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Multistakeholderism and Internet Governance: A Gateway to Open Democracy in Latin America?

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Abstract

How is the momentum toward multistakeholderism in Internet governance playing out in Latin America? What broader implications does this have to open democracy in the region? In this report, Internet Policy Observatory affiliate Celia Lerman, analyzes the distinct evolution of the multistakeholder model in the context of Latin America's democracies, which traditionally have not incorporated deliberative processes and multistakeholder participation into governance structures. Lerman asserts that this evolution can be explained by the effect of external events rather than by internal driving forces, concluding that this policy evolution moved from the international to the regional and national due to the fact Internet policy issues only recently became a matter of perceived importance to citizens in the region. The study looks at Latin America as a whole, highlighting several national case studies and exploring in greater depth Brazil's much earlier adoption of the multistakeholder model.
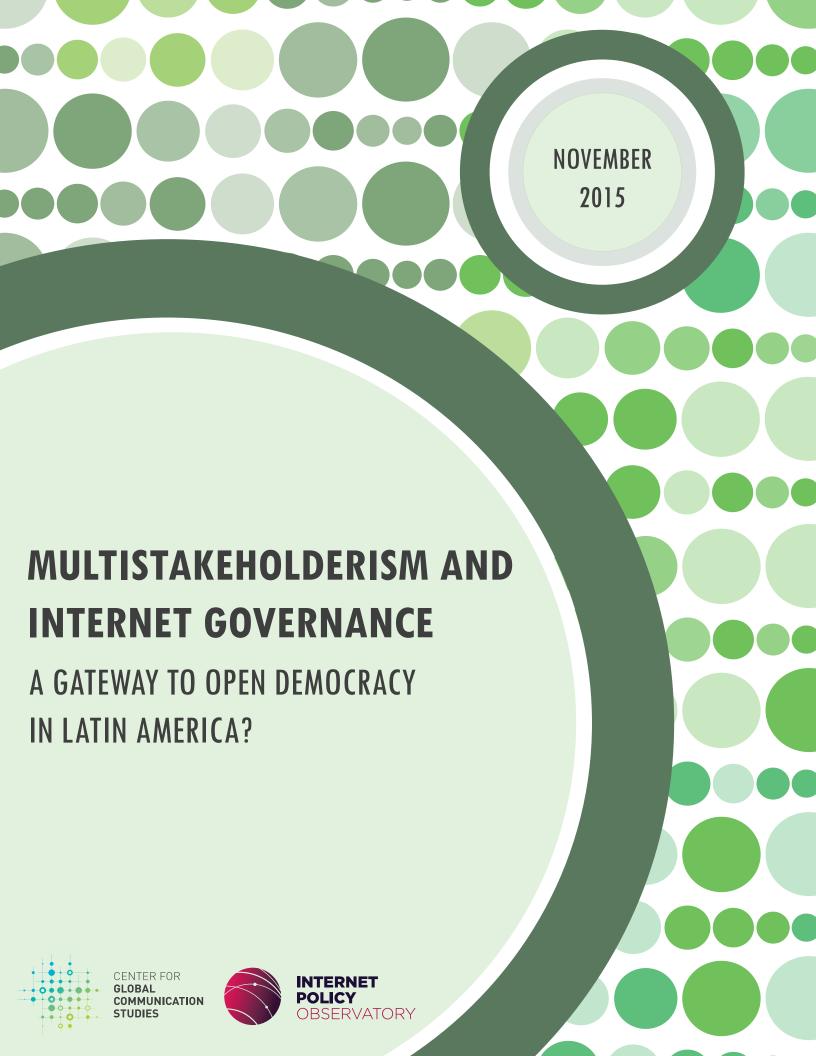
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MULTISTAKEHOLDERISM AND INTERNET GOVERNANCE

A GATEWAY TO OPEN DEMOCRACY IN LATIN AMERICA?

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MULTISTAKEHOLDERISM AND INTERNET GOVERNANCE: A GATEWAY TO OPEN DEMOCRACY IN LATIN AMERICA?

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INTRODUCTION

In the Internet governance ecosystem, there is momentum toward utilizing processes for discussing and developing public policies that seek to involve a wider range of stakeholders, including members from governments, private sector, civil society, the technical community, and academia.[1] This essay explores how this effort is playing out in Latin America, one of the most interesting regions where this experiment in "multistakeholderism" is taking place.

This model of governance for exchanging ideas and adopting internet policies is fairly new, having arisen as such from the Working Group on Internet Governance after the World Summit on the Information Society (WSIS) just eleven years ago.[2] In this study, I conclude that the most specific and explicit embodiment of this tendency in Latin America is located in Brazil, where multistakeholder structures were adopted as early as 1995. I then examine outcroppings of the multistakeholder approach for Internet governance elsewhere in the region, which have multiplied quickly since the end of 2012.

I analyze the distinct evolution of the multistakeholder model in the context of Latin America's democracies, which traditionally have not incorporated deliberative processes and multistakeholder participation into governance structures. I claim that this evolution can be explained by the effect of external events (hosting international and regional Internet governance meetings such as ICANN and the LACIGF, the media impact of the Snowden case, and the World Conference on International Telecommunications [WCIT]), rather than by internal driving forces. I conclude that this policy evolution occurred in such a way, moving from the international to the regional and national, due to the fact that Internet policy issues only recently became a matter of perceived importance to citizens in the region. Despite Latin America's lack of deliberative tradition, these external forces raised the interest in Internet policy in general and multistakeholder Internet governance in particular. Multistakeholderism was thus first seen as a solution to existing structural disparities in international Internet governance processes. These solutions then trickled down to the regional and national level, first by local experts that participate in international Internet governance, then of the general public as end-users of the Internet, and finally from political leaders and stakeholders recognizing that open Internet governance is of interest to the public.

In Brazil, by contrast, multistakeholder structures were adopted in 1995, and this development seems to be a consequence of this country's unique foreign affairs agenda. Brazil's developments suggest that Internet governance issues may have been seen as strategic issues in its international diplomatic

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[1] Internet Governance Forum (IGF), "About the Multistakeholder Advisory Group (MAG)," http://www.intgovforum.org/cms/magabout.

[2] Marcus Kummer, "Multistakeholder Cooperation: Reflections on the emergence of a new phraseology in international cooperation," *Internet Society Blog*, May 14, 2013, http://www.internetsociety.org/blog/2013/05/multistakeholder-cooperation-reflections-emergence-new-phraseology-international.

activity, and this reinforced local initiatives in internet policy, including multistakeholder structures, much earlier and deeper than in neighboring countries.

I finally focus on the impact that multistakeholder participation is having in local Internet policy development, pushing for more transparent and participative procedures in local traditional institutions. These developments are strengthening the new multistakeholder bodies in Latin America, and may even serve to expand multistakeholderism and open debates to other policy areas beyond Internet issues.

In sum, the study examines the evolution of multistakeholderism in Internet governance processes from the international to the regional and national. It helps conceptualize the evolution of the modern multistakeholder governance tradition with relation to Latin America's regional and national realities, yields lessons for understanding and improving multistakeholderism in the region, and lays the ground for future research work in this region.

A MULTISTAKEHOLDER MODEL IN GLOBAL INTERNET GOVERNANCE

Internet governance involves the administration, support, and promotion of technical knowledge, and substantive policy development to keep the Internet operational.[3] It can be been thought as a multi-layered administrative scheme, capable of administering every aspect necessary to preserve the Internet's functions. This includes the physical layer (hardware and network infrastructure), and the logical layer (protocols and software), and the content layer (texts, files and other materials).[4] A multistakeholder approach to Internet governance addresses the different interests represented by stakeholders in every layer of the scheme needed to make the internet operational. [5]

Multistakeholder governance took root at the World Summit on the Information Society (WSIS) in 2003. While WSIS emerged as an initiative within the United Nations General Assembly, it issued two final documents that embraced a multistakeholder approach, bringing together governments, the private

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[3] Laura DeNardis, *The Global War for Internet Governance*, (New Haven: Yale University Press, 2014), 6. It is also worth stating the definition given at the Tunis Agenda for the Information Society, which already gives a hint on what governance scheme was in mind, "[…] the development and application by governments, the private sector and civil society, in their respective roles, of shared principles, norms, rules, decision-making procedures and programs that shape the evolution and use of internet."

[4] Yochai Benkler, *The Wealth of Networks, Hot Social Production Transforms Markets and Freedom,* (New Haven: Yale University Press, 2006), 392; and Lawrence Lessig, *The Future of Ideas: The Fate of the Commons in a Connected World* (New York: Vintage, 2002), 23.

[5] It is important to note that there is no static or agreed definition of the multistakeholder approach: indeed, the concept of multistakeholderism has evolved along with the operational and substantive developments of different internet governance fora. See, e.g, Laura DeNardis, *The Global War for Internet* Governance, 228 (on observing three different schemes of multistakeholderism). In this paper, the multistakeholder approach at the global Internet governance level will be analyzed at different forums, namely WSIS, ICANN, IGF and NETmundial.

sector, civil society, and international organizations.[6] WSIS provided input from the participation of international and diverse stakeholders to supplement the initially United States-born Internet governance.[7] WSIS documents were fundamental to promote cooperation among a wide variety of stakeholders. On one side, governments recognized that non-governmental actors play an important role in Internet governance. On another side, the private sector and civil society organizations acknowledged that in order to properly address issues related to the Internet, some government involvement was necessary.[8]

WSIS sparked a movement towards "trilateralism" in global Internet governance. In trilateralism, the participation of governments, the private sector and civil society leads to input and expertise from different interests that are cooperating, coordinating, and consulting each other.[9] A new rhetoric was introduced: participants became "stakeholders" and were thought of and referred to as actors on equal footing. Later in 2005, during WSIS' second phase in Tunis, the term "multi-stakeholder" was introduced.[10]

Since 2005, international Internet governance has developed tremendously, and the fora for discussing and developing global Internet policy have multiplied. Recently, the multistakeholder "model" was promoted and expanded upon as a process and value set at the NETmundial meeting in April 2014.[11] The NETmundial meeting took place in Brazil and was originally convened by the Brazilian government and ICANN, gathering stakeholders from all over the world.[12] The meeting served to strengthen the involvement of high level officials in Internet governance, promote multistakeholderism,[13] and draw attention to global Internet policy development with Brazil as a proactive leader.[14]

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[6] World Summit on the Information Society [WSIS], Declaration Of Principles: Building The Information Society: A Global Challenge In The New Millennium, WSIS-03/GENEVA/DOC/4-E (2003), http://www.itu.int/net/wsis/docs/geneva/official/dop.html, ¶48: "[Internet governance arrangements should be] multilateral, transparent, democratic, and with the full involvement of governments, the private sector, civil society, and international organizations." Governments, as well as private sector, civil society and the United Nations and other international organizations have an important role and responsibility in the development of the Information Society and, as appropriate, in decision-making processes. Building a people-centered Information Society is a joint effort that requires cooperation and partnership among all stake- holders.

[7] Harold Trinkunas and Ian Wallace, *Converging on the Future of Global Internet Governance: The United States and Brazil,* (Brookings Institute: 2015), p. 9.

[8] Bertrand de la Chapelle, "Towards Multi-Stakeholder Governance – The Internet Governance Forum as Laboratory," in *The Power of Ideas: Interent Governance in a global Multi-Stakeholder Environment* (Berlin, 2007), 256–70.

[9] See, e.g., Wolfgang Kleinwächter, "WSIS: a new diplomacy? Multistakeholder approach and Bottom Up Policy in Global ICT Governance" in *The World Summit in Reflection*, compiled by Information Technologies and International Development, (MIT Press, 2003), http://cyber.law.harvard.edu/wsis/Kleinwachter.html.

[10] Bertrand de la Chapelle, "Towards Multi-Stakeholder Governance"

[11] See, NETmundial: Global Multistakeholder Meeting on the Future of Internet Governance, NETmundial Multistakeholder Statement (2014), http://netmundial.br/wp-content/uploads/2014/04/NETmundial-Multistakeholder-Document.pdf.

[12] See, NETmundial, "NETmundial: the beginning of a process," http://netmundial.br/about/. See also, Internet Society, "NETmundial: Global Multistakeholder Meeting on The Future of Internet Governance," http://www.internetsociety.org/what-we-do/policy/conventions-conferences/netmundial-global-multistakeholder-meeting-future-internet.

[13] Milton Mueller, "Netmundial Moves Net Governance Beyond WSIS," *Internet Governance Project,* April 27, 2014, http://www.internetgovernance.org/2014/04/27/netmundial-moves-net-governance-beyond-wsis/.

[14] See, Julia Powles, "NETmundial is the World Cup of internet governance," WIRED.CO.UK, April 10, 2014, http://www.wired.co.uk/news/archive/2014-04-10/netmundial-internet-governance; and Leo Kelion, "Future of the

Multistakeholderism is not a static concept, but one in constant transition. At its core, it is concerned with inclusiveness, aiming at effective participation from all relevant parties (which hypothetically includes all internet end-users).[15] It embraces bottom-up processes, where the discussions are designed to start with those most closely affected by the policy at stake.[16] It works towards participation on equal footing, where the voices of civil society and end-users have the same weight as those of governments and the private sector, adding openness, transparency, and robust consensus to this governance model.[17]

In what contexts can multistakeholderism flourish? In terms of Internet governance, multistakeholderism took shape in examining issues of global governance, or in an environment in which the political structures were uncertain or inchoate. What has occurred is the desire to transfer this model to the internet policy process domestically, within existing political systems. At times, the suggestion seems to be that Internet issues should be treated in a sui generis manner, and the process for shaping them should reflect the aspiration and hope for openness inherent in Internet innovation. At other times, it seems that Internet policies can be regarded as any other policy of general societal interest—policies which are developed and adopted subject to the influences of the local political process and their appeal to incumbents and voters.

In Latin America, the evolution of multistakeholderism seems to have followed a combined path of local and regional policy and institutional development. In it, local governance capacity started growing over a decade ago, influenced and inspired by regional and global initiatives, but local structures only consolidated once their own political processes became independently interested in Internet policy. This paper takes a deep look at the current multistakeholder initiatives in Latin America to help determine the main actors and circumstances that gave rise to multistakeholderism within the political systems of the region.

MULTISTAKEHOLDERISM IN LATIN AMERICA

In the past three years, the region has been experiencing a boom of new multistakeholder initiatives. Multistakeholderism is rapidly flourishing on the regional and the national level. This is quite remarkable, considering that Latin America's traditional forms of government (presidentialism and

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internet debated at NetMundial in Brazil," *BBC*, April 23, 2014, http://www.bbc.com/news/technology-27108869: "Alex Pirlot de Corbion, Privacy International's advocacy officer, [said] 'It was a very reactionary decision from Brazil to organise this meeting - they'd been spied on by the US, and wanted to take the lead to make a point.'"

[15] Jeremy Malcolm, *Multi-Stakeholder Public Policy Governance and its Application to the Internet Governance Forum*, (Perth: Terminus Press, 2008), 57.

[16] See, e. g., David Lackner, email to National Telecommunications and Information Administration, "Comments on Discussion Draft on Technical Management of Internet Domain Names," March 17, 1998, http://www.ntia.doc.gov/ntiahome/domainname/130dftmail/03_17_98.htm: "[Internet] standards were developed through a grass-roots, or bottom-up process in an open forum where only the best ideas emerge."

[17] Wolfgang Kleinwächter, "A New Diplomacy for the 21st Century? Multi-Stakeholder Approach and Bottom-up Policy Development in the Information Society," in *The World Summit on the Information Society: Moving from the Past into the Future*, eds. Daniel Stauffacher & Wolfgang Kleinwächter, (New York: UNICTTF, 2005), 100.

hyperpresidentialism) and institutional designs have not historically been welcoming to open deliberation or inclusiveness of a wide range of stakeholders.[18]

Multistakeholderism was adopted in Latin America first through the creation of regional governance bodies and fora, with country-based governance initiatives only emerging recently. The exception to this trend is Brazil, where early in 1995, the CGI.br committee (Comitê Gestor da Internet no Brasil), was created as a multistakeholder body to ensure the participation of different sectors of society in decisions involving implementation, administration, and use of the Internet.[19] Brazil has had a radically different development than other countries in the region, and Brazil's case will be analyzed separately in the following section.

I will now provide an overview of the recent developments in Latin American countries, apart from Brazil, along with their national and regional political contexts, to describe and conceptualize the evolution of multistakeholderism.

I. EVOLUTION OF MULTISTAKEHOLDERISM IN THE REGION

The first entities in the regional Internet governance ecosystem were LACTLD (Latin American and Caribbean TLD Association) and LACNIC (the Latin America and Caribbean Network Information Centre). LACTLD emerged in 1998 during the International Forum on the White Paper (IFWP) in Buenos Aires, to represent regional interests in the field of domain names and to promote capacity building for ccTLDs (country code top-level domains) in the region.[20]

LACNIC was formally established in 2001 and recognized by ICANN in 2002. It could be argued that LACNIC has functioned as a multistakeholder body since its inception: its board of directors has incorporated members of the technical and private sectors, as well as representatives from different ccTLD entities from the whole region. Both LACTLD and LACNIC have become central players in the promotion of Internet governance initiatives around Latin America and the Caribbean.

Regional multistakeholder activity took off in 2008 with the creation of the LACIGF (Latin America and the Caribbean's Regional Preparatory Meeting for the Internet Governance Forum). Launched as a joint venture by LACNIC, the Association for Progressive Communications (APC) and the Rede de Informações para o Terceiro Setor (RITS), the regional Internet Governance Forum (IGF) was initially conceived as a "preparatory meeting" for the global IGF. Since 2011, the LACIGF agenda has adopted a more autonomous shape, with discussions and analysis on regional Internet governance issues such as human rights and freedom of expression on the Internet, which complement the global IGF topics and attract more attention from local civil society organizations.[21] Different LAC countries have hosted the regional IGF annually, with

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[18] On presidentialism and hyperpresidentialism, see Jorge Lanzaro (Comp.), *Tipos de Presidencialismo y Coaliciones Politicas en America Latina*, Primera edición (Buenos Aires: CLACSO, 2001), http://bibliotecavirtual.clacso.org.ar/clacso/gt/20101028014352/2introduccion.pdf.

[19] Interministerial Ordinance No. 147/1995. Available online at http://www.cgi.br/portarias/numero/147.

[20] See, LACTLD, "About Us," http://www.lactld.org/es/about-us/.

[21] Fátima Cambronero, "Derechos Humanos y Gobernanza de Internet en LAC – Parte 3," *IG4LAC,* October 3, 2013, http://ig4lac.com/2013/10/03/derechos-humanos-y-gobernanza-de-internet-en-lac-parte-3/.

growing participation from civil society and the private sector but timid direct involvement from governments. In this forum, multistakeholderism is seen as an important value that the regional meeting helps to promote, both at the regional level and as a catalyst to inspire and lever national multistakeholder initiatives.[22]

Governments have nevertheless connected through eLAC, a platform for government political dialogue hosted by the United Nations Economic Commission for Latin America and the Caribbean (ECLAC), based in Chile.[23] eLAC's second action plan, eLAC2010, incorporated a multistakeholder group of observers from civil society, the private sector, and technical community members. These stakeholders were designated as observers of the plan development, as well as members of the coordination committee for implementation.[24] The same structure was kept for the following action plan, eLAC2015. eLAC has worked independently from the LACIGF, but has assisted the IGF in selecting government members for the LACIGF organizational committee.[25] It is worth noting that, in its nature, eLAC is based on government dialogue rather than on policy implementation, and thus eLAC's role has been supportive of country-based multistakeholder policies but not directly influential.

In 2012, ICANN launched its Regional Strategy for Latin America and the Caribbean, through which community leaders of different advisory groups and supporting organizations at ICANN gathered to devise a regional plan of projects for materializing ICANN's mission in the region in the 2013-2016 period. The strategy currently involves 75 projects to strengthen ICANN's regional activity in four dimensions: policy and internet governance, capacity building and outreach, facilitating operations, and promoting the local domain name industry. High-impact projects include improving communications in Spanish and Portuguese, through a new web portal, monthly newsletters, webinars, and social media activity;[26] the LAC Space, a special session for discussing topics of regional interest in ICANN's meetings; promoting technical training sessions in collaboration with LACTLD and ccTLDs; and creating an observatory to survey Internet activity in the region as a whole for the first time. With these projects, the strategy aims to serve as a two-way channel between ICANN and the region, by enriching ICANN's global activities with improved LAC participation, and deepening its presence in the local internet ecosystems.[27]

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[22] See, for example, LACIGF, "Impact on the Regional Agenda," http://www.lacigf.org/en/agenda-regional-gi.html.

[23] eLAC rose as a regional initiative with a first action plan approved by governments of the region at the Latin American and the Caribbean Preparatory Ministerial Conference for the World Summit on Information Society, in Rio de Janeiro, Brazil in 2005. See, "eLAC2007: The first Regional Action Plan (2005-2007)," http://www.eclac.cl/cgi-bin/getprod.asp?xml=/elac2015/noticias/paginas/8/44098/P44098.xml&xsl=/elac2015/tpl-i/p18f.xsl&base=/elac2015/tpl-i/top-bottom.xsl.

[24] "eLac2015 – Structure," http://www.eclac.cl/cgi-bin/getprod.asp?xml=/elac2015/noticias/paginas/2/44212/P44212.xml&xsl=/elac2015/tpl-i/p18f.xsl&base=/elac2015/tpl-i/top-bottom.xslt.

[25] Interview with Jorge Patiño, ECLAC, June 12, 2014.

[26] See "Sitio de ICANN y su Comunidad Regional," http://www.icannlac.org/; and Rodrigo Saucedo, "Lac Strategy Update," Webinar, March 30, 2015, https://community.icann.org/download/attachments/52892973/20.4.4%20Saucedo%20LACRALO%20april.pdf.

[27] See, ICANN, "Latin America & Caribbean Working Space, https://community.icann.org/pages/viewpage.action?pageId=37193592.

Most recently, these developments have exposed local actors to international multistakeholder bodies, and, in turn, they have served to spark interest in Internet governance and the multistakeholder model at the national level. Since late 2012, the following national multistakeholder bodies and initiatives have been launched:

Costa Rica **(October 2012):** The *Consejo Consultivo de Internet* (Internet Council) was launched as a multistakeholder group set up to discuss Internet and ".cr" issues to favor and promote country development.[28] This group was formed after the ICANN meeting in San José in March 2012, which involved the participation of the Costa Rican President.[29] In her opening speech at the ICANN meeting, the President addressed the importance of Internet development for Costa Rica and openly embraced the multistakeholder model. In her words, the "Internet belongs to us all, and we should all participate in the discussion on the rules that should govern the Internet. The design of Internet governance should be based on a multistakeholder approach — regardless of our political, corporate, financial power."[30] Through this speech and the creation of the Consejo Consultivo, she made clear that the development of local Internet resources and access went hand in hand with creating multistakeholder bodies to develop Internet policy, both at the international and national levels.

The Consejo Consultivo is moderated by NIC Costa Rica, manager of the ".cr" domain name extension, and formed by members of academia, government, civil society, the technical sector, the private sector (commercial and entrepreneurial), and the judiciary. The Consejo organizes working groups on different topics (technical and security issues, marketing and economic sustainability of the NIC, crime over the Internet and DNS abuse, educational matters and school connectivity, and domain name dispute resolution), and serves as an advisory committee to NIC Costa Rica and other governmental bodies in charge of creating and implementing Internet policies. Its multistakeholder form was shaped with guidance received from other entities of the region, such as Brazil and Mexico.[31]

Mexico **(November 2013):** Since 2001, NIC Mexico (manager of the ".mx" domain name) has had an advisory committee formed by members of different stakeholder groups, including academia, government, and the private sector.[32] Its committee is formed by 12 to 15 members, and plays a fundamental advisory role in the operations and decision-making processes of NIC Mexico. In 2013, building on the expertise of different Mexican stakeholders that form NIC Mexico as well as in international Internet governance

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[28] See, Consejo Consultivo de Internet (CR), https://consejoconsultivo.cr/.

[29] Interview with Rosalía Morales, executive director of NIC Costa Rica, June 11, 2014.

[30] She also mentioned "we can participate in a process of reciprocal trust that will reinforce coordination and organization mechanisms in a democratic way. Internet is the great opportunity that we have in history, so as to not repeat our past errors that led to the creation of international governance institutions that are vertical, closed and bureaucratic." See Transcript: President Laura Chinchilla Miranda, Speech, ICANN 43, San Jose, Costa Rica, March 12, 2012, http://costarica43.icann.org/meetings/sanjose2012/transcript-president-chinchilla-speech-12mar12-en.pdf.

[31] Ibid.

[32] See Comité Consultivo, "Políticas de Operación," http://www.registry.mx/jsf/static_content/consultative_committee/committee_operation_policy.jsf.

initiatives, and strengthened by the adoption of the *Estrategia Digital Nacional* (National Digital Strategy) of new president Enrique Peña Nieto, a local Internet governance fora was created.[33]

The initiative, *Diálogos Sobre Gobernanza de Internet* (Internet Governance Dialogues), was catalyzed by NIC Mexico along with a stakeholder committee (*Grupo Iniciativa*), composed of members of the private sector (Google and Microsoft), the technical sector (ICANN, NIC Mexico, INFOTEC), academia (Universidad Nacional Autonoma de Mexico - UNAM), civil society (ISOC, Creative Commons), and the Government (Secretary of Communications and Transport and the Presidential Office).[34] The first event was attended by 150 people and was a key event for awareness of the multistakeholder model.[35]

The Dialogues is a local meeting sustained under the logic of the IGF, which intends to bring about dialogue from multiple perspectives on issues related to Internet governance. Its goal is to develop capacity building and informed opinions among Mexicans interested in the topic. It is an open and public event, directed to all Internet users interested in becoming informed on current Internet issues.[36]

Since the Dialogues, the organizational committee has met four times to discuss issues of common interest such as NETmundial and telecommunications reform.[37] It does not yet have a formal structure but that is not detrimental to the work of the group. The Dialogues' public meeting was repeated in 2015, with a broad agenda that included government activity and open data, net neutrality, and human rights on the Internet.[38] It is intended to have annual editions and to have a significant impact in promoting discussions of Internet governance issues among a wide spectrum of stakeholders, especially end-users, as well as creating awareness among government officials.

Colombia **(April 2014):** The Grupo Colombiano de Gobernanza en Internet, a multistakeholder initiative for Internet governance in Colombia, was founded in 2014.[39] The turning point for multistakeholder initiatives in Colombia was the LACIGF 5, hosted in Bogota in September 2012. [40] This event helped to raise interest and served as a nexus for different stakeholders that were already working on Internet policy issues in the country.

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[33] "The Estrategia Digital Nacional (National Digital Strategy) is the action plan that the [Mexican] Republic government will implement during the next five years to promote the adoption and development of Information and Communication Technologies. The fundamental purpose of the Strategy is to achieve a Digital Mexico in which the adoption and use of technology maximize their social and economic impact to benefic everyone's life quality." Available at http://www.presidencia.gob.mx/edn/.

[34] See, "Diálogos sobre Gobernanza de Internet [Dialogues on Internet Governance]," http://www.gobernanzadeinternet.mx/#!acerca/c4nz.

[35] Interview with Manuel Haces Aviña, Nic México, June 13, 2014.

[36] See, "Acerca de [About us]," http://www.gobernanzadeinternet.mx/#!acerca/c4nz.

[37] Ibid.

[38] See the agenda at http://www.gobernanzadeinternet.mx/#!copy-of-i-edicin/c1xg3.

[39] "Telefónica Movistar genera el escenario para crear el Comité Colombiano de Gobernanza en Internet," *Telefonica*, April 28, 2014, http://www.rcysostenibilidad.telefonica.com/blogs/colombia/2014/04/28/telefonica-movistar-genera-el-escenario-para-crear-el-comite-colombiano-de-gobernanza-en-internet/.

[40] Interview with Pilar Sáenz, project coordinator of Fundación Karisma, June 12, 2014.

Hosting the LACIGF in the country helped to capture the interest of the Colombian government, which later that year became involved in the global IGF, and agreed to hear and incorporate a commission from civil society to the Colombian delegation at WCIT 2012. After LACIGF 5, the channels of communication between stakeholders remained open, and an informal exchange group was formed. The network building at regional and international events, coupled with governmental support, was key in developing this multistakeholder initiative.

The group met every two months to discuss Internet policy issues and advise the Colombian government on Internet, telecommunication, intellectual property, and related human rights issues in international fora. [41] Its views are taken into account by Colombian government officials, both with respect to national policy developments and international affairs.

Argentina **(April 2014):** Argentina's first step towards creating a local multistakeholder model took place in 2009 with the formation of a multistakeholder working group for promoting the "Argentine Republic Strategy of a Digital Agenda" to improve access to technology for all segments of the population. This multistakeholder working group had the objective of empowering Argentina as a reference country of the Information Society in LatAm.[42] However, this initiative was limited to this project, and was only the first step in developing Internet access and policies in the country.

After ICANN's meeting in Buenos Aires in October 2013, and the day before NETmundial, the Argentine Secretary of Communications created the *Comisión Argentina de Políticas de Internet* (Argentine Commission of Internet Policy, "CAPI"). The Commission is a governmental group with the goal of "designing a national strategy on Internet and its governance," and unifying criteria on Internet policy issues to represent Argentina in international organizations and fora.[43] The Commission invited different stakeholders, including members of civil society, the technical community, and the private sector, to provide advice and support on specific topics; the decisions of the Commission being taken solely by the government. The Commission is thus an Internet governance body but it is not properly multistakeholder. The purpose of its creation stems from the need to define Argentina's stance on certain Internet governance issues.[44] However, government officials of high ranking have emphasized that the CAPI does not have decision-making power like Brazil's CGI.br—CAPI is instead a policy-shaping group.[45] The creation of the commission is regarded as a positive step, but its impact and its recognition of human rights is yet to be seen.[46]

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[41] Interview with Pilar Sáenz.

[42] Executive Order no. 512/2009 [Argentina's Executive] [Ministry Chief of Staff], 31615 B.O., May 12, 2009.

[43] Secretaría de Comunicaciones, Resolución 13/2014, April 22, 2014,
http://www.infoleg.gob.ar/infolegInternet/anexos/225000-229999/229123/norma.htm.

[44] As of June 2014. Interview with Ramiro Álvarez Ugarte, Association for Civil Rights [ADC], July 2, 2014.

[45] Ibid.

[46] Eduardo Bertoni, "Una Comisión de Políticas de Internet: en buena hora, pero…" *e-BERTONI,* April 23, 2014,
http://ebertoni.blogspot.com.ar/2014/04/una-comision-de-politicas-de-internet.html.

Venezuela **(September 2014):** Venezuela launched its first *Encuentro de Gobernanza de Internet* in September 2014 in Caracas, which was organized locally by the Internet Society (ISOC) Venezuela's chapter, jointly with Espacio Público, an NGO which focuses on human rights issues.[47] The meeting was supported by the government through CONATEL (National Telecommunications Office), and it gathered experts and support from international organizations such as LACNIC and the United Nations Development Programme, and from local industry players such as Movistar, CASETEL (Telecommunication Service Chamber) and CAVETESU (Venezuelan Chamber of Suscription TV Services). The first edition was successful, and a second edition took place in Caracas in August 2015.[48] In 2015, it was co-organized by Internauta (Association of Venezuelan Internet Users), ISOC Venezuela, CANTV (a telecommunications company), and the government's CONATEL. Speakers included members of ICANN, ISOC, and LACNIC. This was a joint multistakeholder effort with increased participation from local and international actors. It also follows a path similar to other countries in the region: with exposure to international internet governance issues and processes, key local actors joined forces to implement local multistakeholder discussions on Internet issues. The rapid growth of the initiative suggests multistakeholder dialogues will continue growing, although its impact on governance and respect of civil rights on the Internet in Venezuela is yet to be seen.

Besides these initiatives, it is expected that international and regional events taking place in the region will continue to impact the local Internet policy scene. For example, as a host of LACIGF 7 in 2014, El Salvador raised awareness with the local government and civil society entities on Internet governance and the multistakeholder model.[49] Although this did not yet translate into a new multistakeholder body, the event served to raise unique attention from the local media, and promote local discussions in a country where Internet penetration is only 25%.[50]

II. FROM THE INTERNATIONAL TO THE REGIONAL AND NATIONAL

As can be seen, Latin America's evolution of local multistakeholder initiatives has been one more of reactive engagement rather than proactive participation. External events were, and continue to be, key elements to trigger local interest in multistakeholder initiatives, especially from the government. It is also worth noting that an increasing number of government representatives from Latin American countries are participating in international Internet governance fora, such as the IGF. The more national governments and stakeholders participate in international and regional Internet governance events, the more national bodies are created and strengthened.

Multistakeholder governance was developed originally at the international level, devolving to the regional level and finally the national level. These structures were first organized informally by a group of widely-

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[47] See, ISOC Venezuela, "Primer Encuentro de Gobernanza de Internet," http://www.isocvenezuela.org/1er-encuentro-gobernanza-de-internet/.

[48] See, II Encuentro sobre Gobernanza de Internet para el Desarrollo y la Transformación Social, http://www.internetvenezuela.net.ve/.

[49] Interview with Rafael (Lito) Ibarra, SVNET, June 11, 2014.

[50] José Mejía, "¿Quién Gobierna Internet en el Salvador?," *Transparencia Activa,* July 17, 2014, http://www.transparenciaactiva.gob.sv/quien-gobierna-internet-en-el-salvador/.

diffused, local stakeholders, with experience in international Internet governance fora (who, for example, connected the regional meetings with the local authorities to host a regional IGF).

Some have described this evolution as a "top down" process, as mechanisms that were first developed abroad and then transplanted to the local scenarios.[51] But this evolution is not necessarily top down, because each country has adopted local initiatives in accordance with its own needs and context. Indeed, there were no vertical structures or hierarchical influences on local developments. Instead, Internet governance permeated in each country at different times, when local stakeholders became prepared to implement the expertise acquired abroad.

It could be noted that, at the same time, international events related to Internet regulation captivated the opinion of the local audiences. The timing suggests that these events could have helped raise local interest in Internet policy, and in turn, opened the channels and improved the reception for discussions in this area.

The boom of multistakeholder initiatives since the end of 2012 coincides with international events related to Internet regulation that were captured by the local media. In particular, the World Conference on International Telecommunications (WCIT) in late 2012 and the Snowden case in 2013 were major events that were featured locally and that helped raised public awareness on Internet governance. They both were seen as important threats to accessible and transparent telecommunications, which could change the way local actors used and exchanged information over the web.[52]

When these issues started to be perceived as important by the local media and reached local voters, they started to attract the attention of local politicians. To different degrees, Internet policy started to become part of the political agendas. In this way, these events provided the impetus for Latin American governments to finally consolidate and formalize existing Internet policy initiatives, with government-led support.

As mentioned above, multistakeholder dialogue is generally not part of Latin American institutional culture, and it could hardly have grown on its own from the inside without outside stimulus. Policymaking processes in Latin America are mainly presidential or hyper-presidential democracies, where community deliberation is not part of the governance tradition. In such context, it is unlikely that multistakeholder Internet governance could have emerged without any external impact. Instead, the events suggest that that foreign and regional multistakeholder activity, coupled with international events of interest on Internet policy, have influenced the local creation of multistakeholder structures and initiatives. Local stakeholders gained

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[51] Fátima Cambronero, "Derechos Humanos y Gobernanza de Internet en LAC – Parte 2," *IG4LAC,* October 3, 2014, http://ig4lac.com/2013/10/02/derechos-humanos-y-gobernanza-de-internet-en-lac-parte-2/.

[52] See, for example, the search results on Snowden on the following sites which yield between 60 and over 490 results to date: Snowden search, *La Nación*, http://buscar.lanacion.com.ar/snowden; Noticias sobre Edward Snowden, *El Tiempo,* http://www.eltiempo.com/noticias/edward-snowden (Colombia); Noticias: Edward Snowden, *Nación*, http://www.nacion.com/etiqueta/edward_snowden/ (Costa Rica); Snowden search, *El Universal,* http://www.eluniversal.com.mx/buscar/snowden (Mexico); Snowden search, *El Mundo*, http://www.elmundo.com.ve/buscar.aspx?cx=partner-pub-0948728800350681:np9awzolgbw&cof=FORID%3A11&ie=UTF-8&q=snowden&sa=Buscar (Venezuela).

expertise abroad and then met a receptive political community, which crystalized in new forms of multistakeholder activity in the countries of the region.

III. UNIQUE EVOLUTION OF MULTISTAKEHOLDERISM IN BRAZIL

Brazil's development is unique in Latin America and deserves to be analyzed separately from the rest of the region. Brazil started to mold multistakeholder initiatives for Internet governance in May 1995, in a joint communication from the Secretary of Communications and the Ministry of Science and Technology. In this communication, they affirmed the importance of society's participation in the development, management and use of the Internet in Brazil, and advocated for the establishment of a new steering committee for that purpose. Later that month, the interministerial ordinance 147 of both the Ministry of Communications and the Ministry of Science and Technology formally established the Brazilian Steering Committee. [53]

At this first stage, the purpose of this institution was to serve as a recommendations body for the implementation of strategies and infrastructure building for Internet connection. This Committee involved the participation of different stakeholder groups, including five governmental representatives and four non-state representatives from the academic sector, ISPs, the business sector, and end-users. The Committee's first major achievement was the 2000 Green Book of Brazil's Information Society, a document drafted with the consensus and participation of different stakeholders.[54] Among its proposals, the Green Book encompassed actions to push forward, for instance, the universalization of Internet access and, in a larger scheme, the promotion of policies for achieving the digital literacy of society.[55]

In 2003, Presidential decree No. 4.829 created the new CGI.br with the objective of coordinating and integrating all Internet service initiatives, and also promoting technical research, innovation, and diffusion of Internet services.[56] This Committee, in contrast to the previous one, was composed of 21 members representing five stakeholder groups: the federal government, the corporate sector, civil society, and the scientific and technological community. The CGI.br meets in an ordinary session every month, as well as in extraordinary meetings that are aimed at promoting debates on Internet governance with participants from all over the country. The CGI.br publishes online both the working agenda for the meeting as well as a transcript after the meeting with every issue discussed.

The new structure of the Committee from 2003, with increased diversity among stakeholders, allowed for updated interactions and leadership, which led the Committee to agree on important political debates on Internet policy. For example, CGI.br was able to create and agree upon the Principles of Governance and Use of Internet, a set of ten principles providing a guide for future decision making on Internet governance

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[53] Interministerial Ordinance No. 147/1995. Available online at http://www.cgi.br/portarias/numero/147.

[54] See, Tadao Takahashi, *Sociedade da informação no Brasil: livro verde,* (Ministério da Ciência e Tecnologia (MCT), 2000).

[55] Idem., at 29-42.

[56] See, Decreto Presidencial [Presidential Decree] No. 4.829/2003, September 2, 2003, http://www.cgi.br/pagina/decretos/108.

issues.[57] Other examples are the support for the Brazilian Civil Rights Framework for the Internet; or the declaration that the U.S. SOPA legislation violated the CGI.br Principles of Governance and Use of Internet, in protection of Brazilian Internet governance.[58]

After consolidating the CGI, Brazil took up the challenge proposed by the WSIS Tunis Agenda, supporting the IGF as forum for global Internet policy. This became notorious at the second meeting of the IGF, which took place in Rio de Janeiro in 2007, when Brazil openly manifested its political support for multistakeholder Internet governance in the IGF program.[59] However, the Rio IGF was not considered a completely successful forum in Brazil's eyes. In the meeting, the Brazilian co-chair's recommendations were ignored at discussions of the Advisory Group, which was perceived as a sign that Brazil had a limited impact in the meeting's outcomes.[60]

In spite of this experience, Brazil's engagement in Internet governance continued growing internally and internationally. A highlight is the creation of the Brazilian Digital Policy Observatory (OIB) in 2009, a joint effort between the Center for Technology and Science of the Getulio Vargas Foundation (CTS/FGV) and the CGI.br.[61] The OIB monitors and analyzes public policies for the Brazilian Internet, became one of the first recognized leading research centers within the area of Internet policy studies in Brazil, and led the discussions in Brazil and beyond.[62]

In the international arena, as a reaction to the Snowden leaks, Dilma Rousseff, the Brazilian President, gave a speech at the 68th UN General Assembly calling all governments and a wide variety of stakeholders to the NETmundial meeting in 2014. NETmundial took place in Sao Paulo in April 2014, and gathered a wide range of stakeholders (governments, civil society organizations, representatives from the private sector and the technical community) to agree on a document on fundamental principles on Internet governance. NETmundial showed the world Brazil's insistence on engaging in a progressive debate on global Internet governance, as well as in becoming a leader in the discussions in this area.[63]

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[57] Brazilian Internet Steering Committee [CGI.br] Resolution, Principles of Governance and Use of Internet, CGI.br/RES/2009/003/P, http://www.cgi.br/resolucoes-2009-003-en/.

[58] See, CGI.br Resolution, CGI.br positioning in relation to SOPA – Stop Online Piracy Act, http://www.cgi.br/resolucoes/documento/2012/003. See also, CGI.br Resolution, CGI.br positioning on Brazilian Civil Rights Framework for the Internet, http://www.cgi.br/resolucoes/documento/2012/005.

[59] Milton Mueller and Ben Wagner, "Finding a Formula for Brazil: Representation and Legitimacy in Internet Governance," *Center for Global Communication Studies,* February 2014, http://www.global.asc.upenn.edu/app/uploads/2014/09/Finding-a-Formula-for-Brazil-Representation-and-Legitimacy-in-Internet-Governance.pdf.

[60] Ibid.

[61] Center of Technology and Science at the Getulio Vargas Foundation Law School [CTS/FGV], http://direitorio.fgv.br; Observatório da Internet no Brasil, http://observatoriodainternet.br/rede/.

[62] See for example the Internet Policy Report-Brazil 2011, published by both the CTS/FGV and the CGI.br, which documented Brazil's efforts on principles for Internet governance, rights obligations and the promotion of net neutrality.

[63] Neelie Kroes, "My thoughts on NETmundial and the Future of Internet Governance," *European Commission*, November 4, 2014, http://ec.europa.eu/commission_2010-2014/kroes/en/content/my-thoughts-netmundial-and-future-internet-governance.

This turning-point event for Brazil's participation in global Internet governance was also accompanied by its internal approval of the Civil Rights Framework for the Use of Internet (often called the Marco Civil). The Civil Rights Framework started as an initiative from the Brazilian Ministry of Justice and the CTS of the Getulio Vargas Foundation, and was built on through collaboration from end-users and civil society through an online platform from the Ministry of Culture. After long deliberation in the Congress, the Senate finally enacted the law in April of 2014, and it was signed by the Brazilian President at the NETmundial event. This framework helped to underscore important national policy that was the direct result of a local multistakeholder initiative.[64]

In sum, Brazil's multistakeholder model developed quite differently from those of other countries in the region. In addition to the country's two decades of experience with a functioning multistakeholder Internet governance body, Brazil has developed a high-profile role in international Internet governance. Like other governments of the region, international events such as the Snowden revelations attracted local attention to Internet policy. Unlike other governments of the region, Brazil's reaction to these events gained international relevance. The events came at a time when Internet governance had been supported and developed for many years by the government, and the government was ready to make it part of its international agenda.

In Brazil, consolidation of the local multistakeholder body CGI.br and increased international engagement in Internet policy have reinforced each other for over two decades, and this long-dated experience has uniquely distinguished Brazil from the rest of Latin America. Brazil has taken its latest activity in Internet policy as an opportunity to show emerging international leadership through continued support to the multistakeholder model at home and abroad.

IV. REINFORCING OPEN DEMOCRACY IN LATIN AMERICA THROUGH MULTISTAKEHOLDER INTERNET POLICY

In an interesting way, multistakeholder Internet policy development in the region could be key to implementing more participative and deliberative structures in Latin America. In a context where most policy issues continue to be discussed and developed through traditional, non-deliberative means in presidentialist contexts, internet policy issues could lead the way for adopting more deliberation in the democracies of the region.

Multistakeholder participation is already affecting the development of Internet policy through laws and judicial cases. Recently, for example, the Colombian Constitutional Court struck down Act 1520, a copyright reform that would have established Internet Service Provider (ISP) liability for breaching copyright and related rights, to comply with Colombia's obligations under their Free Trade Agreement with the United States. The law was finally declared unconstitutional thanks to several constitutional injunctions raised by

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[64] Ellery Roberts Biddle, "Now Let's Hear From the Users: Human Rights and the Global Internet Public," in *Stakes Are High: Essays on Brazil and the Future of the Global* Internet, eds. Ellery Roberts Biddle, Ronaldo Lemos, and Monroe Price, (Center for Global Communication Studies, 2015), http://www.global.asc.upenn.edu/app/uploads/2014/05/StakesAreHigh_BrazilNETmundial_final.pdf.

civil society organizations and end users in defending their rights to access to information and freedom of expression.[65] While the Colombian Constitutional Court declared the law unconstitutional, arguing that the enactment of the law did not follow the legislative procedure demanded by the Constitution, civil society participation was fundamental in the process.[66]

In Brazil, the enactment process of the Civil Rights Framework for the Internet is another example of dialogue and deliberation between branches of government, together with civil society. The adoption of the framework was the result of wide multistakeholder participation, sparked by an academic foundation (the FGV) and the Ministry of Culture, and later embraced by Congress and the presidency.

Furthermore, Argentina's Supreme Court has started to hold public hearings in order to facilitate societal involvement in an Internet-related case. The Court has decided the case "Rodríguez, Maria Belén vs. Google Inc." in which a model sued several Internet search engines for indexing images of her on webpages without her prior consent.[67] The Court resolved in favor of Google and held an open process to reach its decision. The Court enabled live online streaming of public hearings with the parties and the amici curiae, allowing instant discussion as well as transparent judicial activity in cases where human rights are at stake.

These are just some examples of how, despite its core institutional designs, Latin American countries are adopting more open and deliberative measures in legislative and judicial processes surrounding Internet policy. There is a fertile context for the adoption of deliberative initiatives and civic participation, especially in the field of Internet and technology. Undoubtedly, multistakeholder participation is permeating Latin American political systems through Internet policies.

At this initial stage, multistakeholder participation seems to be primarily pushed by the nature of Internet issues: Internet matters affect everyone as end-users, understanding these issues involves analysis of many perspectives (technical, social, political, economic), the Internet creates a network of stakeholders unlike any other arena, and there is a newfound ease in involving various stakeholders via digital technologies. In the long run, it is possible that these multistakeholder policy development processes will move beyond the Internet governance arena in order to help promote open and participatory processes in for all governance issues, as the electorate starts demanding direct participation in other policy areas.

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[65] Glushko-Samuelson Intellectual Property Clinic, in collaboration with Andrés Izquierdo and Fundación Karisma, "Intellectual Property Reform in Colombia: Future Colombian Copyright Legislation Must Not Place Overly Restrictive Burdens on Internet Service Providers that Unnecessarily Restrict Access to Information and Freedom of Expression of the People of Colombia," *PIJIP Research Paper,* no. 2013-03 (2013), http://digitalcommons.wcl.american.edu/research/38/.

[66] Among its most salient aspects, the Law allowed ISP's to block or withdraw information from the Internet if they considered such content breached the law without any prior judicial procedure. In detail, the Court claimed the bill was filled in the wrong legislative commission and, thus, the resulting law suffered from a fatal vice in its deliberative process. Carlos Valvuena, "El Gobierno revive la ley Lleras," *DESDEABAJO.INFO*, June 22, 2013, http://www.desdeabajo.info/component/k2/item/22247-el-gobierno-revive-la-ley-lleras.html.

[67] "RODRIGUEZ MARIA BELEN c. GOOGLE INC. Y OTRO sobre DAÑOS Y PERJUICIOS" (Exp. Nº 99.613/06). The plaintiff alleged violation of her honor, dignity, and intimacy as several Internet search engines linked her with websites of sexual content.

CONCLUSIONS

The evolution of multistakeholder initiatives in Latin America has been shaped by multiple new bodies and increasing participation from governments in the last year and a half. This evolution developed from the international sphere to the regional and national, and was triggered by external events relating to Internet regulation, which showed these governments that multistakeholderism was an attractive structure for internal policymaking and for foreign affairs.

Multistakeholder efforts are government-led in Costa Rica and Argentina, and while efforts are still widely diffused in Mexico, Colombia, and Venezuela, it is clear that government support will strengthen their initiatives. Moreover, it is likely that these countries' experiences will be followed by other countries; as the regional IGF, national expertise, and international events will continue to develop new stakeholders seeking to participate in Internet policymaking processes.

Brazil presents a case that is different than that of the other Latin American countries. This can be explained by the unique two-decade-old evolution of Internet governance and the country's use of Internet governance as a strategic differentiator for global leadership in international affairs. Although Brazil is not intentionally affecting other countries in the region, its experiences are helping other countries develop their own multistakeholder structures. It is likely that other countries will also start including Internet issues in their foreign agendas as well.

As it has been pointed out, Internet policy debates are involving a plurality of actors and enabling substantive debates which were not possible in the development of other governing processes in the past. In this way, Internet policy issues are pioneering the adoption of more open and transparent political processes. In a fascinating manner, multistakeholder Internet policy development in the region could be key to implementing more deliberative, open and transparent democracies in other policy areas in Latin America.