

Internet Governance and Human Rights – LACIGF10

Panel: Cases

Moderator: Melisa Gorondy Novak – LACTLD

Panelists:

Juliana Soto – Fundación Karisma

Carlos Britos – R3D

Maricarmen Sequera – TEDIC

Marina Pita, Intervozes

Joana Varon – Coding Rights

Martha Roldós, Fundación Mil Hojas

Rapporteur: Fátima Cambroneró

1. Pyraweb – Paraguay - Maricarmen Sequera – TEDIC

Traffic data is being retained.

Mass surveillance through IP addresses.

Providers are keeping connection data for more than 12 months.

They have formed alliances with international organizations.

Rejected by the House of Representatives. Could not be discussed by the Senate.

Discuss standards such as personal data and other standards for companies.

A campaign for the return of Pyraweb was launched in 2017.

There is evidence that governments have purchased surveillance software.

Biometric data are being processed but there are no policies governing how they are treated.

Joint campaign with another organization.

2. Sharing is not a crime. Case of Diego Gómez, Colombia - Juliana Soto

Diego Gómez uploaded a thesis he found online to Script. This action resulted in criminal charges for sharing knowledge on the Internet. He quoted the author, he was not driven by profit, he simply believed it would be beneficial for his classmates.

This affects the right to education, access to culture, freedom of expression, and due process (he was led to self-incriminate).

Regional importance: Diego was not reported by a major publisher. He was reported by a colleague dealing with a local issue. This may set a bad precedent for the issue of access to knowledge in Colombia and the region.

The case also shows the need to update copyright laws, fair use, and lack of proportionality.

Diego was acquitted this past May (2017). The first instance ruling recognized that the document he uploaded was already available online, that the action was not driven by profit, and that there was no intention to harm the author, but simply to share some information. Sharing is a common practice in academic environments.

The author of the thesis appealed this resolution and the process may continue.

They prepared a campaign titled "Sharing is not crime."

They continue to work on this campaign.

3. *Government espionage and the systematic violation of the human rights of journalists and human rights activists in Mexico* - Carlos Brito – R3D

They have documented the issue of mass surveillance.

"If you want security, you will have to give up your privacy."

Surveillance is out of control.

There are discrepancies between data obtained from the authorities and the CJF (judiciary).

Transparency reports prepared by telecommunication companies do not match or else they report "others."

Requests are not based on court orders.

Companies always issue requests without a court order (Telcel).

In most cases where information is requested, no judicial proceedings are initiated.

Illegal surveillance in Mexico is also out of control.

Hacking Team: Mexico is their main customer.

They sell to authorities through intermediaries who are not authorized to conduct surveillance.

Government espionage: Citizen Lab report. Targets include journalists, scientists, etc.

Surveillance is systematic. Common infrastructure, same domain for everyone, same text.

NSO malware attacks.

SEDENA NSO client: does not have powers for surveillance.

There is absolutely no control over this. Number of crimes detected. There is a demand for a clear investigation to determine responsibilities.

4. Censorship of social network content in Brazil - Marina Pita - Intervozes

Cultural rights on the Internet.

The National Library Foundation (Fundación Biblioteca Nacional) with ties to the Brazilian Ministry of Culture published on their Facebook account images of natives, including those of a bare-breasted woman. These images were removed from the Ministry's webpage and there was no notification provided by Facebook.

The Ministry submitted complaints to Facebook. Facebook replied that no nude images are allowed and that the images had been removed because of that rule.

The Ministry made the situation public. They published them again and again and Facebook would continue to remove them.

This violates:

- The promotion of the diversity of cultural expressions
- Freedom of expression
- The Internet Civil Framework
- Brazilian cultural heritage

Impact:

- Questioning of cultural autonomy as well as the capacities of the State within this environment
- The Ministry of Culture brought the case before the OAS Inter-American Commission on Human Rights
- Broad discussion on cultural rights

Questions:

- Public order vs. private applications?
- What are the limits to the terms and conditions of the application?
- Which is the most appropriate place for dealing with these issues?
- Must companies respect human rights?

5. Online violence, privacy, and freedom of expression - Joana Varon – Coding Rights

The Anti-Surveillance Bureau reported several cases.

- Black female blogger
- Involved in the black movement. Published a photo on Facebook as a fat, black, lesbian woman. Men commented attacking her for these attributes. Her Facebook account was blocked.

- Blogger, professor and feminist, attacked. Men were offering rewards to have her killed. They were reported to the police, the police know who they are, yet nothing has been done.

- Miro, trans activist. Photographs of her performance. These photos reverberated through social networks. Photo montages were used aggressively.

- Chupadatos

The government is trying to address these issues. Bills dealing with gender rights have been drafted.

Systemic issues, how to advocate for these issues (activism), how to continue with the counter-discourse, transparency, how to enforce existing laws, etc.

6. Use of DMCA in Ecuador - Martha Roldós, Fundación Mil Hojas

Internet as a space for people to exercise their rights.

Many journalists and social activists had to migrate to the Internet to publish their research.

What the government did was to start using the United States Digital Millennium Copyright Act (DMCA). In Ecuador, everything was placed under copyright protection (the president's image, government logos, etc.).

Thus, any publication which, for example, criticized someone and had a photo of the president was required to be downloaded because of infringement of copyright of the president's photograph.

This was replicated in other countries.

The Digital Millennium Copyright Act was abused to limit freedom of expression, etc.

Multisectoral Panel

Moderator: Valeria Betancourt – Association for Progressive Communications (apc).

Panelists:

Sebastián Bellagamba – Internet Society (ISOC)

Agustina del Campo – CELE, Argentina

Thiago Braz – Ministry of Foreign Affairs, Brazil

Adela Goberna – ALAI

Purpose of the panel: To address the scope and implications of human rights and the consequences of certain practices.

Types of responses needed to counteract limitations to the exercise of human rights.

- Sebastián Bellagamba: The Internet must enable the exercise of human rights.

ISOC's mission: To promote Internet use and development for the benefit of all people throughout the world.

The Internet should be open and for the benefit of all people. We must preserve the Internet for the exercise of human rights.

The IETF develops Internet protocols and standards. By default, browsers are not encrypted (ie, without security). The IETF is working on protocols that incorporate encryption.

We should enjoy the same rights online as we do offline. The exercise of our rights online must be guaranteed.

Another guiding principle: openness. Important components: privacy and security.

Technical restrictions must not prevent the exercise of our rights online.

Game between security and privacy: balance must be maintained. One thing does not necessarily go against the other. There is no zero-sum game between the two.

We must generate a framework for open, multistakeholder dialogue and discuss these basic guiding principles.

Challenges: content blocking and weakening of encryption.

- Agustina del Campo: There are major three cross-cutting issues:

1. Lack of access to public and private information. Follow-up on supervising and monitoring existing legislation.
2. Lack of access to information: many laws are not enforced. Relevant in cases of surveillance.
3. Cases of censorship, self-regulation of platforms. Regional standards are not reflected in global policies or terms and conditions.

What can academia do about this?

1. Offer training for judges, regulators, legislators, etc.
2. Regional research. There are few regional initiatives to analyze these issues. Little reflection on global issues from a regional perspective.

- Thiago Braz: The government has an important role in listening to the positions that are presented, so when they return to their countries they can share what they have learned with the different actors.

From the point of view of the Ministry of Foreign Affairs, it is important to protect privacy in digital environments. The same rights people have offline must also be protected online.

Jurisdiction and censorship are also important issues. In the case of Facebook, global rules were followed. Under local legislation this is perceived as censorship.

- Adela Goberna: The problem poses tension between different rights (intellectual property and privacy, freedom of expression and access to information).

Chile: Right to infringe copyright. Might be a solution. Also court decisions.

Rights should be balanced.

Importance of court orders to be able to make these decisions.

Importance of transparency reports.

This includes self-regulation, which also implies user participation.

In general, expedited systems should exist to settle cases where there is international consensus that rights have been violated.

Once again, stress the importance of court orders.

Issues:

- Protect users

- Mechanisms for the exercise of rights

The Internet is the exact conclusion of these two rights.

Tension because something that is global requires local solutions.

Conclusion: encryption. The issue of jurisdiction will not be solved for the moment. Mechanisms for the exercise of rights. Company transparency reports. Importance of cooperation at multilateral and multijurisdictional level. Training for judges and legislators.