

Challenges on internet governance in Latin America

Latin America's role on global discussions over internet governance is still second fiddle. Even if there is some participation from local NGOs or some involvement from instances such as CGI.br from Brazil, the involvement of governments has no regional articulation, and they are not precisely active on regional nor international forums.

This situation has made difficult to raise those issues important for the region, making necessary a joint effort to push an agenda that, from Latin America's perspective, leads the continued existence of free, accessible for everyone and respectful of human rights internet.

Considering that the next Internet Governance Forum (IGF) will be in Latin America (Brazil), as well as the proximity of the regional IGF, we believe that this 2015 is an unparalleled opportunity for the undersigned regional NGOs, to take a stand for the Latin American agenda according to human rights, to take under consideration the following challenges:

Access and strengthening the diversity of the internet

Even tho there are optimistic estimates regarding internet accessibility growth in Latin America,¹ is still clear that connectivity is an urgent necessity for the region. Governments should commit to ensuring public policies that allow unrestricted, affordable and quality access to the entirety of the internet. This implies throw aside alternatives that attacks net neutrality or allows restricted access via apps or services that presents an incomplete and inequitable vision of the internet.

The challenge of internet access coexists with the diversity of the users both male and female; the local realities of our regions showcases differences for ethnic, gender, social and economic reasons. Any effort regarding internet governance, in addition to favoring inclusion, should incentivize representation of the continent's many distinct realities, in order to consolidate and enhance democratic systems throughout Latin America.

Additionally, in order to make internet into a real opportunity of regional development, is necessary to work along with governments and actors involved in the creation of policies and recommendations regarding:

- Facilitate effective access to public information.
- Promote local content creation.
- Foment appropriation processes and capacity development throughout communities.
- Foment the creation of infrastructure with communitary and participative management for media development.

Protection of the privacy of all users

Several regional countries approved the resolution of the United Nations' General Assembly that condemns internet massive surveillance and ask their member States to revise their legislations, maintain independent and impartial mechanisms of transparency on their surveillance activities,

1 El Economista: "Acceso a internet en latinoamérica llegará a 60% en 2016: LACNIC. May, 7 2015. <http://eleconomista.com.mx/tecnociencia/2015/05/07/acceso-internet-america-latina-llegara-60-2016-lacnic>

and align them with human right standards.² In despite this commitment, some Latin American governments had acquired new surveillance and espionage capabilities aimed to their inhabitants, inside and outside the internet.

Is reprehensible the surveillance of people's legitimate activities without proving necessity and proportionality, as well as laws (old and new) to hold back browsing data, specially in today's scenario, in which we are lacking control and standards over personal data and metadata protection.

In internet governance, digital agendas or even cyber-security international, national and regional forums, is necessary go forward to a discussion without reservations, aiming towards concrete commitment to achieve a safer internet against illegitimate invasion of privacy, as well as legitimate but unguaranteed, from governmental practices as well as private actors, who are also responsible for the fulfillment of international standards for human rights. This commitments must mirror law abiding public policies regarding personal data and metadata on local and regional scenarios.

Strengthening freedom of expression on the internet

The Inter American Human Rights Court has a strong tradition in freedom of speech defense, recognizing its importance in the exercise of other rights, such as the right to assembly, demonstrate and associate. This tradition has been reinforced by the report of the Inter American Human Rights Commission's Freedom of Speech Special Rapporteur regarding internet's impact on freedom of speech and the optimal conditions in which it can be achieved on a digital context.³

Progress must be made in strengthening the commitment to freedom of expression, through the condemnation of any type of unlawful censorship in the digital environment; net neutrality principles must also be strengthened to ensure non-discriminatory treatment of the expression of ideas; and, work must be done to achieve a system of responsible intermediaries who understand the delicate roles that they play in protecting freedom of expression.

Strengthening the right to access culture and knowledge

The intellectual property protection agenda, driven by some private industries in little participative instances, such as the FTAs, has been weakening the access to culture and knowledge to the people on the internet, criminalizing daily activities on the net such as sharing files or links and reusing content. This directly affect right such as freedom of speech or access to culture and knowledge.

Latin American governments must understand, as expressed by the UN's Special Rapporteur for Cultural Rights,⁴ copyright policies doesn't properly protects authorship and sometimes goes too far, unnecessarily limiting cultural freedom and participation, that's why the prosecution of copyright infractions must be done with proportionality and must never affect the fundamental rights of individuals.

On this context, the Intellectual Property World Organization (OMPI) Development Agenda, offers an opportunity to reform the copyrights regime that our governments should support.

2 ONU. "El derecho a la privacidad en la era digital". November 19, 2014. En http://www.un.org/ga/search/view_doc.asp?symbol=A/C.3/69/L.26/Rev.1&referer=/english/&Lang=S

3 Botero, Catalina. "Relatoría Especial para la Libertad de Expresión Comisión Interamericana de Derechos Humanos (CIDH): Libertad de Expresión e Internet". 2013. http://www.oas.org/es/cidh/expresion/docs/informes/2014_04_08_Internet_WEB.pdf

4 Shaheed, Farida. UN's Special Rapporteur for Cultural Rights. May 6, 2015. <https://juliareda.eu/2015/05/intellectual-property-rights-are-not-human-rights/>

Protection of net neutrality

Latin America has been a pioneer region establishing mandatory ruling regarding net neutrality in the world ensuring non-discriminatory treatment for online content ensures that the internet remains an egalitarian platform where people can express their ideas. Also, net neutrality can prevent policies and/or offerings that perpetuate social inequalities. Thus, it is necessary to reinforce the agreements made by the governments of our region for the local, regional and international protection of net neutrality.

Despite the region's commitment, this principle is threatened daily in our countries, specially by the apparition of "zero rating" services or the free data traffic from some applications; practices by mobile phone operators to avoid charging clients access to some content, applications or services, using the excuse to achieve wider connectivity on the net.

While it appears to be a technical issue of national nature, the impulse for the world's respect for this principle also allows the attack to a global peril: that the part of the world that concentrates critical infrastructure and the biggest internet services, the conditions under which content transit and the net is accessed get altered, threatening the neutrality in which different forms of expression are treated and the economic development.

Cybersecurity that respects human rights

While government do indeed have a duty to guarantee the cybersecurity of its citizens, we can see with concern the lack of focus on regards the protection of human rights on the State efforts to establish defense conditions against eventual informatic attacks. Any initiative or regulation, at the national or international level, such as the intergovernmental regional coordination done by the Organization of American States (OAS), should be careful not to put security objectives above the protection of human rights.⁵

Commitment to participatory processes of internet governance

In order to take into account the appropriate complexity that the challenges that internet governance pose for Latin America, it is important to utilize the diverse spaces that we have, beyond the Internet Governance Forum (IGF) and/or local digital meetings. This commitment should always recognize and support a model whereby multiple interested parties can participate, including civil society, through the dissemination of information and involvement of the citizenry.

Also, the inclusion of state and intergovernmental organs must be driven, essentially, in their role as public leaders and not only in defense of industrial interests. In this manner, the adoption and application of principles, public policies and laws regarding internet, must start from a position of respect of human rights and a comprehension of all the public benefit that internet represents for the humanity.

Signatories:

APC
Derechos Digitales

5 "Declaración conjunta sobre libertad de expresión e internet" The United Nations (UN) Special Rapporteur on Freedom of Opinion and Expression; the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (IACHR) of the Organization of American States (OAS); the Organization for Security and Cooperation in Europe (OSCE) Representative on Freedom of the Media; and the African Commission on Human and Peoples' Rights (ACHPR) Special Rapporteur on Freedom of Expression. 2011. <http://www.oas.org/es/cidh/expresion/showarticle.asp?artID=849>

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TEDIC- Tecnología y Comunidad
Asociación por los Derechos Civiles - ADC - Argentina
Asuntos del Sur e #InnovaPolíticaLATAM
SurSiendo, Comunicación y Cultura Digital - Chiapas, México
Public Knowledge - Global Project
OER-Brazil (www.rea.net.br)
Instituto Bem Estar Brasil - Brasil
ACI-Participa - Honduras
Hiperderecho - Perú
IPYS - Venezuela
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Intervozes - Coletivo Brasil de Comunicação Social
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