

LACIGF 12 Report

Title of the session: Session 7 – INTERSECTORAL THEME – GOVERNMENT SECTOR: Internet and Jurisdiction. The importance of the protection of rights online, in the public and private spheres.

Session summary:

The Session 7 - Internet and jurisdiction: The importance of the protection of the financial exceptions at the public and private spheres, moderated by **Miguel Candia (MRE.py, Paraguay)**, addressed countries' jurisdiction in the digital world, in a different situation, as there are no more territorial limits, as previously known. Furthermore, he exposed the next activity's dynamic, which consisted of dividing the audience in groups, that were managed by speakers and directed to engage in a debate.

Then, **Lorena Naranjo (DINARDAP, Ecuador)** began her speech by saying that the damage to the digital rights also damages the offline lives of people. She showed, by citing an error in a database as an example, the several risks to which digital rights are exposed, along with how the damage increases when it occurs to someone with no technical, legal or economic capacity. Therefore, it is up to those who have such capacity to safeguard the rights of other citizens, as the damage is massive. She also said that it is important to recognize and define the means for the protection of digital rights and think of an administrative way, such as a data protection agency, to verify the specific case and avoid the individual damage to replicate in the database.

After that, the panelist **Katitza Rodríguez (Electronic Frontier Foundation, Peru)** said that the fundamental problem, distinct from the jurisdiction theme, is the absence of frontiers, and the extraterritorial application of the law also converts into one more problem. She emphasizes the need to resolve the contradictions that exist between countries regarding the various standards of the data protection laws, having to do an express coding to harmonize them. She also mentioned the moderation of contents in social networks and how this is harmful for personal data protection. Furthermore, when addressing data surveillance, she mentioned how some countries want to investigate the data of others and how there is a difference in the data processing in court. She concludes by defending the necessity to raise the standards of human and digital rights protection, and that these should be achieved in the Latin American region.

The moderator Miguel Candia, then, started to speak about the urgent necessity of updating the law application, given the Internet universality. Then he distinguished Internet and private international law, in sense the last one regulates the relationship between people from different places in the private sphere; while the first one provides connectivity between people in the same place or in different countries. After that, he asks how to make the judges understand which jurisdiction they have in each particular case, in which one of the parties is a company that has no headquarters in the country where the action was carried out. In this situation, he considered that the response depends on the legislative and administrative capacity of the countries through the establishment of specialized institutions, as well as through means such as international cooperation, which acts as a palliative for lack of harmonization between the

laws of the countries. He argues that there may also be a difference between the legislative systems applied in one country, that is, a practice in one country can be considered unconstitutional in another. In addition, it raises questions about whose responsibility it would be in the debate on Artificial Intelligence, how to adapt labor laws to the treatment of automated workers, who is responsible for the use of robots in companies and their relationship with the human worker and even about the problems that occur on the deep web. Finally, he finished the presentation and combined people into equal groups for the exchange of ideas.

At the end of the activity, each group chose a member to present a summary of what was discussed. The first one to talk was **Flavio Andre Garcés (YouthLACIGF, Colombia)**, a member of the group moderated by Miguel Candia. He mentioned the critical points addressed by the group: Internet relations and their effects, which involve data, content, domains and jurisdiction, as well as on the vulnerability of rights and their persecution in the digital environment, especially in national territories. His group has reached the following conclusions: it is necessary to define what law is applicable in each case and if there is legal compatibility in transnational relations, what are the technical and legal mechanisms to resolve cases and to whom the sovereignty of the data belongs, having consider the plurality of behaviors in the network. Later, **María Paz Canales (Digital Rights, Chile)**, rapporteur of the group moderated by Katitza Rodríguez, began by saying that her group discussed the misuse of the data; lack of privacy in the use of applications or websites; the possibility of predicting the user's behavior from their data and sharing it with third parties; excessive data collection; the importance of metadata protection; the excessive surveillance in the network and the risk of censorship that this may mean; which are the tools and best practices that can help combat this situation, and also about international regulatory solutions, citing examples of existing laws. He also mentioned that in his group he had a mini class about what TOR is and the possibility of anonymous browsing, and concludes by talking about the need to strengthen the capacity of digital literacy to combat misinformation, without mitigating freedom of expression. Finally, **Lorena Naranjo** reported on her own group, saying that the discussion focused on defining whether data, content and domains require a model of state regulation or self-regulation on these issues, and the members themselves were divided between the two statements. From this, the group raised the following questions: if these regulatory models would preserve the freedom of creation and access or if they would be a restriction for technological development or if it would be possible to build such self-regulation systems simultaneously with the establishment of limits to avoid transgressions of rights. In addition, they reflected on the need for a balance between these systems in order to build minimum standards and international standards to define the surpassing limits of fundamental human rights, as well as the need to understand these issues and raise awareness about them in other citizens. Finally, they also addressed the transparency limit of personal data protection, in view of the misuse of legitimate legal mechanisms, an analysis being necessary to avoid mitigating rights.

Outputs and other relevant links:

Full session: <https://youtu.be/0EXDt6M6kv0>

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