the main instance of national Internet governance, then rules will have to be changed. Regional seats and rotation to give space for different regions to compose the committee are possibilities - and not only among the NGOs. This measure could also contribute to expand the public understanding on the CGI.br and prevent that CGI.br members, with strong electoral colleges, are continuously reappointed every three years.

Finally, on the lack of public knowledge on CGI.br, there are some elements that could be further studied. In the election process, that are, at least, two ways through which one voter-organization can delegate the right to vote to a third part. One is informing an e-mail, which will receive the link to vote, that is not administered by the legal representative of the organization. The second one is to issue a letter of attorney, during the registration process, informing that another person will vote instead of the legal representative. This person is not required to be from the same organization.

According to the interviews, in the 2013 elections, third-eight voter-entities informed the same e-mail to receive the electronic ballot to vote. At that time, the electoral commission decided to issue a letter to each organization asking for the legal representative to confirm that that was the correct e-mail address to receive the electronic ballot. All the entities confirmed the information. For the 2016 elections, the commission decided to add a new requirement in the
registration process, that is a “declaration signed by the entity's legal representative stating the reasons why the entity is interested in participating in the CGI.br” (CGI.br, 2016a).

While it is impressive the efforts to bring transparency to the electoral process at CGI.br, it is also visible that there is a trade-off between practicable and reliable mechanisms of voting. Surely, the transparency is affected when a voter-entity delegates its right to vote to someone else, informing a third-part e-mail in the registration process. The finality of the registration process is also challenged if an entity, which is apt to be a voter, issues a letter of attorney transferring such right to someone that could or could not be apt to vote according to the rules.

It seems imperative that the CGI.br voting process is revised in light of the challenges faced by the current mechanisms. The role of CGI.br and NIC.br in leveraging the public understanding of the process should also be reconsidered. The more society knows about national Internet governance issues, the more legitimate organizations can become voluntary voters, independently of the candidates’ campaign. This can strengthen the link between the electoral colleges and candidates’ platforms, and weakening possible votes based on personal characteristics or agreements.

5.2. Legitimacy in multistakeholder representation

All stakeholders have interests, including the NGOs (Belli, 2015). This can mean bridging the digital divide, fighting against child online violence, and innumerous indirect issues related to that. Interviews show that there are political benefits for the counselours’ causes when becoming part of the CGI.br due to their projection in national and international forums, and the political capital that emerges from that. Although this is still an area to be better studied, a dimension that is even less explored is the political and social gains for voters, specially in regions commonly with less influence over Internet policies.

According to the author’s observations in Paraiba, a small state in the northeast and from where one of the CGI.br’s representatives comes from, riverside dwellers, and Indigenous communities express satisfaction for having someone who they know as part of the Brazilian Internet Steering Committee. Those already involved in Internet discussions can notice the CGI.br importance through many different actions and events supported by CGI.br. The IGF 2015, which took place in João Pessoa, Paraiba’s capital, and the Brazilian IGF, which occurs in different cities within the country are some examples. Hence, while a rural settlement association may not seem to have a direct relationship with Internet issues, some of their interests is to have access to the Internet. From a democratic and inclusive perspective, given that the Internet has become an essential means of communication, their demands are legitimate and strategically canalized to the CGI.br, where the Ministry responsible for broadband programs is also part.

The argument for the exclusion of some entities, based on pre-judgments about their legitimacy to vote, needs to be problematized. What seems to be at stake in this contentious debate are the differences in the electoral rules among sectors and the voter-entities legitimacy to give similar power to all the CGI.br’s participants, independently of their own prominence and social recognition as an entity.
5.3. The government role on national Internet governance issues

It is worth mentioning that the critiques about the supposed lack of legitimacy of the third sector’s electoral college have been echoed by the telcos, which have publicly advocated for having more than one seat in the CGI.br (Prescott, 2016). The contentious situation arises at a moment when telco companies are trying to adopt data cap in their services. The CGI.br has issued a resolution saying that, in view of the Marco Civil, technical, legal and economic studies are necessary before such practices are adopted (CGI.br, 2016b), showing the balance that a multistakeholder organization can impose on the arguments of a unique stakeholder²xiv.

The moment is propitious for this kind of pressure, given that recently there was an abrupt change in the Brazilian federal government, through an impeachment process that raised to power right-wing political groups, after fourteen years of a center-left government. The fact that the CGI.br is defined through a decree makes it a possible focus of reorganization in face of changes in the federal government. The number of government nominees – ten, considering eight from federal government, one from state level, and the Internet expert – is also larger than any other sector individually. Thus, there are reasons for accepting arguments that identify Brazil as a “hierarchical state society relations” kind of nation, similar to other BRICS countries (Raymond & DeNardis, 2015, p. 608). There are also reasons for the CGI.br to be considered a “state-sponsored multistakeholder effort” (Mueller, 2010, p. 120).

However, the financial independency, built on the NIC.br’s registrar function, and the fact that the government nominees represent a minority member in the committee as a whole – 10 vs. 11 (currently 9 vs. 11 due to the merge of two Ministries) can be considered counterweights for this kind of reputation. It would be simplistic not to recognize the innovation of CGI.br not only for the Internet governance in Brazil, but also for the policy realm in general. While it centralizes the DNS functions and the installation and maintenance of Internet exchange points (IXPs), preventing market exploration, it also implies a policy meaning for such activities that, instead of being run by government, are run guided by a multistakeholder organization.

The eventual changes in rules, defined in the State decree, by CGI.br resolutions, as mentioned before, shows the kind of autonomy that the steering committee tries to acquire to execute its functions. This tension urges to be addressed. Considering the nature of both the Internet and a multistakeholder Internet governance institution, the dependence on a decree explicit the controversial legal subjection to government, which can, in thesis, change unilaterally the design of the governance. Mechanisms to assure the prevalence of public interest at CGI.br are necessary due to the pressures for changes that can occur, mainly in political transition periods, as it occurred in 2003 has occurred in 2016. Guaranteeing that any change in CGI.br occurs only after a multistakeholder decision to avoid interest capture is a possible action.

Questions that need to be further studied are related to the heterogeneity of interests inside the segments. Interviews with members and former members of CGI.br suggest that the government has not uniform positions, and different Ministries can represent different interests. Because the agenda for the meetings is approved by the coordinator, who represents the federal government, and is announced beforehand to all participants, dynamics among members to speculate and make agreements on positions are possible strategies. Given that the government is larger than any other sector, in case of voting, instead of consensus agreements, such political strategies can be determinant for the deliberation results.
5.4. Multistakeholderism beyond sectors

Although sectorial and regional inequalities are commonly used to discuss multistakeholderism, when the focus goes to diversity in the interests represented, this opens to other variables, such as race, gender, ethnicity, among others. Studies have shown how technologies are shaped by social values (Winner, 1986). They can definitely reproduce stereotypes and prejudices against subaltern groups and minorities, in both the infrastructure and web levels, as well as in their governance (Sweeney, 2013; Massanari, 2015; DeNardis & Hackl, 2016). What seems to be exclusively technical is always political.

Harassment and hate speech are issues of Internet governance according to the literature aforementioned, but why does not it become a recurrent topic in the agenda of governance organizations? There are innumerous challenges even when one’s ideals are to create open structures of discussion and deliberation. As Fraser points out when criticizing the Habermas’s bourgeois public sphere, this was not “simply an unrealized utopian ideal; it was also a masculinist ideological notion that functioned to legitimate an emergent form of class rule” (Fraser, 1990, p. 62). In the current CGI.br composition, there is visible misrepresentation of ethnicities, women and other gender identities, even though the most recent Brazilian IGF had a visual identity praising the population diversity.

As Fraser continues, even in the absence of any formal exclusions, social inequalities play their role in deliberation, including because unequally empowered social groups are likely to cultivate unequally valued cultural styles that generate marginalization on their contributions (Fraser, 1990). Fraser doesn’t believe that it is possible to create artificial spaces, insulated from societal characteristics. She is emphatic in saying that “where societal inequality persists, deliberative processes in public spheres will tend to operate to the advantage of dominant groups and to the disadvantage of subordinates” (Fraser, 1990, p. 66).

This is why Beli (2015)’s argument on the importance of using mechanisms to map the interests of multistakeholder organizations’ members, while informative, isn’t sufficient to assure diversity beyond sectors. The active participation and proper hearing of subaltern groups in deliberation processes tend to be undermined.
Fraser is skeptical of single public spheres to congregate diverse and socially unequal discourses, suggesting instead, parallel arenas, or “counterpublic spheres” where “members of subordinated social groups invent and circulate counterdiscourses, which in turn permit them to formulate oppositional interpretations of their identities, interests, and needs as contestatory spaces” (Fraser, 1990, p. 67).

Talking specifically about the CGI.br, this doesn’t mean that groups currently underrepresented in its main body should stop trying to be part of it, obviously. Instead, in parallel to such efforts, they should also be incentivized to create their parallel arenas, that could be formally connected to the main body, as a way to support the counselors and guide the committee’s agenda toward the public interest. As showed here, CGI.br is already investing in the emerging model of Consultative Chambers, which could serve as an inspiration to a model focused not only on thematic issues, but also on subordinated social groups. This tends to increase CGI.br’s accountability and transparency, aligned with the purposes of the institution.

5. Conclusions

This paper sought to analyze the Brazilian Internet Steering Committee considering its current model and the historical trajectory that led the organization to evolve until nowadays. Undoubtedly, the CGI.br is a successful multistakeholder and policy case, emerged in a challenging national political environment, where advanced democratic mechanisms of participation and active civil society coexist with fragile stability and clarity of the public legitimacy.

A more attentive examination shows that CGI.br multistakeholderisms are in movement towards more participation, representativeness and responsiveness to society. Tensions on the meanings and interests at stake make the challenges explicit. Alternatives and ways to improve the election process and the CGI.br’s role on it, to leverage the public understanding of technology, and formally prevent arbitrary and unilateral government interventions are necessary. Further research on the characteristics of the voting process, the electoral colleges, the diversity of interests within the segments, and the meanings of being a representative and a voter at the committee are suggested.

In a broader scenario, the trajectory of CGI.br shows that context matters for the design of multistakeholder organizations, and that more studies of such models are necessary, in order to help materialize more precisely the various kinds of multistakeholderisms in vogue. Because the procedural rules of an organization can favor some groups over others, a deep understanding of them can help also improve current and future multistakeholder institutions.
Bibliography


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i Comitê Gestor da Internet no Brasil.

ii For instance, the Congress has already 32 bills trying to change the Marco Civil, the Brazilian Civil Rights Framework for the Internet, a law which passed in 2014 and was celebrated by national and international Internet community (NIC.br. CGI.br, 2016).

iii This field work research was conducted between July and August of 2016 in São Paulo, Porto Alegre and João Pessoa, in Brazil, and was possible thanks to the Columbia University’s School of International and Public Affairs and Carnegie Research Support. The trip to João Pessoa resulted of an invitation to moderate a seminar at the Expotec, supported by CGI.br and the National Association for Digital Inclusion (Associação Nacional para a Inclusão Digital, ANID).

iv Núcleo de Informação e Coordenação do Ponto BR.

v Escola de Governança da Internet no Brasil.
The translation of this and others ordinances, decrees, and legal documents excerpts issued in Portuguese were done by the author.

Later, in 1998, the Telebrás would be privatized.

To more information on the origins of the Internet in Brazil, see Knight (2014).

The annual price was defined in 50 reais, and in 2007 it was shrunk to 30 reais (less than 10 dollars, in 2016) (Carvalho, 2006; Adachi, 2011). In 1996, FAPESP had approximately 1,000 Internet Protocol (IP) numbers available, according to the interviews.

According to its website, the RNP has been a “Social Organization (OS) bonded to the Ministry of Science, Technology, Innovations and Communications (MCTIC) and maintained thereby together with the Ministries of Education (MEC), Culture (MinC), Health (MS) and Defense (MD)” since 2002. Available at: https://www.rnp.br/en/institutional/who-we-are Last access 09/20/2016. Its president at that time was Nelson Simões da Silva.

Two seats were extinct and don’t appear in the new composition: Telebrás and the National Research Network (RNP). The first lost its centrality in the Brazilian telecommunication after being privatized in the former government, while the RNP occupied the academic seat, as previously explained.

In May, 2016 the Ministry of Communications and the Ministry of Science, Technology and Innovation, which have two seats at CGI.br according to the decree, were merged into one. The new Ministry of Science, Technology, Innovations and Communications holds now only one seat, keeping the coordination of the steering committee.

Beyond the three federal government representatives, the CGI.br composition in 1995 had also one seat for each of the following: Telebrás, National Research Network (RNP), academic community, service providers, business community, Internet users community, totalizing nine seats. The categories for non-government, as defined in 1995, were broad.

In Latin America, there were models administered by academic institutions (e.g. Chile, Mexico) and by government (e.g. Argentina). There were also other globally well-known models where the market (e.g. United States) or non-profit organizations (e.g. Germany) were in charge of the names and numbers coordination.

Interview to the author.

Available at: http://nic.br/perfil/ Last access in 09/24/2016.


Decálogo do CGI, in Portuguese.

Câmaras de Consultoria, in Portuguese.

According to the interviews, because the third sector is a very distributed and powdered segment – under-institutionalized in Mueller’s terms (2010) – the CGI.br transitory body decided for not restricting the voters to representative entities, numerically limited in the country.

A different pattern was noticed when Vanda Scartezini, in 1999, was the Secretary for Information Technology Policies. Ivan Moura Campos was nominated the CGI.br coordinator instead of her.

It is worth mentioning that because the number of votes necessary to be elected at the CGI.br is so distinct, in thesis, the vote of a NGO values less than the vote of a scientific and technological or of a private sector representative entity. Consequently, the cost to be elected is also different. On the one hand, if this is calculated in terms of votes, this cost is higher for NGOs candidates. On the other hand, if one supposes that a council needs to approve such vote in representative entities, the cost of one vote is not the same of ones NGO’s vote. Differences among the electoral colleges at the CGI.br and their consequences deserve further studies.

The data on the regional origins of the voters-organizations are not released by the NIC.br (e.g. https://elections.registro.br/eleicoes-cgi/entidades) to confirm to what extent these critics are characteristic of the electoral process. It is valid to analyze this information quantitatively.

In a recent conference, the CGI.br counselor Eduardo Levy, who represents the telecommunication sector declared: “I am the [telco] representative at the CGI.br. Out of 21 members, 20 are bandwidth consumers and one is who invests to provide the service. So, if there is voting - and my struggle is that there is always consensus – I always lost by 20 to 1” (Prescott, 2016).