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Between Coordination and Regulation: Conceptualizing Governance in Internet Governance

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ABSTRACT

This paper contributes to the recent move towards a more systematic reflection on the conceptual foundations of Internet governance. It is led by the question of how to define (Internet) governance in a way that is theoretically grounded as well as empirically instructive. For this aim, it mobilizes literature from the broader field of governance and regulation studies as well as sociological theory and applies these concepts to issues of Internet governance.

A brief literature review reveals that studies on Internet governance rely on partly contradictory notions of governance. The common understanding as some form of deliberate steering or regulation clashes with equally common definitions of Internet governance that emphasize its distributed and heterogeneous character taking ordering effects of interconnection agreements or discursive arenas like the IGF into account. Drawing on controversies in the broader field of governance and regulation studies, we suggest to dissolve this conceptual problem by grounding governance in mundane coordination activities. We then define governance as reflexive coordination focusing on those “critical moments” when routine activities become problematic and need to be revised, when regular coordination itself requires coordination. Regulation, in turn, can then be understood as intentional interventions by public or private actors aiming to influence the behavior of others. Differentiating between governance and regulation in this way resolves the contradiction between different forms of political ordering found on the Internet.

With this conceptualization of governance *in* Internet governance we hope to contribute to an emerging debate on the conceptual foundations of Internet governance and to prepare the ground for new angles and insights on ordering processes on the net.

KEYWORDS

Internet Governance, Governance, Regulation, Coordination, Ordering, Reflexive Coordination, Governance Theory, Economics of Convention, Intentionality, IGF, ICANN

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1. Introduction¹

The term Internet governance has been around for almost two decades and is thus older than most of the organizations, processes, actors and issues it has come to designate. Since the term was coined approximately in the mid 1990s, its meaning has broadened considerably. Research on Internet governance has more or less followed the shifts of political attention. It used to center on ICANN and its policies during its stage, but with the advent of the World Summit on Information Society and the creation of the Internet Governance Forum, the research field has become much more diverse. These days, there seems to be a growing interest in the state of the academic field itself. While early studies on Internet governance focused on imminent political issues, without paying much attention to its theoretical dimension, recent works begin questioning the scope and the research unit proper. The organizations and activities that govern the Internet are no longer taken for granted.

The increasing attention paid to the conceptual foundations of Internet governance research may be a critical step towards a better integration into the broader field of governance and regulation studies. So far, governance and regulation theories have not had much impact on the direction and development of Internet governance research. Conversely, Internet policies do not figure prominently among empirical studies of transnational governance. Right now might be a good time to address this coexistence, and in this spirit, this paper sets out to explore some of the conceptual overlaps between Internet governance and governance research. Its aim is to contribute to a theoretical grounding of Internet governance research. To this end, the guiding question of this paper is how we should define (Internet) governance.

Strikingly, the definition of Internet governance has never been a point of controversy among Internet researchers whereas the general concept of governance is heavily disputed to this day. A countless number of essays and edited volumes, particularly of European origins, have struggled for a common understanding of the distinguishing characteristics of this term. In this paper, we will recap some promising elements of this ongoing debate, including the relationship between governance and regulation. After reviewing the current

¹ This paper was first presented at the GigaNet Symposium 2014 in Istanbul, September 1st, 2014.

governance debate, we will introduce our own approach and, in closing, indicate its potential relevance for the analysis of Internet governance.

Governance, understood as reflexive coordination, refers to those circumstances where regular coordination requires coordination, in other words, where routine activities become problematic and need to be revised. This definition differs from others in its emphasis on reflexive and procedural elements. In short, while the concept of regulation typically focuses on policy goals, strategies and outcomes, our definition of governance illuminates processes of adjusting these goals, strategies and expected outcomes in the face of unforeseen problems. Assuming that institutions of coordination are inevitably precarious, Jessop (2003) and Strassheim (2009) suggest focusing the concept of governance on reflexive actions that address issues emanating from existing coordination structures or, simply, coordinate coordination.

This paper should be understood as an attempt to strengthen the theoretical grounding of Internet governance research by initiating a debate on the definition of governance found in the relevant literature. In the next section we briefly revisit the literature on Internet governance with a focus on common definitions and descriptions. Section three outlines the controversies surrounding the concept of governance. Based on the insights gained from these discussions, we present our own approach in section four. Section five summarizes our ideas and relates them to the study of Internet governance.

2. Internet Governance Between Steering and Networked Heterarchy

2.1 Conceptual History of Internet Governance

The use of the term Internet governance in academia started around 1996 in the US.² The Harvard Information Infrastructure Project, the predecessor of the Berkman Center, published two edited volumes (Kahin & Keller 1997; Kahin & Nesson 1997), which discussed various "problems of Internet

² Brousseau & Marzouki (2012: 371-2) mention a 1998 ITU resolution as the first reference to Internet Governance. This resolution from the plenipotentiary conference asked the ITU secretary-general to suggest a UN World Summit on the Information Society to the General Assembly of the UN.

Governance". In retrospect, these two volumes introduced and framed both the substantial scope and the conceptual questions that shaped the founding years of Internet governance research. Empirically, these volumes covered the architecture of the Internet and the specific process of standard setting, the allocation of domain names and the administration of Internet addresses, the interconnection of networks and issues of jurisdiction and rule-making on the cross-border network. However, the attention centered on the transformation of the Domain Names System and the emerging trademark conflicts over rights to domain names. With the founding of ICANN in 1998, a result of the battles over the DNS, research on Internet governance shifted towards organizational aspects including the policy processes and actor constellations of this new body (Froomkin 2000, 2003; Hofmann 2000; Kleinwächter 2000; Mueller 1999, 2002; Weinberg 2000, 2001).

The conceptual issues driving Internet governance research focused on the "governability" (Kooiman et al 2008) of the Internet; in other words whether and to what extent the Internet can lend itself to hierarchical political control and on what foundations any rule making authority could rest. In "And How Should the Net Be Governed", Johnson & Post (1997: 89) argued that national and thus territorial law could not be applied to online behavior occurring outside any geographical locations. Due to the Internet's perceived extraterritoriality, the authors rejected the notion of law-based governance and suggested instead voluntary standard setting practices of the IETF as a more appropriate model. Famously expressed in Perry Barlow's Declaration of Independence of Cyberspace (1996), the regulatory zeitgeist of the late 1990s rejected public command-and-control regulation and favored market-based self-regulation. As Reidenberg (1997: 84) put it, the global information infrastructure (IIG) "defies traditional regulatory theories and policy making practices", instead he called for a "fresh approach to the governance of global networks". Given the lack of a technical steering center, Internet governance was expected to evolve as bottom-up decentralized rule making (Johnson & Post 1997), a so-called "peer production of governance" (Johnson, Crawford & Palfrey as late as 2004). Using the de-central Internet architecture as evidence for the need for a fundamental paradigm shift, Internet governance research looked at ICANN as a case of internet-based self-regulation (Frankel 2001; Mueller 2002).

In this first phase, Internet governance established itself as a catchword for headlines without being clearly explained in the subsequent argument. Research was very much influenced by the idea that the network of networks was something radically new and unique, something that could not be compared with anything else. The literature was therefore predominantly empirical and drew its insights from field observations and some undeclared participatory research rather than from academic literature on regulation or governance. As a result, the terminology used lacked in complexity and the line between analytical and normative contributions was often blurred. No systematic mapping of the field took place, nor any systematic discussion of conceptual terminology. Strikingly, no author felt the need to define Internet governance. Hence, governance, regulation and management were often used interchangeably (i.e. Reidenberg 1997). Gillet and Kapor (1997) equated governance with management, while others used the term to discuss various modes of rule-making authority, structures and practices on the Internet. Johnson & Post (1997: 67), for example, distinguished four types of governance: by law, by international agreements, new international bodies, and through poly-centrally emerging de facto rules. To some degree, these shortcomings of the founding days of Internet governance research are still noticeable today as the recent criticism of van Eeten & Mueller (2013) attests. In fact, there are still works published on Internet governance which do not offer any definition of their subject.

With the advent of the UN World Summit on Information Society (WSIS) between 2002 and 2005 and the founding of the Internet Governance Forum in 2006, a second phase of Internet governance research began. The empirical scope broadened and the contributing disciplines and scholars became more diverse.³ WSIS drew new scholars to the field, but perhaps even more importantly, it became the catalyst for a first definition of Internet governance. Paradoxically, it was the contested, highly political nature of Internet governance at WSIS - and not an academic dispute - that led governments to set up a Working Group on Internet Governance tasked with defining what Internet governance actually is. Since its release in summer 2005, the WGIG

³ While the early contributions were dominated by scholars with a background in law, the advent of WSIS attracted other disciplines such as new media, communication studies, political science, anthropology and international relations.

definition has been referred to countless times, and almost every academic article on the subject quotes and builds on it: *"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"* (WGIG 2005).

It seems quite telling that this generally accepted definition of Internet governance did not evolve out of an academic effort but came about as a negotiated formula by a multistakeholder group commissioned, in turn, by an intergovernmental process. The political context of the definition is still noticeable in its specific list of actors, the tripartite constellation that generated the definition of Internet governance in 2004/2005, but also in the phrase "in their respective roles", a verbal if somewhat contested quote from the Geneva Declaration of Principles, the outcome of the first phase of WSIS. Interestingly, laws, contracts and policies are missing in the detailed list of instruments and processes that constitute Internet governance, although the impact of these means on the development and use of the Internet can hardly be denied. Likewise, not all modes of governance can be said to be "shared" in the sense of consensual or inclusive that would involve all actors on an equal footing.

The WGIG definition of Internet governance focuses on actors and various regulatory means of ordering. It remains silent about the specific arrangements, actor and power constellations by which these principles or norms are agreed upon and put into practice. The WGIG definition bears the mark of its time; it is a political definition that reflects the specific context of WSIS but not any academic debates on the nature of transnational governance arrangements or the regulation of the Internet.

Despite its political and negotiated origins, however, the WGIG definition has sparked a number of further thoughts on the characteristics of Internet governance. Although these observations are in part contradictory, they modify or refine the WGIG definition and thereby form building blocks for a more systematic approach to Internet governance. In the following, we will present some of these elements with regard to the scope of Internet governance as well as the actors and modes of governance.

2.2 Scope of Internet Governance

In their sweeping critique on the Internet governance literature, van Eeten & Mueller (2013: 721) observe that most contributions focus on "international institutions involved in explicit discussion of the global governance of the Internet". Thus, governance is thought to be enacted by "formal organizations with explicitly institutionalized rules and procedures" (op cit 727). The problem of this organizational focus is that relevant practices and policies taking place outside of these bodies are left out of the definition of Internet governance. What is lacking, in other words, is a more systematic reflection on the practices and actors that actively shape the governance of the Internet.

In this context, DeNardis has stressed the role of infrastructure design as manifestations of power and political and economic values (2012: 721). As she points out, "this form of political and economic policy-making is not established by legislature but, typically, by private standard-setting institutions or individual companies". Given the political role of technical standards and infrastructure design, the question arises how and by whom they should be governed (DeNardis 2010). While various authors suggest expanding the scope of IG research in order to cover non-obvious modes of governance, Epstein (2011: 4) addresses the boundaries of IG as a matter of ongoing negotiation. Thus, the scope of IG is not simply out there for us, the researchers, to be discovered, it is a dynamic, transient phenomenon, the borders of which may depend on the (academic) observer as much as on the issue under investigation.

However, none of the authors addresses the question of how to limit or to define the scope of IG; that is, what is outside the scope of IG. In more abstract terms, if any corporate practice related to network operation can have an impact on Internet governance, what then is not Internet governance?

2.3 Actors and Modes of Internet Governance

As the WSIS definition already pointed out, Internet governance involves many actors. In fact, Mueller (2010) interprets the WSIS definition as a "ratification" of the role of nonstate actors in the field of Internet governance. Once they have been mentioned in an official UN document, nonstate actors can no longer be ignored or excluded. Likewise, Bygrave (2009: 2) notes that governance

"embraces more than government" and links the variety of actors to plural modes of governance: "Governance encompasses a vast range of mechanisms for management and control – of which formal legal codes (treaties, conventions, statutes, regulations, judicial decisions) are but one, albeit important, instance" (see also DeNardis 2010).

While for Bygrave (2009) governance means "government plus", Mueller (2010: 8), portrays the term as something "weaker than government" that "denotes the coordination and regulation of interdependent actors in the absence of an overarching political authority". Although "some steering and shaping function" still exists, it is carried out in a "less hierarchical and authoritative" manner than governmental policies. "Real-world governance of the Internet", Mueller (2010: 9) concludes, "is decentralized and emergent; it comes from the interactions of tens of thousands of network operators and service providers – and sometimes users themselves – who are connected through the Internet protocols". This surprisingly broad understanding of governance seems to imply that governance may take place as a side-effect of actions intended to pursue other, non-governance-related aims, i.e. managing a network or simply communicating over the Internet. If this is the case, the concept of governance considerably differs from the notion of regulation, which assumes intentional action with clear targets.

Leaving aside for a moment the question whether or not governance implies intentional collective action, it is interesting that the acknowledged plurality of actors involved leads the authors to opposite conclusions regarding the means of governance. Bygrave sees still important binding laws enhanced by other mechanisms, whereas Mueller observes an overall loss of regulatory authority and hierarchy. Feick & Werle (2010: 525) offer a plausible reading to these contradictory views by describing Internet governance as "patchworks of partly complementary, partly competing regulatory elements in the form of legal rules and ordinances, mandatory and voluntary technical standards and protocols, international and national contracts and agreements, and informal codes of conduct and 'netiquette (...)'. Also, registers of requests for comments and lists of frequently asked questions occasionally serve regulatory purposes".

What seems relevant about the modes of governance as presented by Feick & Werle, Mueller and Bygrave against the background of the WGIG definition is that all of them contradict its notion of "shared principles and norms" and the

(arguably) implied understanding of uniform governance arrangements. On the contrary, patchworks suggest a lack of overarching norms and agreed modes of ordering. However, if we are to understand Internet governance as non-hierarchical patchworks of regulation without any overarching rationality and authoritative control, what does this mean for the concept of governance itself? More precisely, how can governance be equated with regulation as many, if not most, authors in this research field do⁴ if the very conditions for purposeful, targeted regulation and steering are absent or at least precarious? Regulation generally understood as "forms of deliberative collective action in matters of public interest" (Mayntz 2009: 121) assumes as a minimum a subject capable of both deliberation about the public interest, intentional rule-making and its implementation (Black 2008: 139). Who is the regulating subject in Internet governance and how is the "steering function" enacted in the face of massively distributed control and authority?

While there is some general literature on decentralized regulation and governance (e.g. Abbott & Snidal 2009; Levi-Faur 2011; Moran 2002;), not much of this analysis has found its way into the debate on Internet governance. Instead, the emphasis on the lack of hierarchy and control goes hand in hand with a vague, undefined notion of regulation and steering. In order to advance the understanding of Internet governance, the discrepancy between governance as deliberate, targeted regulation and governance as heterogeneous, more or less interdependent processes and practices needs to be resolved. The open question is how governance should be defined under the conditions of distributed collective action, overlapping authorities, competing rationalities and goals.

First indications of an answer to this question can be found in Brousseau, Marzouki & Méadel's (2012: 16) notion of "heterarchic governance" or a "networked heterarchy", which is characterized by the absence of a hierarchy and a unified legitimate order. Starting from the observation that fragmentation and a lack of central control do not imply anarchy or the absence of rules, Brousseau, Marzouki & Méadel (2012: 16-7) suggest looking at Internet governance as "multiple orders", which create the need to coordinate among

⁴ See for example Solum (2009: 50) who defines Internet governance as the "regulation of Internet infrastructure, its current operation, and the processes by which it develops and changes over time."

themselves. The networked heterarchy consists of public and private organizations which interconnect through various forms of "mutual recognition and mutual legitimation". Quoting Jessop (2003), the authors (2012: 17) describe this type of coordination as a "continuing dialogue and resource-sharing to develop mutually beneficial joint projects, and to manage the contradictions and dilemmas inevitably involved in such situations."⁵ Internet governance understood as coordinating multiple orders or patchworks implies a different rationality than that usually associated with regulation. In fact, one of the striking features of heterarchic governance arrangements is its procedural orientation with a clear emphasis on dialogue, legitimacy and "negotiated consent as its criterion of success" (Brousseau, Marzouki & Méadel (2012: 17). The annual global Internet Governance Forum (IGF), whose mandate focuses on dialogue and facilitation and explicitly excludes any formal outcome, epitomizes these features.

As we aim to show in the following parts of the paper, the concept of reflexive governance or coordinating coordination offers a promising avenue to solve the riddle of how distributed structures and processes practice regulation.

3. Revisiting the Governance Concept

Before we elaborate this concept in the 4th section of this paper, we suggest revisiting the general academic debate on the notion of governance. Why should we bother with the evolution of the governance term in the context of Internet governance? The literature overview on Internet governance shows a variety of definitions of governance that so far have not been taken notice of. For example, DeNardis (2010: 1) makes the point that "governance is usually understood as the efforts of the nation states and traditional policy structures to govern". Equating governance with governments has been widespread in the Internet policy field reflecting the Anglo-American academic tradition of using it as a "synonym for government" (Stoker 1998: 17). Governance as a multi-actor arrangement has only recently become the more prominent interpretation of the term. A similar ambiguity exists with regard to governance as an activity:

⁵ Jessop (2003;) himself has adopted the term "reflexive governance" to designate the activities involved in managing the frictions, gaps and other problems which occur in heterarchic environments.

is it the same as (public) regulation, as many authors suggest? If not, in what way do regulation and governance differ? To some extent, the discrepancies in the uses of the term may reflect different political, academic and linguistic backgrounds. The semantic history of governance in the US differs from that of continental Europe.⁶ Considering the little attention being paid to these different notions, but also the various disciplines contributing to this field of research, the goal of a theoretical grounding of Internet Governance should benefit from a brief recap of the European literature where its conceptual use has evolved in different ways.

3.1 Origins of the Governance Concept: Planning, Steering, Coordination

German speaking academia did not use the term governance before the late 1980s (Grande citing Jann 2005) and its proliferation in the 1990s marked a significant turning point in the understanding of political processes. Governance studies questioned traditional concepts of political ordering both in terms of relevant actors, research perspectives and forms of rule making.

It is now a common, if somewhat simplified,⁷ narrative in German literature to position governance as the last element in a three-step paradigm shift: from planning via steering to governance (e.g. Mayntz 2003⁸; Benz et al. 2008; Schuppert 2008):

- The *planning* paradigm assumed powerful governmental bodies that would define political goals, issue plans applying these goals and deploy measures to implement them. So-called implementation studies in the 1970s showed the wide-spread failure of these actions. The failure of planning policies was not only the consequence of

⁶ Just a short note on the US side as we do not mean to delve into differences between the US and the European use of the concept. In the Anglo-American literature, governance used to stand for government. Beginning in the late 1980s (Rosenau 1992), governance detached itself from government to some degree so that henceforth government regulation became one among several modes of governance. Thus, the same term has acquired a different, more abstract meaning: from one governing body to modes of governance.

⁷ The linear narrative neglects the fact that public authorities are still involved in all sorts of planning activities, for example, regional planning policies. Thus it would be more correct to speak of dominant modes of ordering specific sectors.

⁸ The original and more detailed papers in German are Mayntz (1996; 2008).

planning or implementation mistakes "but of having neglected the recalcitrance of the target groups and their ability to resist or subvert the policy goals." (Mayntz 2003: 29)

- Subsequently, scholars moved towards a *steering* paradigm trying to take into account the logics of specific agencies, societal fields and sectors, yet still holding on to the assumption of steering entities on the one hand and targets of such steering measures on the other. Research now focused more on the "structures and behavioural dispositions" within different policy fields (Mayntz 2003: 29), thus shifting the attention from the steering subject towards the steering objects. By diving into the specifics of sectors, local implementations and (re-)interpretations of public policies, this line of research, little by little, undermined its own basic assumption: the distinction between the state, as steering subject, and societal actors, as steering objects (Mayntz 2003: 29).
- The notion of *governance* promised to resolve these issues by directing attention to all actors and all forms of coordination empirically found relevant for a policy domain. This approach revealed, among other things, changing and blurring boundaries between rule-makers and rule-takers organized in networks, hence governments being one among many actors. This shift in perspective highlighted pluricentric regimes and rationalities, cooperation instead of hierarchical command and order, new sites and tools of ordering. In consequence, soft laws such as informal agreements, public-private partnerships, memorandum of understandings and other types of commitments, private contracts but also technical standards and other forms of expertise have become prominent elements in governance literature (Feick & Werle 2010: 525). Self regulation is probably as much studied today as state regulation (for an overview: Levi-Faur 2013)

To sum up, unlike the Anglo-American origins of the term, governance in the European discussion never meant government; it represents a significant shift in modes of coordination as well as the basic assumptions underlying its academic analysis. Over a period of several decades, the understanding of ordering processes has considerably broadened. The focus on governments and hierarchical modes of command and control has been replaced by new notions

of governance as "structured interaction" (Colebatch 2006) or interaction of various regulatory structures (Bora & Münte 2012), cooperation and negotiation (Levi-Faur 2013), coordination (Schuppert 2008), conversation (Moran 2002), discursive manifestation (Flyverbom & Bislev 2008) and various others.

Substituting governance for the narrow concept of steering, however, came at a price. Governance turned out to be a rather airy and vague term that is not only difficult to operationalize but also doesn't entail many clues about the specific structures, processes and actors that replace the concept of command and control. Critics point out that governance is an a-historical concept because it fails to distinguish between its empirical findings, conceptual and ideological components and that it lacks a theoretical core. Even more important, it lacks any clear boundaries; it does not specify which forms of coordination qualify as governance and which don't. In other words, should traffic management by ISPs be regarded as Internet governance or not, and on what conceptual grounds should this decision be made? Some observers therefore dismiss the concept altogether as an "empty signifier" or underspecified fad (Offe 2008, Kohler-Koch/Rittberger 2006, u.a.).

3.2 Governance as Regulation or Governance as Coordination: Too narrow or too vague?

While the Anglo-American transition of governance as government to modes of governance happened gradually and without much soul searching, the German transition from steering to governance has brought to the fore many still unresolved questions, which have been debated in a considerable number of edited volumes and articles (Grande 2012; Botzem et al. 2009; Schuppert 2005; Schuppert/Zürn 2008; Offe 2008; Mayntz 2009; Benz 2004). In the following we will focus on the problem of defining the boundaries of the term, since this issue seems particularly relevant to Internet governance research. One way of approaching the scope of governance is to look at its relationship to regulation; two terms often used interchangeably in Internet governance, as already mentioned.

Governance and regulation are social science lenses onto the changing interaction between society, industry and government that reflect both empirical observations and normative considerations (Bora & Münte 2012).

Although such abstract academic constructs cannot be accurately separated, the concept of governance is understood to emphasize structures and processes of coordination while the concept of regulation places particular attention on the acts and situations of decision-making (Bora & Münte 2012: 11-13). Regulation can be defined as those operations that intend to influence a given state in a regulatory field. As such, it constitutes a specific sub-category of governance which is characterized by deliberate interventions into a policy domain. These interventions may comprise the provision of norms, infrastructure or other resources. Whatever form it takes though, a common feature is that its impact or effect is considered predictable. In this sense, regulation is understood to be deliberate rational action with a specific objective.

Regulation theory links governance to explicit objectives and policy decisions including assumptions about how these objectives can be achieved. Such goals are neither arbitrary nor parochial; they are supposed to be collectively shared and serve the greater common good. Bora & Münte (2012: 12) want regulation to be understood as a shaping activity directed towards the public welfare, such as supporting broadband deployment, preventing spam or child pornography on the Internet. Many authors now share the ideas that governance is best understood as regulation and that regulation should refer to actions, programs and structures geared towards the common good. For example, Risse (2011: 9) defines governance as “institutionalized modes of social coordination to produce and implement collectively binding rules, or to provide collective goods”. According to Héritier (2002: 3), “governance implies that private actors are involved in decision-making in order to provide common goods and that nonhierarchical means of guidance are employed.” Hence, rules, norms or infrastructure produced by the Mafia, a common example in the German debate, do not pass as regulation; neither do unintended side-effects of collective action⁹ fall into that category.

⁹ Risse (2011: 15) illustrates the boundaries of his concept of governance with the example of big companies commissioning private security firms to protect their production facilities in countries without effective public security: By monitoring the spot, the security guardians might prevent armed gangs from attacking nearby villages, thus contributing unintentionally to the collective good of public safety. Risse “would not call this security governance because of the lack of intentionality.”

Governance, understood as regulation, indeed helps the former concept to take shape. The clearer outline of governance is achieved by focusing on intentional interventions directed towards solving general problems and enhancing the common good. Equated with regulation, however, governance resembles the old notion of steering¹⁰ and therefore loses some of its analytical potential. This is why not all authors find this approach a satisfactory solution for the boundary problem of governance.

Grande (2012: 582) convincingly argues that governance, understood as regulation, misses a wide range of empirical phenomena that cannot be explained as outcomes of rational problem solving because they have evolved as unintended side effects of national and international policies. Important regulatory structures such as national tax systems, European subsidies or even ICANN are not easily explained in functional terms, in other words as products of intentional problem solving activities.

The significance of intentionality, Grande (2012: 582) argues, varies with the complexity of governance arrangements. "Intentions and orientations play a role in simple governance structures consisting of single coordination mechanisms; they lose relevance with the complexity of governance" (Grande 2012: 582). In the latter case, governance should be seen as results of emergent processes of ordering rather than the product of intentional reform.¹¹ Emphasizing the emergent quality of governance structures and processes does not mean that the actors involved do not act intentionally but, firstly, that there might be more and other intentions involved than enhancing the public good and, secondly, that the outcomes and (side-)effects of collective actions cannot be attributed to shared intentions.

In sum, Grande (2012) stresses that policy objectives in dynamic governance settings do not precede the governance process but are formed and transformed throughout the process itself. A profound difference between both

¹⁰ Apart from some important differences; i.e. the composition of actors and the instruments used. Governance as regulation no longer privileges public authorities as the central actors or command and control as the dominant mode of action.

¹¹ Renate Mayntz (2005) describes this on a structural level as the problem of a "functionalistic bias" (Mayntz 2005), explaining regulatory structures only through functional aspects, as a result of problem-solving. More broadly, neo-institutionalism in sociology has shown that "while institutions are certainly the result of human activity, they are not necessarily the products of conscious design" (DiMaggio/Powell 1991: 8).

approaches – simply put, governance as steering or regulation and governance as coordination – refers to criteria of success: "While success of intentional strategies is to be measured by comparing outcomes to original intentions, emergent strategies face completely different success criteria; the involved actors assess their success in terms of the acceptance of their consequences" (Grande 2012: 584, translated by J.H.).

Leaving behind the steering approach to governance opens new analytical avenues towards the circular, often infinite character of complex governance structures. As Jessop (2003) notes, most governance processes do not produce the kind of success stories that may motivate and justify traditional regulation. In fact, Jessop describes failure as "the most likely outcome" of attempts to govern (2003: 106). When policy objectives are commonly missed, actors may focus on bringing "about conditions for negotiated consent and self-reflexive learning" (2003: 114). A broader governance perspective that does not restrict its unit of analysis to steering and problem solving activities will be able to shed light on these intricate, non-linear relationships between structures, problem perceptions, targets and learning processes.

The difference between these two approaches to governance is highly relevant to the research on Internet Governance as van Eeten & Mueller (2013: 722) demonstrate in their critique of the state of the art. While these authors rightly pinpoint the lack of a comprehensive understanding of governance able to integrate the variety of ordering practices found on the Internet, they seem to rely on an understanding of Internet governance as intentional steering, which prevents them from overcoming the conceptual deficit they deplore. Analysing practices of deep packet inspection by ISPs as a form of Internet governance, for example, requires a concept of governance that is clearly broader than regulation or steering. As a minimum, it needs to include side-effects beyond the immediate intentions of ISPs as a source of institution-building and governance structures. How can this be done? What definition of governance do we need to capture the processes and structure that researchers regard as influential for the development of the Internet? While broad definitions of governance that include all forms of social coordination run the risk of being too vague to be useful as an analytical concept (Mayntz 2003: 37), efforts to narrow it down tend to tie it to traditional forms of hierarchical regulation and thus lose the analytical benefit gained by decoupling it from notions of steering

in the first place. This is the dilemma that governance research currently faces. The next section will suggest a way to deal with this problem.

4. Governance as Reflexive Coordination

The open question is how to resolve this dilemma of a governance notion that is either too narrow to reflect the empirical complexity or too broad to be useful. As stated above, we aim for a concept that emphasizes distributed coordinative actions and mixed authorities in the face of contradicting interests and competing objectives. In the following, we will draw on recent literature that highlights reflexivity as a core characteristic of governance (Jessop 2003; Strassheim 2009, Brousseau, Marzouki & Méadel 2012) in order to theorize Internet Governance as *reflexive coordination*. This concept will help overcome the already described pitfalls of governance as steering, and provide a middle ground between overly narrow governance concepts on the one hand and broad, yet too vague concepts on the other.

4.1 Grounding Governance in Coordination

Such an understanding of governance is grounded in mundane activities of coordination, the “mutual adjustments” of our daily social life (Kaufmann 1986; Strassheim 2009). All the social processes and practices that relate to each other in the light of shared understandings and expectations form elementary building blocks of our social order: we do not run into each other, but more or less smoothly pass each other in the streets; the formation of prices and markets tend to successfully coordinate modes of production, distribution and consumption; and even while talking to each other, we follow rules we have internalised and conventionally agreed to. As these examples indicate, coordination activities vary vastly in terms of complexity. Is it few single individuals that mutually adjust their behavior when talking to each other, or an infinite set of corporative actors contributing to price formation in the aggregate? Nonetheless, the interactions that occur in these diverse contexts can be analytically reduced to coordination activities, basically: mutual

observations, attempts to influence the involved parties and the installment of negotiations (Schimank 2007).¹²

Sometimes these acts of coordination fail in one way or the other (or involved actors claim that they fail), but given the amount of coordination activities occurring in our daily lives, our interactions are surprisingly smooth while the underlying norms or assumptions remain invisible and untouched.

“...efforts at coordination are required between buyers and sellers of a commodity, between citizens in political decision-making, or between parents over the raising of a child. ‘Society’, then is not an encompassing social order but rather multiple agreements – as well as persistent disputes – of highly varying extensions, durability and substance.” (Wagner 1994: 274)

In this view, social order results from distributed forms of coordination, which vary by the number of people involved, their geographic or social reach, but also their stability.

In sum, grounding governance in coordination means to study ordering processes from bottom-up rather than to commence from regulatory structures. Highlighting the fragility and the often local implicit nature of shared norms and understandings that enable coordination, this view provides an instructive starting point for thinking about governance. But whereas some authors argue that *all* those coordination phenomena shall be considered governance (cf. Schimank 2007; Williamson 1975, 1984), we hold such an understanding of *governance as coordination* to be too broad to be analytically and empirically helpful. Otherwise, practically all activities relating to the provision of internet infrastructure or internet-related services, and even the routine usage of these services would need to be considered Internet governance, since they all arise from the coordination between different actors.

At this point, the notion of reflexivity gives the conceptual struggle around governance an instructive turn (cf. Strassheim 2009, but also Jessop 2003, Brousseau, Marzouki & Méadel 2012). A reflexive understanding of governance does not delimit the notion by drawing on intentionality, thus calling only those structures governance that have been intentionally designed in order to

¹² With regard to intentionality, this wide spectrum of complexity does indeed play out, though: The more complex coordination gets, the less clear process and outcome can be explained by the individual intentionalities of the actors involved (cf. Grande 2012).

establish rules, to ensure compliance or to provide collective goods, in other words, by understanding *governance as regulation*. Instead a reflexive notion qualifies governance through a process. Among all those myriad moments of coordination that constitute our social life, governance arises from the coordinative measures that are characterized by a reflexive momentum. Governance, in this view, revolves around coordinating coordination. Following Strassheim (2009) we suggest defining governance *as reflexive coordination*.

4.2 What is Reflexive Coordination?

This reflexive momentum comes into play when day-to-day interactions that coordinate our social life break down, when simple coordination becomes problematic (more precisely: the specific mode of coordination in a specific situation or context). Something has gone wrong, at least for someone. When routines break down, when actors recognize a mismatch in their mutual understanding of the situation, the shift from coordination to reflexive coordination occurs.

Imagine a typical situation of interpersonal coordination where two drivers are moving towards each other in a street too narrow for both cars to smoothly pass each other. This situation inevitably involves a dilemma. Whereas simple coordination fails in the face of this critical tension, it requires the two persons to assess this problematic situation, and to reflect on each other's intentions, expectations, strategies and available creative solutions. A process of reflexive coordination has emerged, in which interdependent actions of those engaged in the situation are continuously being evaluated and justified. The effectiveness of this coordinative process also depends on the specific competencies of the actors for mobilizing just objects, categories, and evidence in order to give meaning to their own logic of evaluation (Strassheim 2009: 471).

This understanding of governance as reflexive coordination draws on the transdisciplinary approach labeled as „Economics of Convention“.¹³ The main authors Boltanski and Thévenot call these moments when coordination break downs “critical moments” or „ambiguous situations“:

¹³ The reference work is Boltanski & Thévenot (2006 [1990]), a good introduction is Wagner (1994).

„What is pertinent [...] is the reflexivity of this critical moment. [...] People, involved in ordinary relationships, who are doing things together - let us say, in politics, work, unionism — and who have to coordinate their actions, realize that something is going wrong; that they cannot get along any more; that something has to change. (Boltanski & Thévenot 1999: 360)

They prove to be particularly instructive for studying governance processes because the involved parties need to mobilize and articulate formerly implicit understandings, assumptions and norms framing the situation in question in order to mutually evaluate the situation and justify their behavior (Boltanski & Thévenot 2006). Since these repertoires typically conflict with each other in these situations, a process of more or less explicit negotiation between the actors involved about the understandings and rules applicable to this situation is set in motion.

It is exactly this moment when coordination breaks down, and actors need to enter into reflexive negotiations about the relevant rules, norms and understandings in this specific context, that we suggest to be the core of a governance notion for internet governance research.

The coordination of coordination following these critical moments does not stay at the micro-level of individual actors and local situations; instead it can take very different shapes and levels of institutionalization. Strassheim (2009) points instructively to the work of Elinor Ostrom challenging the “tragedy of the commons” (Hardin 1968). A classic example for coordinating coordination is what Elinor Ostrom (1990: 42) has called the “second-order collective dilemma”. In her work on governing the commons and collective action dilemmas, she has demonstrated that the real challenge in evading the “tragedy of the commons” (Hardin 1968) lies not in coordinating the individual interactions, but in providing and maintaining the institutional order that guarantees these interactions. The „free-rider“ problem that drives much of this research (the usage of collective goods without contributing to their provision or maintenance, e.g. in fishery, agriculture) here shifts on an institutional level: Who contributes to the provision, monitoring and enforcement of these institutions mediating collective action problems and who free-rides on the existence? Why should workers join a union if they profit from it anyway? (Ostrom 1990: 42) Here, coordination turns reflexive.

Understanding governance as reflexive coordination implies that standard models of policy making fall under this category, as long as they are responses to perceived problems of coordination. Prime examples in the field of Internet governance are the founding of ICANN as a response to the problem of coordinating the allocation of domain names, or the founding of the IGF as a response to the profound disagreements throughout the WSIS process. Here, reflexive coordination took place through the exercise of (inter-)governmental authority.¹⁴ Thus, conceptualizing governance as reflexive coordination does not neglect the role of formal policy means, but it suggests restricting the analytical scope of governance to those situations in which routine activities are replaced by reflexive actions. This implies that periods of simple coordination and reflexive coordination may alternate over time. Providing a better view of the complexity of coordination, this notion acknowledges the existence of hierarchical modes of coordination, but places emphasis on the fact that they “operate in a context of ‘negotiated decision making’” (Jessop 2003: 109).

4.3 Disentangling Governance, Regulation and Coordination

In sum, we can now more precisely disentangle the often synonymously used notions of governance, regulation and coordination. These terms have in common that they address processes and structures of ordering in the broadest sense. Coordination is by all means the broadest term. It reflects the constitutive social nature of our interactions: “Actors are not fully in control of the activities that can satisfy their interests, but find some of those activities partially or wholly under the control of others” (Coleman 1990: 29) In consequence, we need to coordinate our actions and thus start to observe each other; sometimes we try to influence the involved party or even enter into negotiations (Schimank 2007). Coordination thus includes all *reciprocal*

¹⁴ Whereas the examples of creating ICANN and the IGF speak to a rather conventional understanding of governance as hierarchical regulation or decision making, the grounding of governance in coordination does not necessarily imply an intentional, rational design of regulatory structures. Processes of reflexive coordination, particularly if they are embedded in heterarchic social structures, are likely to produce emergent outcomes that cannot be traced back to the policy intentions of a single actor or organization (Grande 2012: 582).

interactions mediating mutual (successful or failed) adjustments (Strassheim 2009: 466).

Since we find this notion too broad to be analytically and empirically useful, we suggest understanding *governance* as a specific subset of coordination, a subset qualified by a reflexive momentum. *Governance as reflexive coordination* thus addresses the dynamics of evaluating and articulating rules in the face of complex situations that arise when authorities and regulatory structures overlap, when implicit expectations of the actors involved collide and contradictory interests become visible.

Just as we consider governance a specific subset of coordination, regulation can be said to overlap as a specific subset with governance. As an analytical perspective, governance focuses on processes; it deals with the fact that all institutional structures designed to enable coordination are themselves likely to cause new coordination problems. Regulation, by contrast, involves the *intentional* design of programs, rules or norms aiming to influence the behavior of others. ICANN, its board, management and constituencies, for example, seems to always be involved in both, negotiating policies for regulating the market for domain names and, simultaneously, adapting the institutional conditions that enable ICANN to develop policies in the first place. The first part we designate as regulation, the latter as governance. Likewise, the IGF is a structure tasked with coordinating an annual meeting on Internet governance issues. In addition to these issues, however, a certain number of main sessions and workshops address the success and the future of the IGF itself, among other things because the renewal of its mandate by the UN is considered uncertain. Given the number of actors, concerns and objectives involved in the future of the IGF, the outcome of this process should be regarded as emergent and infinite.

	Definition	Evaluation Criteria
Coordination	Reciprocal Social Processes	Mutual Adjustments
Governance	Reflexive Coordination	Legitimacy, Acceptance, Smooth Process
Regulation	Intentional Interventions	Outcome, Achievement of Pre-Defined Goals

Table 1: Defining Coordination, Governance and Regulation

The difference between governance and regulation also affects the outcome. While regulatory actions are normally evaluated against predefined goals, governance processes often evade clear pre-defined success criteria. ICANN and the IGF provide evidence for the fact that objectives may change as they become subject to negotiation and that new ones may emerge over time. Unlike regulatory processes that can be judged by measurable results, the success or failure of ongoing governance processes appears to be less clear-cut. According to Grande (2012: 584), the assessment of governance arrangements depends on the acceptance of its consequences for the actors involved. In this sense, evaluation criteria are defined as part of governance processes. Again, the IGF constitutes a vivid example. Since the majority of IGF participants believes that it's mandate does not include formal outcomes, its success is somewhat difficult to determine. As Epstein (2011: 24) put it, "the annual events are also assessed by their smoothness. As a front stage performance (Goffman, 1959) aimed at an idealized presentation of multistakeholder policy dialogue, explicit conflicts among the stakeholders are viewed as very problematic."

5. Conclusion

This essay sought to contribute to a recent move towards a more systematic reflection on the conceptual foundations of Internet governance. It brought together two related but mostly unconnected strands of literature, that on governance and that on Internet governance. As a brief literature review revealed, studies on Internet governance rely on partly contradictory notions of governance. The common understanding as some form of deliberate steering or regulation clashes with the equally common definition of Internet governance suggested by WGIG (2005), which emphasizes its distributed and heterogeneous character. If the broad diversity of actors and practices that together "shape the evolution and use of the Internet", as the WGIG report has it, cannot be adequately categorized as steering or regulation, the question arises how the distributed reality of Internet governance can be better reflected in the definition of governance. In other words, if organizations' day-to-day activities significantly impact the development of the Internet without actually intending to steer or regulate it, the concept of governance should

accommodate such processes, for example, by detaching itself from deliberate intentions to govern. As we have argued, however, giving up the understanding of governance as targeted governing brings with it the problem of scope. If intentionality ceases to be selection criteria, how are we to draw the boundaries around Internet governance? What is not Internet governance if we include all sorts of unintended side-effects?

Our own answer to this dilemma builds on the theory development coming out of the debate on the analytical merits of governance. Referring to recent works on meta-governance and reflexive coordination, we suggest anchoring the governance concept in mundane processes of social coordination. Focusing on coordination as building blocks of social ordering on the Internet allows us to study governance processes from a bottom-up perspective. In order to delimit the actual scope of Internet governance, we follow Strassheim's (2009) proposal to limit the scope of governance to those forms of coordination which concern its very conditions. Governance, in this view, means coordinating coordination. It takes place when given ways of coordination become problematic and require adjustment. Processes of reflexive coordination can be found on the organizational as well as the individual level, depending on the specific context and the rules, norms or structures that have become issues. They can be identified and studied best in what Boltanski and Thévenot (2006) refer to as "critical moments". These are situations when routines break down, individuals recognize mismatches in their understanding of the situation, public criticism flares up or established procedures lose their legitimacy. Critical moments thus open temporary windows onto the precarious conditions of social coordination which, more often than not, may be in need of adaption.

The approach to governance introduced here places a strong emphasis on processes (rather than structures). It implies that the scope of Internet governance cannot be understood as a pre-defined set of organizations and activities. Rather, its boundaries are enacted and constantly negotiated by the actors involved as, for example, the endless struggle over topics and tangible outcomes of the IGF shows. The importance of distributed processes also constitutes one of the features that distinguish governance from regulation. While regulation implies intentional procedures including formally agreed targets, resources and outcomes that can be met, failed and reinterpreted, governance is concerned with the conditions of such activities. As we have

shown, regulation and governance also exhibit different criteria of success. Differentiating between governance and regulation, in our view, resolves the contradiction between different forms of political ordering found on the Internet, and it may prepare the ground for new angles and insights on Internet governance.

Internet governance, understood as reflexive coordination, is a concept in its infant stage that requires further elaboration and empirical application. We think it can also be enriched by other theoretical approaches. If it contributes to a debate on the conceptual foundations of Internet governance, and thus evokes a critical moment in this research area, we have achieved our goal.

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