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The Impact of the Internet on International Law: *Nomos* without Earth?

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SUMMARY: *1. International Law and the Internet: An Heuristic Approach – 2. The Way Internet Has Influenced Production, Application and Enforcement Phases of International Law – 3. The Actors of International Legal Order after the Web – 4. International Law and Domestic Legal Orders: The Persuasive Approach and the Circulation of Information – 5. Public International Law for the Net:* Nomos *without Earth? Concluding Remarks*

1. INTERNATIONAL LAW AND THE INTERNET: AN HEURISTIC APPROACH

The relationship between international legal order and the Internet is a bilateral one: on the one hand, in fact, the first is called to govern both the web as an infrastructure and human behaviors that take place there, on the other hand the same legal order is undergoing changes as a result of the peculiar dissemination of information made by its operators (government officials, NGOs, academics, lawyers) through the Net itself.

It is not a new process, in its basic elements: technological progress has always informed legal systems, including the international one. For examples one may think of the legal framework negotiated to regulate the conduct of States in outer space, the use of the geostationary orbit, civil aviation, nuclear energy, scientific research on the high seas. However, while in all these cases the "technical" peculiarities of the regulated objects influenced only the content of the adopted rules, in the case of the web the influence seems to have been extended not only to the substantive provisions in certain sectors, particularly sensitive to its advent, but even in the way the international legal system as a whole works.

The aim of this paper is to try and understand how the massive spread of the Internet – which certainly had immeasurable social, economic and cultural consequences – has also had an impact on the systematic way the international legal system – taken as a whole – works and, in particular, on the way the same exercises its main functions.

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The massive expansion of the web, as well as having influenced the material content of some international law rules governing specific sectors (e.g., electronic commerce, telecommunications, the regulation of trade in services) has had an important impact on the way each and every rule of international law operates, since it has had consequences for the way in which the same are produced, interpreted and applied.

In order to investigate this issue we decided to adopt a, so to speak, heuristic epistemological approach – an approach that is applied with greater frequency in sciences other than legal, such as social or information sciences. We have done this in order to identify major trend lines when, as in the present case, timely analysis of all the data relating to the observed phenomenon appears impractical.

Heuristics, as is known, is that part of epistemology that aims to facilitate the access to new empirical findings by means of a process that, to solve a given problem, relies on the contingent state of factual circumstances. It is, moreover, a method not entirely foreign to the legal science since it, in particular in the form of the so called "heuristic representation", is often used to evaluate the behavior of people, such as witnesses, in the course of judicial proceedings.

It was also noted that the heuristic method in legal sciences is somehow linked to a different concept of rationality, distinct from the strictly logical one, and is based on an eco-logical approach that aims to examine the overall systems in which the studied rules are inserted. Conducting an examination of a strictly logical type to a legal system such as the international one, requires the complete knowledge of all and every information necessary for the analysis. If such a knowledge is impossible, and this happens more and more in the case of complex systems such as legal systems, an overall assessment in the light of a partial documentation, by this approach, is possible, and it indeed could better capture trend lines, if one examines the goals that system operators may want to reach[1].

[1] "There are different definitions and uses of the term heuristics in the social sciences, and these uses are intimately linked to differing notions of rationality. At a minimum, it is useful to distinguish between views of heuristics based on logical rationality and on ecological rationality. Logical rationality is defined by syntax alone – such as the laws of logic or probability – whereas semantics (contents) and pragmatics (goals) are external to the norms. In this view, when judgment deviates from a logical structure, it is considered a bias or error – as in endowment effects, conjunction fallacies, and framing effects. *As a consequence, a heuristic is by definition always second-best to logical thinking, at least when information is free*. From an ecological (and evolutionary) point of view, this implication does not follow.

Let's start with an observation: the international legal order, more than domestic ones, is widely influenced by the way its rules are "recorded and recalled"[2] – that is to say the way they are made knowable to the various subjects of the same legal order – since their degree of availability and knowability influences significantly the practice, which plays a key role in the international legal order.

We must also recall that technology would have a threefold impact on the international legal system as a whole, changing its ends, means and structure: "(1) Science, and more particularly technology, changes the problems that international law must address (ends alteration); (2) Science, and more particularly technology, changes the range of responses available for problems confronted by international law (means alteration); and (3) Science and technology change the intellectual structures that make up legal thinking in general and international law in particular, and thus, in the end, alters the nature and functions of international law even when the means and ends as such are not affected by scientific or technological changes (structural alteration)"[3].

Particularly with regard to the said structural alterations, it appears that the use of the Internet by its actors has, over time, changed, at first imperceptibly and then more and more evidently, the very operational mechanisms of the international legal order. Probably, we are aware, the influence we are speaking of has produced, at least at present, changes most with reference to the factual elements of the international legal system, than to its formal features (system of sources, responsibility, etc.) but if, as it seems to us, we are talking about a phenomenon still in development, we cannot predict with certainty its final outcome and we can only try to identify some trends.

The double grounding of a heuristic in the human brain and in the environment enables simple heuristics *to be highly robust in an uncertain world*, whereas complex strategies tend to overfit, that is, not generalize well to new and changing situations"; cf. G. GIGERENZER, C. ENGEL (eds.), *Heuristics and the Law*, Cambridge, MIT Press, 2007, pp. 3-4, emphasis added. See also A.R.C. HUMPHREYS, *Heuristic Application of Explanatory Theories in International Relations*, in "European Journal of International Relations", 2011, n. 2, pp. 257-277; N. PETERSEN, *How Rational Is International Law?*, in "European Journal of International Law", 2009, n. 4, pp. 1247-1262; D. KAHNEMAN, P. SLOVIC, A. TVERSKY, *Judgment Under Uncertainty: Heuristic and Biases*, Cambridge, 1982, *passim*.

[2] J.W. DELLAPENNA, *Law in a Shrinking World: The Interaction of Science and Technology with International Law*, in "Kentucky Law Journal", 1999-2000, p. 828 ff.; J.M. ROGERS, *The Internet and Public International Law*, in "Kentucky Law Journal", 1999-2000, n. 4, pp. 803-808.

[3] J.W. DELLAPENNA, *op. cit.*

In particular, the influence we are speaking of, seems to have occurred with respect to the stages of production, application (also domestic) and enforcement of international law, and also with regard to the relevant subjects of the international legal order.

2. The Way Internet Has Influenced Production, Application and Enforcement Phases of International Law

The circulation of a variety of cultural models by information technologies has influenced the ascending phase of production of international law by influencing, especially with regard to customary law, State practice and that part of the practice that is expressed through domestic courts decisions, the case-law. It was noticed that "with intensified patterns of transnational mimesis and borrowing, international law plays roles in the construction and transmission of the cognitive scripts and the technologies of a world culture"[4].

More and more frequently the decisions of domestic courts on matters of international relevance are motivated by references to foreign cultural or regulatory models. This, not infrequently, occurs in decisions that contain explicit references to the researches carried out on the Net by the judges while studying for the decision to be issued[5].

Moreover, the Internet has significantly simplified the negotiations of international treaties. The Net, in fact, has made easier the drafting of treaties and has reduced its time and costs by avoiding, for example, long periods of permanence abroad of the national delegations, allowing for economically less strong States, actual participation in the negotiation itself, resulting in an increase in their weight[6]. Additionally it has also made possible the involvement in the negotiations of non-traditional actors, through both "institutional" and "transversal" mechanisms. Let's think, in the former regard, at the opening by the Italian Ministry for Education, University and Research, of a public consultation for the determination of the Italian Government's position to be taken in the Internet Governance Forum[7] – or for the lat-

[4] B.W. Kingsbury, *The International Legal Order*, in "New York University Public Law and Legal Theory Working Papers", 2005, paper 6, on lsr.nellco.org/nyu_plltwp/6.

[5] C.M. Barger, *On the Internet, Nobody Knows You're a Judge: Appellate Courts' Use of Internet Materials*, in "Journal of Appellate Practice and Process", 2002, n. 2, p. 417 ff.

[6] H.H. Perritt Jr., *The Internet Is Changing International Law*, in "Chicago-Kent Law Review", 1998, p. 997 ff.

[7] See G.M. Ruotolo, *Internet-ional Law. Profili di diritto internazionale pubblico della Rete*, Bari, Cacucci, 2012, pp. 161-167.

ter, the "transversal" ones, to the opening of the "wcitleaks" site to spread non-public official negotiation documents prepared by the Member for the ITU's World Conference on Telecommunications of December 2012[8].

Both of these elements, we think, can be read as indicators of a democratization trend in the international legal order. This is particularly the case as regards the participation of the so called civil society in the process of creation of law, both by multi-stakeholder proceedings such as those used in some not purely international organizations – such as the Internet Corporation for Assigned Names and Numbers (ICANN)[9] or the Internet Governance Forum (IGF)[10] – and by the involvement of the same civil society in more traditional international contexts, made possible in a massive and widespread way by the use of the web[11]. Moreover, the cases where such participation occurs the more coincide, in our opinion, with the models of the so called global administration[12]. They are conducted involving both classical interstate structures and private entities on the basis of agreements or arrangements, even non-productive of international obligations, or carried out by non-governmental institutions that assume regulatory functions (such as the Internet Engineering Task Force, IETF[13]).

[8] On the ITRs revision process see D.P. FIDLER, *Internet Governance and International Law: The Controversy Concerning Revision of the International Telecommunication Regulations*, in "American Society of International Law Insights", 2013, n. 6, p. 1 ff.

[9] B. CAROTTI, *ICANN and Global Administrative Law*, on the website of the Institute for International Law and Justice, New York University, Global Administrative Law (GAL) project, iilj.org/GAL; S. DELBIANCO, B. COX, *ICANN Internet Governance: Is It Working?*, in "Global Business & Development Law Journal", 2008, p. 27 ff.

[10] On the IGF mandate see G.M. RUOTOLO, *op. cit.*, p. 64.

[11] J. D'ASPREMONT, *International Law-Making by Non-State Actors: Changing the Model or Putting the Phenomenon into Perspective?*, in Noortmann M., Ryngaert C. (eds.), "Non-State Actor Dynamics in International Law - From Law-Takers to Lawmakers", 2010, pp. 171-194. See also H.A. CULLEN, K. MORROW, *International Civil Society in International Law: The Growth of NGO Participation*, in "Non-state Actors and International Law", London, 2001, n. 1, pp. 7-39.

[12] L. BOISSON DE CHAZOURNES, *Changing Roles of International Organizations: Global Administrative Law and the Interplay of Legitimacies*, in "International Organizations Law Review", 2009, pp. 655-666; S. CASSESE, B. CAROTTI, L. CASINI, E. CAVALIERI, E. MAC DONALD (eds.), *Global Administrative Law: The Casebook*, IRPA-IILJ, Roma-New York, 2012; B. KINGSBURY, L. CASINI, *Global Administrative Law Dimensions of International Organizations Law*, in "International Organizations Law Review", 2009, pp. 319-358.

[13] The IETF is a non governmental organization whose mission is to make the Internet work better by producing high quality, relevant technical documents that influence the way people design, use, and manage the Internet. On the way it operates to produce its standards see G.M. RUOTOLO, *op. cit.*, p. 29.

The said two models, we think, could be seen as a kind of paradigm, that could be used in the international legal system for tracking modes of governance of situations, aspects, materials – that is to say for the establishment of "regimes" – different from the Internet but that have in common with it not only the transnational relevance but, above all, the need to simultaneously consider both public and private interests.

As regards the application of the international law, the web has exponentially increased the circulation of both the legal doctrine – which, in accordance with art. 38, par. 1, lett. d) of the Statute of the International Court of Justice is one of the auxiliary sources of international law (think of the amount of documents available on online databases such as Heinonline, Westlaw or LexisNexis, or the Social Sciences Research Network, with free access[14]) – and case law, not only the international one, but also, and above all, the domestic. In this way the circulation of informations has significantly improved quality and uniformity of interpretation of the rules of international law by domestic courts.

Regarding the enforcement, it is well known that the simplicity of access to legal rules – that is embodied in their widespread and timely comprehension – statistically increases the level of compliance[15] as well as works as a deterrent for their violations. To this we must add the States' awareness of the fast, as well as "global", public information regarding their violations of international obligations, especially those perceived by the public as particularly sensitive (such the infringements of humanitarian and human rights law).

3. The Actors of International Legal Order after the Web

More generally, the Internet has exponentially increased the relevance of non-state actors in the international legal order, which, in addition to playing an increasingly influential role in the production phase of interna-

[14] "Social Science Research Network (SSRN) is devoted to the rapid worldwide dissemination of social science research and is composed of a number of specialized research networks in each of the social sciences. Each of SSRN's networks encourages the early distribution of research results by publishing submitted abstracts and by soliciting abstracts of top quality research papers around the world. We now have hundreds of journals, publishers, and institutions in partners in publishing that provide working papers for distribution through SSRN's eLibrary and abstracts for publication in SSRN's electronic journals"; ssrn.com.

[15] B. Kingsbury, *The Concept of Compliance as a Function of Competing Conceptions of International Law*, in "Michigan Journal of International Law", 1998, n. 2, pp. 345-372.

tional rules and standards, today also perform the function of "common" controllers of compliance of the same rules together with more traditional subjects, such as States or international organizations[16].

In this regard just think of the case, some time ago now but still paradigmatic and relevant, of the action taken since 1994 in Chiapas by the Zapatista Army of National Liberation (EZLN), which claimed, against the Mexican Government, recognition of fundamental rights in favor of indigenous groups. What had started as a previously ignored revolution of sub-local relevance, and one that was likely to have been quickly militarily suppressed by the regular army of the territorial State, and even more easily silenced by the media from the latter controlled, has, thanks to a wise and pioneering use of the Internet by the EZLN, became a question of international importance, to the point that the Commission (now Council) for Human Rights of the United Nations has decided to constantly monitor the situation[17].

An even greater impact, then, seems to have been produced, with reference to what we are trying to outline, by the Wikileaks phenomenon and also by the latest so called Datagate. As we know, Wikileaks is an organization which operates a website of the same name that massively publishes and analyses secret documents, generally drafted by Governments. To use the words of the same organization, its main interest is to expose the actions of oppressive regimes in Asia, the former Soviet bloc, the Middle East and Sub-Saharan Africa, but also to provide a basis to persons who wish to reveal unethical behavior in their Governments and their companies, as transparency "in Government activities has consequences such as reducing corruption, improving governance and strengthening democracy". It is the opinion of the Wikileaks organization, that "both Governments and citizens could benefit from increased scrutiny by the global community". The term "to leak" in fact, means to disclose information without official authorization, and despite efforts to keep it secret, to derestrict it, in fact.

[16] W. WEDGEWOOD, *Cyber-Nations*, in "Yale Law School Faculty Scholarship Series", 2000, digitalcommons.law.yale.edu/fss_papers/2282 assumes even greater influence of the Internet on international subjectivity. For an analysis of the progressive importance of the so-called transnational civil society see M. BEDJAOUI (ed.), *International Law: Achievements and Prospects*, The Hague, Martinus Nijhoff, 1991, p. 12.

[17] See H. CLEAVER, *The Zapatista Effect: The Internet and the Rise of an Alternative Political Fabric*, in "Journal of International Affairs", 1998, p. 621 ff.; C. SPENCER-SCHEURICH, *A New Model for Globalizing Human Rights Struggles Via Internet: Understanding The Chiapas Example*, in "International Legal Perspectives", 2004, p. 22 ff.

Datagate, instead, is the name that the press has chosen to give to the 2013 series of revelations of former analyst of the United States National Security Agency (NSA) and CIA Edward Snowden, related to mass control program in USA and the United Kingdom, in particular on the existence of PRISM, an electronic clandestine surveillance system which allows the NSA to access all the emails, Internet searches and other traffic on the web in real time.

Now, passing by the analysis on the legality of unauthorized disclosure of classified documents, we can surely say that their mere diffusion has had an undeniably enormous impact, not only in the field of international relations, but even on the implementation of international obligations, by the States whose violations were revealed or confirmed by the declassified documents[18].

And the awareness of the progressive restriction of the so called grey areas in relation to violations of international law might produce in the future a further increase of its compliance by States: this seems to be confirmed by some of the conclusions contained in a report adopted by the Parliamentary Assembly of the Council of Europe on 2011 related to the abuse of State secrecy.

There the Assembly welcomes "the publication, in particular via the Wikileaks site, of numerous diplomatic reports confirming the truth of the allegations of secret detentions and illegal transfers of detainees published by the Assembly in 2006 and 2007. It is essential that such disclosures are made in such a way as to respect the personal safety of informers, human intelligence sources and secret service personnel. The appearances of such websites is also the consequence of insufficient information made available and a worrying lack of transparence of Governments"[19].

The elements so far outlined, therefore, allow us to draw a picture of the state of contemporary international legal order that appears significantly different to the 90s of the last century, simply because of the advent of the Internet: although it is not in fact changed the number of subjects of international

[18] Y. BENKLER, *Networks of Power, Degrees of Freedom*, in "International Journal of Communication", 2011, n. 5, pp. 721-755; M. FENSTER, *Disclosure's Effects: WikiLeaks and Transparency*, in "Iowa Law Review", 2012, p. 753 ff.; J. ROBINSON, *WikiLeaks, Disclosure, Free Speech and Democracy: New Media and the Fourth Estate*, in "More or Less Democracy & New Media", 2012, n. 3, pp. 144-173.

[19] PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE, *Abuse of State Secrecy and National Security: Obstacles to Parliamentary and Judicial Scrutiny of Human Rights Violations*, September 7th, 2011, in assembly.coe.int.

law nor its system of sources, the former are today "using" the latter in a way that is much more permeable to external influences, emanating mainly from private entities which, even if without any real powers of enforcement of international law, exercise as a matter of fact and in different ways what we have seen is a more effective control of the widespread implementation of international obligations by those who are bound by them[20].

4. International Law and Domestic Legal Orders: The Persuasive Approach and the Circulation of Information

The Internet may also have had an impact even on the relationship between international order and national legal systems, since it could represent a factor for overcoming the monism-dualism dichotomy. A different reconstructive model of the relationship between national and international legal systems could be a further indicator of the change in the overall approach of the international order after the web.

According to the classic reconstructive models of the relationship between international law and domestic legal systems, it is essential to check whether the international obligations that binds a State in the international legal order is also in force in its national law. If this happens automatically – as it happens, in principle, in legal systems that follow the monist approach – through legislation, or even by means of purely exegetical operations it depends on the choices made by domestic law. The fundamental requirement for the production of full internal effects by international law is, however, according to all these models, the existence of a link between the international legal system and the domestic one.

According to another model of reconstruction, which has more recently emerged, international law into domestic law would nowadays function in a more "persuasive" way than a binding one in strict sense: the participation of a State to certain international obligations would in fact mean also its entry into a "community" of States, which would be such as it recognizes – with regard to that particular regime – in a common system of values, which would be able to inform the whole national legal order, including the functions of statutory interpretation and judicial review.

Therefore, according to the authors who adhere to this theory, the relevance of international law into domestic law is not based on formal con-

[20] H.H. Perritt Jr., *The Internet Is Changing the Public International Legal System*, in "Kentucky Law Journal", 1999-2000, p. 885 ff.

straints, but on a sort of *idem sentire* of the international subjects, that would make it possible for national courts to use international law in domestic *fora* even if it has not been formally subject to translation into their national law. This, according to some commentators, was only made possible thanks to the influence produced on the decisions of State bodies, and in particular on domestic courts, by the fact that the same that are nowadays interacting both among themselves and with all foreign parties that are different from classical international subjects such as banks, multinational corporations and broad-interests based organizations.

This situation, resulting in the creation of "a dense web of relations that constitutes a new trans-governmental order"[21], would have made the domestic legal orders permeable to the values of which international law becomes the bearer, regardless of formal national enforcement proceedings.

The flow of information made possible by the Internet has in fact accelerated the creation of the so-called transnational (or trans-governmental) networks[22], not based on real international obligations: these networks seem to have increased the phenomenon of the permeation of domestic laws by international law, regardless of the formal use of adaptation mechanisms.

An examination of the recent domestic case-law of various countries, in fact, reveals a growing trend of national courts to cite international standards in the body of their decisions, without bothering to check first whether the same have gone under adaptation proceedings, and there seems to be a case that the decisions adopting this approach contain a large number of references to documents found on the web[23].

[21] A.-M. SLAUGHTER, *A Typology of Transjudicial Communication*, in "University of Richmond Law Review", 1994, pp. 99-137; ID., *The Real New World Order*, in "Foreign Affairs", 1997, n. 5, p. 183 ff.; ID., *Governing the Global Economy through Government Networks*, in Byers M. (ed.), "The Role of Law in International Politics: Essays in International Relations and International Law", Oxford, Oxford University Press, 2000, pp. 177-205. See also G. ZICCARDI CAPALDO, *Diritto globale. Il nuovo diritto internazionale*, Milano, Giuffrè, 2010, *passim*.

[22] K. RAUSTIALA, *The Architecture of International Cooperation: Transgovernmental Networks and the Future of International Law*, in "Virginia Journal of International Law", 2002, p. 1 ff.

[23] For an analysis of decisions using such references see L. DUNCAN MACLACHLAN, *Gandy Dancers on the Web: How the Internet Has Raised the Bar on Lawyers' Professional Responsibility to Research and Know the Law*, in "Georgetown Journal of Legal Ethics", 2000, p. 607 ff. See also R.C. BERRING, *Collapse of the Structure of the Legal Research Universe: The Imperative of Digital Information*, in "Washington Law Review", 1994, pp. 9-34; ID., *Legal Information and the Search for Cognitive Authority*, in "California Law Review", 2000, n. 6,

5. Public International Law for the Net: Nomos without Earth? Concluding Remarks

The advent and the widespread diffusion of the Net has produced consequences on the organization of the international legal system as a whole, and in particular on the way it performs its basic functions, such as production of rules, investigation of violations, enforcement and even its relationship with domestic legal orders.

Such systematic modifications of the international legal system all seem to have as underlying criterion the growth of the democracy of the system itself, which, in turn, would be a consequence of the increasing relevance, within the same, of individuals.

The latter, in fact, through the multi-stakeholder paradigm, would now be able, if not to exercise independently the basic functions of the same system – still within the exclusive competence of traditional subjects of international law – at least to influence the way in which the latter operate.

This could be read as a particularly clear case of application of the reconstructive model, already identified by the doctrine, according to which the international law of the third millennium appears to be an integrated structure organized in concentric circles, in which legal systems of various kinds (international in traditional sense, domestic, special legal systems of international organizations, other sources) and composed of legal sources of various kinds and suitable to produce different effects, are coordinated and integrated into a unique legal entity that caters to a transnational, multi-stakeholder, society that gathers subjects with different characteristics and importance and that institutes – after the international law of coexistence and the international law of cooperation – the international law of integration.

The rules applicable to the management of the Internet, moreover, highlight the increasingly diminished relevance of the principle of territoriality in contemporary international law.

One may think of the governance of the so-called Domain Name System (DNS), one of the founding elements of the Internet[24]: the Root Database – the Internet's addresses' directory – is located on 13 servers, backed up

p. 1675 ff.; D.A. Combe, *The Internet as a Legal Research Source*, in "International Journal of Legal Information", 1996, p. 209 ff.

[24] See L. DeNardis, *Protocol Politics: The Globalization of Internet Governance (Information Revolution and Global Politics)*, Cambridge-London, MIT Press, 2009; M.L. Mueller,

on more than 130 "copies" located on separate physical computers scattered all over the planet. Those servers, regardless of their geographical location, are administered exclusively by the U.S. government through the National Telecommunications and Information Administration (NTIA) of the U.S. Department of Commerce, which holds the exclusive power to authorize or impose unilateral changes to the contents of that database, in a case of extraterritorial application of its power of governance.

This appears to be an exception not only to the principle of non-interference but also to the principle of territoriality, according to which States have exclusive authority to deal with issues arising within their territories[25].

The intrinsic characteristics of the web, an inseparable and geographically ubiquitous fusion of hardware and software, make of it an infrastructure at the same time "landless" but of "collective" interest to the international community. This has also produced important effects on the relative discipline of international law (that elsewhere we have defined "Internetional Law"[26]) and, through this, as we have seen, on the international legal system as a whole. The structure of the Net itself has no unchangeable characteristics and is instead determined by the collective equipment (hardware) of which it comprises, and above all, by the software that allows and regulates its use (its informatics' "Code"). This makes it a particularly complex area to govern by rules of "traditional" international law: cyberspace appears more fully adjustable through its computer code, which must be addressed in its core values by international law and which can be used to draw its landless boundaries[27].

Ruling the Root: Internet Governance and the Taming of Cyberspace, Cambridge-London, MIT Press, 2002.

[25] See G. KEGEL, I. SEIDL-HOHENVELDERN, J.J. DARBY, *On the Territoriality Principle in Public International Law*, in "Hastings International & Comparative Law Review", 1981-1982, p. 245 ff.

[26] G.M. RUOTOLO, *op. cit.*, *passim*.

[27] L. LESSIG, *Code - Version 2.0*, Cambridge, 2006, p. XV, that affirms that "the web can be controlled by forces in large part exercised by technologies (...), backed by the rule of law (or at least what's left of the rule of law). The challenge for our generation is to reconcile these two forces".