

## LACIGF 12 Report

**Title of the session: Session 1 – Human Rights – Freedom of Expression on the Internet**

### **Session summary:**

The moderator **Ana Bizberge (Observacom, Uruguay)** set the need of discussing the challenges when it comes to freedom of expression on the Internet, heading the conversation to challenges and opportunities around regulatory models. In particular, which mechanisms are contemplated by platforms to improve these questions in order to align with international standards and what challenges appear in the regulation linked to copyright, considering how these issues affect freedom of expression and how they provoke Governments in face of Internet platforms.

**Miguel Candia (MRE.py, Paraguay)** initially asked how we're guaranteeing humans right on the Internet. When in it comes to the government, assuming a less structured discussion is good, he pointed out that he does not talk about regulation / non-regulation, but from what a government should do. It must regulate and protect, enforcing regulations in all territories and with all its inhabitants. Freedoms, therefore, must be guaranteed. With the Internet in particular, being the most important communication tool, he added that governments are becoming aware and taking it to the international platforms (for example, with the guiding principles of companies).

He described sectoral interests, as a main challenge, adding that technologies are advancing and states must be able to regulate them. The main difficulty, he says, lies in how far it is regulated and what is regulated, which is very complexed to be controlled. The state is in a new situations, and does not always have enough experience, which affects the quality of regulation and its efficiency. He finished his talk by adding that the best is the largest number of discussions, so the state regulations have enough social base.

**Thiago Tavares (CGI.br, Brasil)** in track of the previous speaker, by analysing the aspects of state regulation in face of freedom of expression's guarantee on the Internet, he pointed out that a steering committee should promote the discussion about the role of the Internet in democratic contexts and seek a balance between freedom of expression and other fundamental rights. He summarized his argument in 3 key lessons:

- 1st lesson: It is not possible to establish a previous control of Internet content, arguing that the Internet cannot be equated with traditional means;
- 2nd lesson: It is important to invest in media literacy, so that the population can develop a certain degree of critical thinking;
- 3rd lesson: To resist the temptation to criminalize actions. He exemplifies Brazil, where 35 bills were proposed trying to criminalize fake news and the sharing of false events. The sentences are 6 months to 8 years in prison and he mentions the example of WhatsApp, which was used for the elections and how the platform was a political weapon.

**María Cristina Capelo (Facebook, Mexico)** stated about the mechanisms being developed by Facebook to improve transparency, due process, sensitivity of local contexts, privacy and accountability. She affirmed Facebook has a lot of content and the company is working about this topics, specially looking forward three principles: users' security; voice; and equity (all the rules be applied in the same way to every user). As mentioned this is a horizon, because the general rules must be applied in the context of local specifications.

During the last year, Facebook has published its community standards, a set of rules to which the users sign in and are responsible for (reporting if someone break the rules). Besides, there is an monthly oversight body to review its policies composed by external agents.

Lastly, she mentioned the creation of an independent council to analyse content in Facebook to be announced by November/December in the current year, composed by experts around the world, which will review appeals and Facebook will be under its decisions. Also, it will be able to recommend changes in the rules itself. She finished her speech standing Facebook's intention to look for more transparency, even though clearly there are challenges trying to balance local and global contexts.

**Esteban Lescano (CABASE, Argentina)** talked about his perspective on how freedom of expression and regulations. He commented that when talking about the Internet and human rights, it must be seen that it is a tool for exercising them (right to work, to trade, to association, to political participation, etc.). He continued mentioning how the Pact of San José de Costa Rica establishes the criteria that prohibit prior censorship. He went on to say that the principles apply both when we want to legislate and when we want to apply a judicial decision.

Another aspect is the role of intermediaries. The Internet would not have so many benefits without the participation of technological intermediaries (large and small) that develop solutions and applications to make our lives easier.

In his view, when talking about regulatory initiatives, it is important to keep in mind that states can regulate, but the idea is that its regulation does not compromise the protection of human rights on the Internet, like freedom of expression. In this context, he gives the example of the SIDH, which has developed rules that must be taken into account.

On the other hand, he mentioned the European Copyright Directive and its importance, for example the article 15 (obligatory licences) and 17 which established new points in copyright, about news content. Finally, he proposes not coping the European model, but make our own regulation for Latin America.

**Carlos Cortés (Linterna Verde, Colombia)** pondered about which tools can be used by civil society to address governments and companies. He mentioned two issues, where on the one hand civil society is invited to a more practical and clearer conversation about the problems of freedom of expression on the Internet, while on the other hand, it is a different relationship with governments on how it should be regulated. He commented on the tension in relation to content and human rights. Then he asks: What do we mean by moderation of contents and that they should be informed and inspired by human rights issues? Should all legal content remain on the platforms? That is neither possible nor desirable.

He made some particular problematizations: Not all expressions are of public interest; there is no commercial or public interest in all expressions being above all sides; There are expectations and expressive rights on both sides of the balance. The most complete example is the problematization of speeches against women on the web. The dynamics of online discussion are affecting freedom of expression. These particular reflections, mainstream them with the challenge of reconciling the practice and the *must be*.

#### **Outputs and other relevant links:**

Full session: <https://www.youtube.com/watch?v=aS3TCcZHmcc>

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