

Session 10: Challenges and Opportunities in Addressing the Regional Inequalities Posed by the Massive Use of Algorithms and Automated Decision-Making. Corporate Responsibility, the Role of Governments and Civil Society

Moderator:

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Panelists:

- Gustavo Gómez, Executive Director, Observacom
- Eduardo Magrani, ITS RIO – Catholic University of Rio de Janeiro
- Natalia Zuazo, Independent Consultant, Argentina
- Alejandro Delgado, Advisor to the Colombian Telecommunications Regulation Commission (remote participation)

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Presentation by the Moderator: Today, algorithmic decisions are increasingly present in our lives. Decisions that were decided according to human criteria are now increasingly delegated to algorithms: curating our social media, systems used by private companies to provide recommendations on what to buy, and even decisions made by governments. Are these algorithms objective? How do algorithms make their decisions? Can the citizens of Latin America challenge the decisions of the algorithms designed in countries of the global north?

- **Gustavo Gómez, Executive Director, Observacom**
 - The role of intermediaries is fundamental.
 - There is an inhuman volume of information on the Internet, so machines are needed to manage this information.
 - Companies have a responsibility as gatekeepers, but this is also used by people who are not interested in freedom of expression, so they influence the development of algorithms.
 - Intermediaries are no longer simply platforms, they also participate in content management – private regulation of online content.
 - This is not only a potential risk, as there is evidence of these practices: prioritization of content, “they do not censor, they reduce the reach”; content removal (deletion of accounts and profiles: Facebook published an impressive 3-month report on the elimination of adult nude photos, violent content, inappropriate content, etc.). Use of vague terminology not in line with international standards of freedom of expression.
 - Before the GDPR there was criticism and protests in favor of freedom of expression, but we did not react in the same way to reports as those of Facebook.

- **Eduardo Magrani, ITS RIO – Catholic University of Rio de Janeiro**
 - Our rights are far removed from the current hyper-connectivity.
 - Now “things” are increasingly intelligent, increasingly autonomous and unpredictable, and the law was not created with this in mind.
 - The challenge is to try to map a scenario in which things are increasingly autonomous, more unpredictable, and generate a level of unpredictability and risk.
 - The law has not been able to keep up with the evolution of technology. In Brazil, for example, the law is far behind in terms of the protection of privacy. New regulations adapted to these circumstances – a much more complex scenario – are urgently needed.
 - Thus, we now find ourselves involved in a new level of ethical discussion. By incorporating intelligent algorithms into our everyday lives, things that we had never thought possible are happening.
 - The law must also advance in terms of ethical design: we are not only speaking about privacy by design, we are also speaking of ethics by design. How do we make botnets such as Alexa help us to better educate our children? The development of complete, useful technological artifacts. We must be careful with all these machines that are increasingly interacting with humans and that affect us.

- **Alejandro Delgado, Advisor to the Colombian Telecommunications Regulation Commission (remote participation)**
 - The data is not only leveraged because of the information it provides, but also to make decisions about us. This change is affecting all areas, including politics, the financial sector (automated decisions for granting loans or credit), insurance (policy amounts), and all of this is important. Who is responsible for these decisions? Who makes these decisions and based on what data? This means a change of paradigm. How can we use this data? Who can use this data?
 - First, this refers to responsibility, which is defined by several possibilities in the use of the algorithm: the possibility of human error; manipulation; what happens when an algorithm is used to break the law or to misinform the population?
 - What about transparency? We need to know where the data comes from, who uses it and how it is used.
 - This implies a major paradigm shift... who makes these decisions?
 - Algorithms are designed by human beings, so errors are not surprising.
 - Manipulation.
 - What happens when an algorithm is used to break the law (identifying the location of police officers, traffic speed detectors, etc.).
 - Use of algorithms to misinform.
 - What about the decision of an algorithm? What about the right to reply?

- As for cross-border regulations, if we do not use cross-border regulatory mechanisms, there will be no impact. There are specific regulations on personal data protection such as the GDPR that can guide us in this matter in terms of good practice.
- **Natalia Zuazo, Independent Consultant, Argentina**
 - Private companies always have opportunities to sell their services to the State.
 - Anything that is automated has been programmed, a design guided by economic interests.
 - There is no doubt that these platforms contribute to inequality, power is not shared equally.
 - Automated decisions in terms of public policy.
 - Salta has a Ministry of Early Childhood. Contract to MS to create artificial intelligence in a teen pregnancy prevention program. It was later discovered that the programming used to train the data collected by volunteers in different neighborhoods was designed by an NGO (Colina?) linked to a doctor who was against sex education and the use of condoms. Variables: ethnicity, whether or not the mother had finished her studies, neighborhood... but it never asked whether the girl had received sex education or whether they had used contraception. The result would always be the same regardless of the data: *poor girls get pregnant sooner*.
 - What is the role of politicians in these automated decisions?
 - How are universities and research centers becoming involved?
 - Who completes the decision and what other controls are used to make these decisions?
 - Are citizens aware of what is going on in this area?
 - It is important to contribute from different sectors, because if there is no participation, cases such as Cambridge Analytica would not have existed.

Audience participation

- Algorithms are not patentable; consequently, they are not protected against being shown. It is becoming increasingly difficult to patent generic ideas; instead, specific mathematical processes are patented. Do you believe that legislation should consider the possibility of patenting algorithms? Where is the balance between the transparency of an algorithm and keeping this transparency from affecting rights such as privacy? What should civil society know about algorithms? Because if we simply request access to the algorithm, it is not clear to me what it is that we are looking for.
- As a developer, I know that artificial intelligence uses machine learning and we will always know that there are things that work and things that do not. There is a black box in which we do not know how things work or what their functions are; that box has the potential to destroy many things, but we do not know which ones. Wouldn't it be better to collaborate towards development instead of criticizing?

- Is it possible to use algorithms to improve the quality of discourse just as it has been used to combat spam?

Remote questions

- How can civil society participate in the design of algorithms?
- Are algorithms neutral and objective? If not, why is this message still being transmitted to the public?
- What algorithm responsibility criteria should be applied in the case of public and private actors?

Reactions

Eduardo: In relation to intellectual property: the idea is not to guarantee patents on algorithms. We must look for greater openness, copyright models that allow greater openness. Maybe we have to resort to other technologies. I find the notion of inclusive engineering interesting: software developers have an enormous responsibility in this techno-regulated world. Inclusive engineering seeks diversity. Another important expression is “explainable algorithms”: society must keep its eyes on software engineers to understand how these algorithms are affecting our lives.

Natalia: It is not very difficult to ask: “what does this process do, how does it do it, and what intermediate decisions are made?” We must be able to understand what decisions are being made and on what basis.

Eduardo: If I defend the idea of having a design based on values, what values are we talking about? What are my ethical parameters? Ethics must influence a series of directions, including regulatory issues. If our parameter is a utilitarian ethics, as is the case with many companies, we are doomed. We need an ontological ethic, oriented towards human rights, one that also explains that technologies have value and does not see man simply as a subject that can be influenced by technology.

Gustavo: The role intermediaries play and their current level of concentration means they are actors that need to be regulated. It is time for better regulations, clear and democratic rules are required for anyone with that level of power. The goal is to empower those intermediaries as much as possible so they will be a positive influence, but to keep them from being 'bad'. This, however, cannot be left to their own discretion: they must be forced not to be 'bad', these rules cannot be left to self-regulation. Why don't we demand that intermediaries comply with the same rules as governments? Do we protect intermediaries or protect the free, open and neutral Internet?

Eduardo: There is a major lack of synchronization between the population and the powers that be, and this leads to the manipulation of democracy. Many countries, including Brazil, are at the first level, which is the digital training of the population. We have yet to build this first step. As for security, private companies have a maxim that says “fail fast, fail cheaper.” This logic can have a perverse effect on the

population (remember Microsoft's robotic profile that turned into a Nazi in a few days?). For legal responsibility to exist, we must have control and knowledge of each of the elements that were part of the decision-making process.

Gustavo: As part of civil society, we must find a middle ground, a solution that includes regulation and co-regulation. Some alter the balance of discourse because of their urgency and desire to seek clear solutions. There are different types of intermediaries. I am much more concerned about regulating Internet giants than startups, for example. We must state, even within the inter-American system, that intermediaries are no longer what we thought they were. We are mainly speaking about the platforms. In this case also, Facebook is not the same as Pedidosya. We need to establish clear rules that cannot be left to self-regulation.