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1 We have endeavoured to ensure that these are the abstracts of the papers actually presented in Cartagena. Nevertheless, due to cancellations, additions and other factors, abstracts may be included here that were not presented and abstracts that were presented may not be included. Email addresses have been intentionally altered to prevent harvesting by spammers.

Id: 14347

Title: Regulating the Share Economy: Digital Media Contexts for Law and Policy Interventions.

Session Type: Individual submission

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Abstract: Legal and regulatory responses to protect vulnerable consumers and workers in the so-called 'Share Economy' can be seen as variously reactive, opportunistic, and at other times, life supporting (Sundarajan, 2016). National responses often diverge, and initial high-level 'blue sky' policy statements can be in stark contrast with emerging laws and regulations designed primarily as revenue raising measures in, for example, the personal transportation sector.
However, behind these policies, laws and regulation are the digital media contexts shaping these interventions (Van Dijck, 2013). But do these new rules take account of dynamic digital media contexts when the 'boss is an algorithm' (O'Connor, 2016), and ubiquitous media devices routinely accumulate vast quantities of personal data?
This paper begins with an account of what 'disruption' discourses typically reference in digital media contexts, asking: 'What kinds of objectives should responsible governments seek to achieve in responding to digital transformations?' The paper then reviews examples of key policy statements and laws relating to the economy known as the share/collaborative/gig economy to highlight their forward planning priorities and strategies. These responses have consequences for any broader understanding of how consumers are using various software apps and devices in crowd-based capitalism; and for the workers that investors seek to exploit.
Yet new intermediary businesses are problematic from various perspectives, not least their labour exploitation practices. Uber, the $70 billion plus business, has been called 'the sub-prime auto business' (Tomlinson, 2016). The UK-based transnational food delivery phenomenon 'Deliveroo' raised US $275 million at their IPO in August 2016, in addition to $200 million raised the previous year. Its employees have rallied to protest against exploitative practices. Meanwhile, Airbnb has fallen foul of housing laws in many cities.
The argument is made that the concepts of disintermediation, intermediation, and re-intermediation are therefore again useful in thinking through the legal implications for various stakeholders of new software platforms. The paper also notes some of the important contextual digital media characteristics of these new platform businesses:
• The affordances of media devices are shaped by operating systems, apps, algorithms, network access and competencies of those engaging with platforms
• The ubiquity of personal digital devices is a requirement for the expansion of digital intermediaries
• Informational e-retailing transactions are core activities for consumers
• Media devices are generating bulk quantities of personal data
From a consumer protection perspective some features of digital intermediaries are creating new concerns, and legal responsibility can be unclear. Consumer protection, privacy, fair work, housing, transportation and other laws are often invoked and at times amended.
I argue in this paper that media researchers have a range of conceptual tools at hand to assist our thinking about 'disruption' wrought by digital media in new platform businesses. These include:
- Creative destruction
- Dis-intermediation, inter-mediation and re-intermediation
- Industrial (media) convergence

- Mediatization
- Platform governance

The paper concludes with observations about the ‘irony of regulatory reform’ (Horwitz, 1989), and more recent debates regarding global and nation state regulation (Sparks, 2016).

Id: 14504

Title: Copyright and Human Rights as media regulations

Session Type: Individual submission

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Abstract: Since the 1990s copyright has become an increasingly important form of media regulation, and the expansion of copyright and proliferation of piracy has emerged as a highly contested political issue. This is not the least true in emerging economies that are often portrayed as lawless and eroded by piracy and counterfeits. Here piracy, much like poverty, is presented as something that is inherently problematic, that needs to be discouraged, regulated, and finally overcome for legitimate business to flourish. The attempts to crack down on media piracy in emerging economies are based on the assumption that an expansive and well enforced copyright regime creates prosperity and economic growth.
A closer look at UN's Universal Declaration of Human Rights of 1948, however, reveals tensions in the global political economy of copyright. Article 27 of the declaration comprises two components. On the one hand, it states that everyone has the right to take part in cultural life and freely enjoy arts and scientific knowledge. On the other hand, it also acknowledges every author the right to protection of material or moral interests associated with her or his scientific or artistic production. While the illegal distribution of culture and information is most commonly an infringement of section two, it could be permissible under section one. Much recent research has even implied that piracy might in some contexts promote the first goal of Article 27 by providing access to culture and information that is hard to access through formal media channels. The paradox of article 27 furthermore enraptures another tension in contemporary, international, copyright law that tends to approach copyright exclusively as a transferable economic rights and disregard its function as a non-transferable moral and cultural right, which is also acknowledged in the UDHR.
This presentation challenges the binary opposition between copyright and piracy from a postcolonial perspective. It draws on the authors' studies of the consequences of piracy and the implications of international Intellectual Property Rights agreements in Africa. The presentation highlights how what is perceived as the 'cleaning up' of pirate practices does not necessarily ensure legal exploitation of intellectual property. Most importantly, it discusses how and why the piracy versus copyright debate needs to acknowledge the importance of human rights in general and the implications of the paradox in Article 27 in particular.

Id: 14518

Title: PANEL: Teaching Communication Law and Emerging Media.

Session Type: Panel Submission

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Abstract: This panel consists of research addressing how academics and professors approach emerging legal debates in pedagogy. We address best practices in teaching issues of piracy and copyright, libel laws, censorship, privacy, automated vehicles and the “gig” economy, and transparency and democracy. The panel also discusses the challenges of teaching and debating legal issues in different cultural and regional contexts.

Id: 14531

Title: Intellectual Property and Information Policy: Constructing Student Interest in the Law

Session Type: Individual submission

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Abstract: Student interest in the media and communications law is often hindered by dry nature of legal texts and depths of knowledge required to interpret historical trends in the law. In this paper, I describe the practice of igniting student interest in the law through constructivist classroom practices that allow students to critically interpret the law through interaction. I focus on intellectual property law, privacy, and censorship.

I first discuss the importance of information policy to students. Students' activities on mobile devices, social media, and the Internet in general place them in a constant state of interaction with law and policy. Students should know, for instance, what types of downloads and streams are considered piracy, and, equally as important, why other types of downloads and streams are not. Students also need to be literate in controlling digital privacy and security, and to understand why they need to have these understandings. Understanding the law and policy that constructs the digital architecture is vital to modern citizenship. Likewise, critical interpretations of how and why networks are coded as they are inform students' understanding of society.

I then overview practices for constructing student understanding of law and policy. I use a constructivist view of learning and knowledge that emphasizes the role of discovery in learning processes. I suggest that students should interact with communication technology and online spaces to discover the limits and opportunities they are afforded within digital networks. For intellectual property, this includes assignments that let students engage with online streaming and downloading services, and to learn the limits of those services. Questions in these assignments are structured around what students have access to and how services differ. The students are then presented with readings and discussion the laws, policies, and histories that shape the boundaries that they have discovered. Similar models are used to build student knowledge of privacy and censorship.

This model of pedagogy prevents abstract understandings of the law, and allows students direct interplay with the code of networks. I additionally describe and offer solutions for limitations such as technology access and dangers such as ensuring that students do not actually the law are covered. I conclude by noting the importance of analyzing the law and how constructivist approaches to learning help students develop critical tendencies.

Id: 14686

Title: Between factual and fictional: "enunciation scenes' in Literature and in the Courts

Session Type: Individual submission

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Abstract: It is natural that in any manifestation, like the oral support of a lawyer in a court emerges not only the representation of the one who performs it but also an evaluation, a judgment by those who witness it. There is a constant state of reciprocal influence in situations such as these, with the aid of words, gestures or attitudes, in which the images of individuals, as well as those of the environment in which they are projected, reveal a collective construction of senses, or by intentional act or not of those who are involved there. Thus, before this "play of mirrors that sets the [figurative] framework" (AMOSSY, 2014: 11), we are interested, in a specific way, in representations emanating from the Judiciary, to which are added a certain discourse , A set of scenography and an equally peculiar space of occurrence, apart from its own fulfillment, all pre-established and according to a system of symbols that, in such context, tends to guide human behavior. For the analysis of this phenomenon, from this rite of interaction in the judicial sphere, significant contributions come from the theories of the representation of the self, Goffman (2014), the enunciation scene, proposed by Maingueneau (2008), and the different notions of ethos under Amossy (2014) coordination. In fact, all of them, theories and notions, also influence the interpretation that is intended here of the judgment of Extraordinary Appeal 898450, examined by the Brazilian Supreme Court and Anatole France's Crainquebille tale. In short, the purpose of this paper is to describe, from the mentioned narratives, one factual and the other fictional, the “self-image” of its participants, that is, their representations, as well as the architectural aspect and symbology present in the places of administration of the Justice, among other aspects relevant to a better perception of the judicial event as a whole. In addition, it aims to analyse the mobilised “enunciation scene” in such circumstances, that is, the status attributed to the Legal discourse, the “contract of communication” (CHARAUDEAU, 2008) associated with those two enunciation scenes, which are the Court judgment and the Literature. What the “enunciation scene analysis” (MAINGUENEAU, 2008) points are that both the factual and the fictional scenes of a Legal judgment share the same social representations of the actors that stage these communication situations. The ethé (the Judge, the Defence Lawyer, the Prosecution Lawyer) that are evidenced show the use of a highly dramatized liturgy, which exploits a millimetrically studied gestural and a blistering language laden with Latin expressions. These scenes of enunciation thus evidence a supposed moral superiority between the members of the Judiciary and the audience of these judgments, including the very parts of the Legal dispute.

Id: 14688

Title: State advertising, access to information and media pluralism in Chile: contrasting policy and practice

Session Type: Individual submission

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Abstract: The use and abuse of government advertising has been recognized as a potential threat to media pluralism and independence in Latin America. The OAS Special Rapporteur for Freedom of Expression (2012, 2015) and the Open Society Institute (2008) have warned about the threat of soft censorship associated with the general lack of information about government advertising spending and practices in the region. Among other things, these reports suggest that the discretionary use of public resources may be used as a lever to control media coverage. Previous research in this area is scarce in Chile, yet scholars have raised concerns about state advertising reinforcing existing patterns of media concentration in the country by favoring consolidated media outlets such as the newspaper groups El Mercurio and Copesa, to the detriment of smaller media (Couso 2012, Monckeberg 2009).

Chile lacks a comprehensive normative framework devoted to the regulation of public advertising expenditure, yet current administrative rulings set out by the General Audit Office pose that public agencies must restrict spending to matters strictly related to their duties and responsibilities. Furthermore, the press law of 2001 introduced some requirements for the distribution of these resources, demanding that advertising information with a regional or local emphasis – such as that of local governments – ought to be published in regional or local media. Still, one of the main obstacles to assessing the relationship between government advertising and media pluralism is the general lack of disclosure of this matter. This paper addresses this very same lack of information regarding state advertising in Chile, presenting findings of a research project which examines the distribution of advertising budgets in the period 2012-2016, drawing on a systematic analysis of publicly available information, as well as a survey of all 345 local governments in Chile.

Data were collected through requests to access of information under the Transparency Law (2008). Preliminary analysis of this data provides a framework for the further analysis of public resources devoted to purchasing advertising in the media and, more significantly, for the analysis of the relationship between government advertising and media pluralism. This paper addresses these issues by, firstly, showing how public advertising resources are distributed, according to media industries (broadcast, print and digital media) and media groups; and secondly, how they are distributed geographically across Chile.

These findings contribute to a better understanding of the praxis of state advertising in Chile, and to a broader discussion about whether or not government advertising can be and should be considered a tool for the promotion of media pluralism. It also contributes to the ongoing discussion about the role of the state in the democratization of media systems in the region.

Id: 14715

Title: Actualización del Código de Ética del Colegio de Periodistas de Chile debido a los dilemas planteados por las redes sociales y el ecosistema digital

Session Type: Individual submission

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Abstract: El 27 de febrero de 2010 un terremoto de 8.8 grados en la escala de Richter azotó la zona central de Chile. Mientras las autoridades llamaban a la calma y descartaban la posibilidad de un tsunami, en Twitter y Facebook circulaban mensajes y videos que advertían una realidad totalmente distinta. Poco a poco los medios de comunicación chilenos comenzaron a ponerle atención a las redes sociales y a difundir videos en los que se mostraba cómo las olas habían arrasado los sectores costeros de las regiones VI, VII y VIII.
El Terremoto del 27F marcó un antes y un después en Chile en cuanto al uso de las redes sociales por parte de los medios de comunicación chilenos. Por vez primera, durante la cobertura de una catástrofe acontecida en el país, buena parte de las imágenes y de la información que difundieron los medios de comunicación durante las primeras horas, fue generada por personas comunes y corrientes con sus teléfonos celulares.
Tanto la web, como las redes sociales constituyen un nuevo ecosistema medial (Jenkins, 2006) que se caracteriza por poseer audiencias que demandan mayores niveles de participación, lo que se traduce en el surgimiento del fenómeno conocido como las audiencias activas.
Los mayores niveles de participación demandados por las personas, junto con las características y potencialidades del nuevo ecosistema digital, generan nuevos dilemas éticos al ejercicio del periodismo. El uso en vivo de la información de las redes sociales, la cobertura dada a videos de corte sexual en los que están involucrados menores de edad y que se propagan a través de las redes sociales o la obtención de correos electrónicos a través del hackeo de servidores para realizar un reportaje periodístico, son sólo algunos de los nuevos dilemas éticos a los que se ve enfrentada la actividad informativa.
Es por eso que la Escuela de Periodismo de la Universidad del Pacífico, en conjunto con el Colegio de Periodistas de Chile, se plantearon el desafío de ampliar el Código de Ética de la profesión para incluirlos dilemas éticos propios del nuevo ecosistema digital.
La presente investigación tiene como objetivo identificar y describir las dimensiones de análisis que debiera incluir el nuevo código de ética para hacerse cargo de los dilemas que plantea el ecosistema digital, desde el punto de vista deontológico.
La metodología consiste en revisar distintos manuales de estilo y comportamiento de medios de comunicación y redes sociales, tanto en Chile como en el mundo, a los que se les aplicará Grounded Theory (Corbin y Strauss, 2008) para desarrollar las categorías de análisis. De esta manera se espera definir las dimensiones de análisis que debiera tener el Código de Ética del Colegio de Periodistas de Chile, para hacerse cargo de los nuevos dilemas éticos propios del ecosistema digital.

Id: 14725

Title: The political communication culture and the levels of transparency: Why is most important the culture that the regulation. Compare analysis of Chile and Uruguay 2010-2015

Session Type: Individual submission

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Abstract: This research seeks to answer the following question: Why is most important the political communication culture that the regulation, for understand the levels of transparency.

For answer to this main question we compare two cases: Chile and Uruguay (2010-2015). So Chile and Uruguay are the most relevant countries with legislation in transparency and access to public information (International Transparency 2016), but at the same time have increased levels of corruption with great cases that linked to the actual President Bachelet (Chile) and the former President Mujica and the actual vicepresident Sendic (Uruguay).

Our hypothesis said that the real explanation for the levels of transparency and open government is in the political communication culture (Pfetsch, 2004) and not necessarily in the regulation on transparency.
We guided by a quantitative methodology (elite survey) that allow to us check what´s the type of political communication culture and what´s the level of consensus about the impact of transparency normative in the political conduct (elite focus group).

This research is part of the PHD process of the author, is original and answers to specific theory framework about the regulation on transparency (Dawes, S. S., & Helbig, 2010).

Id: 14748

Title: La dignidad inherente a toda persona, la libertad y la igualdad como fundamentos de la legislación informativa y del tratamiento periodístico en las crisis democráticas o de fronteras

Session Type: Individual submission

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Abstract: Ante la pregunta que plantea este año la sección de Derecho "¿Qué papeles juegan, o podrían jugar las leyes que regulan a los medios y a la información a la hora de facilitar los procesos democráticos, la consolidación democrática, la resolución de crisis migratorias y de refugiados, en la participación ciudadana, la comunicación transfronteriza, y en la transparencia gubernamental y de medios?", querríamos destacar la importancia de asentar bien las bases de la legislación informativa o de la consolidación de las reglas democráticas, especialmente cuando afecta a los derechos fundamentales, en los principios básicos de la igualdad, la dignidad humana y la libertad.
Para eso analizaremos el llamado "contenido esencial" de los derechos de la personalidad y derechos y libertades públicas más discutidos en los procesos de consolidación democrática o en la comunicación transfronteriza (residencia, voto, libertad religiosa, libre expresión, libre circulación, etc) a través del tratamiento periodístico de algunos de los fenómenos más recientes. Crisis de refugiados en Europa, construcción del "muro" entre EEUU y México anunciado por Trump, relaciones fronterizas de Colombia y Venezuela.
Describimos en un mapa mental la estructura teórica del trabajo (limitado por ser sólo texto).
Dignidad humana
Derechos de la personalidad (vida, libertad, honor, intimidad, integridad)
Derechos y libertades públicas (de información, derechos políticos y de voto, de religión, de residencia, de libre circulación, etc..)

Partimos de un texto común a todas las naciones hoy integrantes de las Naciones Unidas. El Preámbulo de la Declaración Universal de Derechos humanos de ONU de 1948 (DUDH en adelante) que fundamenta todo derecho en el "considerando" de que "la libertad, la justicia y la paz en el mundo tienen por base el reconocimiento de la dignidad intrínseca y de los derechos iguales e inalienables de todos los miembros de la familia humana".
La dignidad humana aparece en las primeras declaraciones de derechos fundamentales como algo previo a la proclamación de los derechos y libertades que son más próximos al núcleo de la personalidad. Recordaremos en este trabajo otras constituciones o "bill of rights" en las que se repite la "dignidad" como base de los derechos humanos (Declaración de Virginia, 1776 ; Declaración francesa de los derechos del ciudadano de 1789; y por supuesto la citada DUDH por lo que es un principio que debe informar toda decisión política y legislativa. Su respeto es un ideal y una obligación.

Id: 14882

Title: protection Information, Social Media and Copyright Law : A Case Study of the Egyptian Journalists

Session Type: Individual submission

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Abstract: protection Information, Social Media and Copyright Law :
A Case Study of the Egyptian Journalists

The extent of journalist ' compliance with copyright laws is unclear. This study aims to make clear journalist' positions in relation to copyright concerns as well as the extent of their compliance with copyright laws. A comparative content analysis of laws in Egypt ' copyright information in Egypt ,The study questions: What is the legislative framework for intellectual property law to protect the press and publishing? What is the ethics for journalists professional practices? What is the best protection to publishing on the Internet.
In addressing the research topic, a survey research was conducted over a sample of 125 subject units of two different categories :journalist working in print and electronic newspapers were interviewed journalists inside the union to learn more about the extent of their awareness of the rights and freedoms of their own as well as the press Publications Law.

Keywords: protection, Information, Social Media ,Copyright Law

Id: 14921

Title: The National Communication Council: Opportunity or Constraint for Press freedom and Freedom of Expression in Cameroon.

Session Type: Individual submission

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Abstract: This paper underlines the relevance of devising an effective legislative framework that sets out the organization of the National Communication Council (NCC), the main media regulator in Cameroon. In other words, the rules and procedures informing the functioning of regulatory authorities should clearly affirm and protect their autonomy. The duties and powers as well as the ways of making media regulators accountable, the procedures for appointment of their members and the sources of their funding should be clearly defined in law. Whereas this paper considers an effective legal framework as a necessary and essential precondition for the setting up and smooth functioning of the national communication council, it also acknowledges the fact that this is not a sufficient condition. It also depends according to this paper, on the existence of a culture of independence, transparency and accountability, where lawmakers, government and other relevant key players under the rigorous scrutiny and watchful eyes of society at large, respect the regulatory authority's independence without being explicitly required to do by law.
Drawing from an interview with the president of the NCC Cameroon, an analysis of the law creating the NCC as well as existing literature informing the activities of the NCC, I argue that independent media regulators such as the NCC, can have democratizing effects, but it can also circumvent or limit the growth of press freedom, freedom of expression, opportunities for democratic engagement and the pivotal role that it is expected to play in creating a diverse and pluralistic media landscape.
This paper argues that public authorities should refrain from using their financial decision making power to interfere with the independence of regulatory authorities. This is especially relevant in Cameroon where the NCC is not only financed wholly by the government, but where the president of the republic of Cameroon enjoys sweeping powers to appoint the members of the NCC and where the NCC is placed under the auspices of the Prime minister, head of government. The fact that the members of the NCC are being appointed by the president of the republic of Cameroon and that the body is being financed by the government is potentially problematic. Put differently, there are currently no existing set of principles as well as guidelines that should not only guarantee the independence of the NCC from any interference from political interests, but also its members are appointed in a transparent and democratic manner, may not receive any mandate or instructions as a means exerting economic and political pressure.

Id: 14940

Title: Computer Games and Modern Russian Legislation

Session Type: Individual submission

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Abstract: Today computer games are the true industry with a rising trend which affects the interests of many stakeholders. We analyze two groups of factors and stakeholders which relate to the different types of activities and actions associated with computer games.
The first group of factors includes: market size; areas of use; kinds of products and services; categories of consumers; types of devices and technologies; list of professions; number of people employed in game sector; etc. The stakeholders are: creators, producers and distributors of computer games and other actors of computer game market.
The second group of factors includes: content; themes; forms of visualization, target audience or categories of gamers. The stakeholders are: gamers (classified by age, gender, professions etc.); parents of gamers which have not reached the age of majority; informal groups including online networks; institutions of civil society; the state.
These groups of factors and their corresponding stakeholders impact on creation of the legislative base and speed the adoption of legislative initiatives. The rules which reflected in legislative acts are usually restrictive if they respect to the interests of the first stakeholder's group and they are protecting if they respect to the second stakeholder's group.
We also use socio-historical analysis and identify key stages in development of the information law in Russia. The first stage: 1995 – 2000, becoming legal acts regulating the electronic information processes. The second stage: 2001 – 2009, instituzialisation of co-regulation by law branches in information sphere. The third stage: 2010 - nowadays, new legal acts which are oriented to protecting from information.
It must be acknowledged that legislation aimed at regulating the relations concerning exclusively computer games and their use does not exist in the Russian Federation. At the same time certain articles of laws, codes and other documents of the Russian law branches can be applied to computer games or situations associated with them. Russian federal law on protection of children from harmful information is connected with the three-level rating system of films functioned in the USSR. This system was corrected at the beginning of XXI century. Federal law "On Protection of Children from Information Harmful to Their Health and Development" was enacted in 2012 year. This act presented a new rating system which spreads on films and computer games. At the same time the public notes the possibilities of computer games. In 2010 Russian deputies suggested that computer games could help to maintain the level of patriotism in country
The diversity of statistic information, acts, society and science initiatives informs us about big attention of different actors to the computer game playing issue. Actors struggle for the attention to their problems and to the exact interpretation of the computer game playing (is it good or not) at different public arenas (legislature, mass media). The statements won in this «fights» at legislature arena become legal acts. And nowadays wins the statement saying that computer games can be dangerous.

Id: 15052

Title: EL DERECHO AL OLVIDO EN CHILE

Session Type: Individual submission

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Abstract: El derecho al olvido ha tenido su reconocimiento formal en Chile a raíz de la sentencia de protección Rol Nº 22243-2015 de la Corte Suprema.
Desde que el Tribunal de Luxemburgo se pronunciara en 2013 en el Caso Costeja, este derecho ha tenido una enorme expansión en un gran número de Estados, entre los que se encuentran varios países del continente sudamericano.
A pesar de que en Chile todavía no hay legislación que regule esta cuestión, los Magistrados de la Tercera Sala del máximo tribunal del país han encontrado su anclaje constitucional en otro derecho con el que está íntimamente relacionado: el derecho a la vida privada, recogido en el párrafo 4 del artículo 19 de la Constitución Política de la República de Chile (a partir de ahora CPR) de 1980 que dice: "La Constitución asegura a todas las personas el respeto y protección a la vida privada y a la honra de la persona y su familia".
Y es que, resulta evidente que el derecho al olvido guarda una estrecha relación con el derecho a la intimidad, aunque es cierto que debido a los avances tecnológicos y a las nuevas necesidades sociales surgidas a raíz de la aparición de la sociedad virtual, es necesario que llegue a erigirse en un derecho autónomo con un contenido protegible, al igual que ocurrió con el derecho a la protección de datos personales.
Debido a la todavía inacabada configuración de este nuevo derecho fundamental, todavía quedan muchos interrogantes, que serán abordados en este trabajo de investigación, como es la delimitación del núcleo de garantía del derecho al olvido o cómo debe ponderarse cuando colisiona con otros derechos tan importantes como el derecho a la información y a la libertad de expresión recogidos en el párrafo 12 del artículo 19 de la CPR.

Id: 15180

Title: La satisfacción de los periodistas de Ecuador, Chile y México frente a la formación universitaria recibida y sus implicancias en el ejercicio profesional y la satisfacción del derecho a la información

Session Type: Individual submission

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Abstract: En el contexto de una sociedad de la información y el conocimiento, en la que el desarrollo tecnológico avanza a pasos gigantescos, sondear la sensación de suficiencia en los egresados activos en el ámbito laboral es una necesidad imperativa de cara al perfeccionamiento de la profesión y su enseñanza.

En julio de 2014 se creó el grupo de investigación ERP (Estudio de Rutinas Periodísticas), compuesto por investigadores de Chile, Argentina, Ecuador, Colombia y México. Es un estudio de tipo cualitativo con un enfoque descriptivo/exploratorio. El equipo ERP lo componen más de 10 académicos de las Universidades: Católica de la Santísima Concepción (www.ucsc.cl), Católica Argentina (www.uca.edu.ar), Autónoma de Bucaramanga (www.unab.edu.co), De Los Hemisferios (www.uhemisferios.edu.ec) y Veracruzana (www.uv.mx).

El objetivo específico de este estudio es determinar la percepción de los periodistas en tres países específicos sobre la formación universitaria y el nivel de satisfacción de éstos con su formación universitaria, incluyendo aspectos de manejo técnico, teórico y práctico. Para lo anterior, se establecieron dos metas fundamentales: primero, determinar la percepción sobre la formación universitaria (según los periodistas entrevistados, esta percepción ¿es homogénea en los países analizados o nos encontramos ante diferentes realidades nacionales?). Y, en segundo lugar, identificar a la luz de lo expresado por los sujetos requeridos en el estudio, el nivel de satisfacción con su formación universitaria, incluyendo aspectos de manejo técnico, teórico y práctico para, a partir de allí, establecer si cuentan con las herramientas teóricas y prácticas para una efectiva satisfacción del derecho a la información.

En lo teórico, el estudio se sustenta en las influencias existentes en el desempeño de la profesión periodística con los aportes de Inglehart y Carballo, 1997; Fuller (1997); Meyer (2004); Deuze (2004); Oller y Meier (2012) y Shoemaker y Reese (2014). En tanto, para la contextualización de la realidad del periodista latinoamericano, se tuvieron en cuenta los aportes globales de Hanitzsch

(2010) y específicos de Hernández (2004) y Fuentes Navarro (2014) en México; Mellado (2010 y 2012) en Chile; Punín (2012), Punín, Rivera y Cuenca (2014) y Oller-Alonso (2016) en Ecuador. Acerca de la formación académica como parte de las influencias individuales del periodista, la reflexión está basada en las propuestas de Shoemaker y Reese (1996) y López (2010).

Respecto del método, se realizaron 120 entrevistas semi-estructuradas de los cuatro soportes periodísticos (prensa, televisión, radio e internet). Los resultados muestran que si bien la importancia concedida a la formación académica en el desarrollo profesional varía según el país, los periodistas de cada contexto perciben una serie de falencias en sus sistemas educativos particulares que hacen necesaria una reformulación de las carreras de Comunicación Social y Periodismo, otorgando una rol principal al debate acerca de los nuevos enfoques, nuevos métodos y nuevos escenarios del Derecho Universal a la Información.

Id: 15252

Title: Effects of the Trump Administration to likely International policy and regulation changes to the Open Internet or Net Neutrality

Session Type: Individual submission

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Abstract: The concept of an "Open Internet" or "Net Neutrality" has been around for some time. It is related to another concept known as "Unbundling", that has been a regulatory strategy since the 1990s. Net Neutrality is a notion that embraces the Internet as a medium whereby all content and applications are perceived as being available to all, despite the source, with no blocking or preference of any product or website.

In recent years we have seen the United States take arguably a regulatory lead on Net Neutrality as the Obama administration has adopted rules that embrace the notion of Internet as an open and free communication channel despite interests among some large media and utility entities wishing to develop priority services for those who can and wish to pay for such elevated services. U.S. action has undoubtedly influenced the European Internet market, but the absence of a federalist model has led to slower agreement on an EU standards policy. Chile, Brazil and the Netherlands are countries that do enjoy their own form of Net Neutrality policy and regulation.

This all may soon change as the new Trump administration is expected to invoke changes in U.S. policy, as promised, and move quickly to embrace a dual-lane or multiple-lane Internet system that stresses speed and access for those willing to pay more. Whatever emerges is likely to serve as the preferred model for Internet structure and traffic throughout the world, both industrialized and developing regions and countries, from Asia, Latin America, and Africa and elsewhere where the Internet is being embraced as a vital tool for economic and social development.

This paper will examine the history of Net Neutrality as well as recent policy moves both in the United States and Europe. . We will also consider alternative policy situations that have emerged in Chile, Brazil and the Netherlands. We will then examine the present regulatory and policy landscape and will speculate on the likely changes we may see on regional and international policies and regulation. Neoliberal and authoritarian governance may emerge as the new Internet reality. At stake is the tradition of the Internet "commons" where the Internet is seen as a shared resource meriting a climate of collective responsibility. It may also challenge the notion of knowledge creation and sharing that has made the Internet a tool for an open and democratic society that encourages innovation and competition.

Id: 15419

Title: "Legalidad e ilegalidad en Breking Bad. El narcotráfico como via para la libertad"

Session Type: Individual submission

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Abstract: En este trabajo se explorarán los fundamentos de lo legal y de lo ilegal que se presentan en ciertos personajes y situaciones de la serie televisiva creada, producida y dirigida por Vince Gilligan, Breaking Bad (2008-2013). No es difícil sostener que en sus 62 episodios se aprecia una tensión de modo eminente entre la legalidad y la ilegalidad de las prácticas cometidas por los protagonistas. Desde su mismo nombre, "Breaking Bad", una expresión del sur oeste de los Estados Unidos, que da a entender que se está yendo hacia lo malo desde lo bueno -o al menos desde lo menos malo- está presente esta tensión. En mayor y en menor escala, todos los protagonistas se ven tentados a recorrer el camino de lo prohibido, pero no para detenerse allí, sino para volver a la senda de lo legal y obtener en ciertas ocasiones las ventajas de un Estado de derecho. Ahora bien, como el epifenómeno ilegal en esta serie es el narcotráfico, explorar por qué buscan la ilegalidad los personajes desde un enfoque filosófico intenta contribuir a la comprensión de este fenómeno que aún no ha recibido un tratamiento conclusivo, pese a abundar sólidos trabajos científicos y estar de manera prioritaria en las agendas y campañas políticas. La tesis de este trabajo es que el ingreso a la ilegalidad en los principales protagonistas de esta serie está motivado por una cuestión metafísica e inherente al ser humano: la condición de ser libre.

Id: 15591

Title: Re-Imagining First Amendment Theory in the 21st Century: First Steps

Session Type: Individual submission

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Abstract: The lack of clear direction from the First Amendment's authors about precisely what they meant by "Congress shall make no law … abridging the freedom of speech, or of the press …" has left a vacuum in American understanding of free expression. Over the years, scholars and jurists have tried to fill the vacuum by positing what made free expression so important that it warranted protection in the United States Constitution from government-imposed limitations.

One of the earliest theories of the First Amendment, the "attainment of truth" or "marketplace of ideas" theory, has intellectual origins dating back to John Milton's Areopagitica in 1644. Supreme Court Justice Oliver Wendell Holmes gave us the marketplace metaphor in a 1919 dissent championing the free competition of ideas for public support and consensus.

Alexander Meiklejohn later tied the need to protect free speech to the philosophy of self-government. While Meiklejohn's theory for protecting all ideas from government suppression – so that voters could educate themselves – seems common-sense now, his book was written shortly after World War II, at a time when a paranoia about communism was driving U.S. policy.

Vincent Blasi's "checking value" theory also was a product of its times. Writing shortly after the end of the bitter Vietnam War and the Watergate crisis, Blasi suggested that the First Amendment's central purpose was to empower the media and citizens to alert us when government was abusing its power.

These theories and others about the importance of free expression mostly focus on how free speech and a free press can facilitate democratic governance. There are exceptions, such as Thomas Emerson's insight in the 1960s that protection of free expression serves several purposes, including respecting the autonomy of human beings.

The internet's increasing dominance, its global reach, and expanding audience choices challenge assumptions behind many of the traditional theories in several ways.

First, now that the dominant medium of communication moves easily across borders, does the preoccupation with the American First Amendment make sense – even in the United States – or should freedom of expression's justifications be grounded in a more global ethos?

Second, digital communication's most influential applications are those that help people form networks and keep in touch. Does this emphasis on interpersonal communication through e-mail, instant messaging, blogging, and social media suggest a new way to view free expression's primary purpose? Is the controlling metaphor not so much the "public sphere" as the backyard fence?

Third, if emerging media demand that we think of free expression in a global context, how does this affect the First Amendment's role in American law and as an example to the world?

This paper will not attempt to answer all of these questions but will lay the groundwork for future explorations by surveying the state of First Amendment theory before arguing that existing theories are largely inadequate to explain why free expression must be protected from government interference in the digital age.

Id: 15645

Title: The Networked Governance of Communication

Session Type: Individual submission

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Abstract: Communication regulation (including lawmaking and policy-making) is increasingly carried out not by governments alone, but by networks of public, private, and technological actors. This form of governance has been referred to as 'networked governance.' Networked governance (sometimes referred to as nodal governance) is a framework of analysis developed by Scott Burris, Peter Drahos, Clifford Shearing and others, who conceptualize the public, private, and technological regulators as nodes situated within a network of governance (Burris, Drahos, and Shearing, 2005). Scholars of communications law have drawn attention to the problems of accountability entailed when markets and private corporations (Mosco, 2003; McChesney, 2003) and technologies (Lessig, 2009) become regulators.

Communication regulation is best understood as both networked and relational. The self, and therefore the legal subject, is not atomistic and isolable, but is reflexively produced through networks of relationships (Beck, Giddens & Lash, 1994; Nedelsky, 2011; Bourdieu, 1977). Legal theorists of relationality re-conceptualize the legal subject as the product of relationships, and refocus the objective of law and regulation away from atomistic selves, and onto relationships (Nedelsky, 2011; Braman, 2002). Law must be conceived of as relational: as setting up, recognizing, or configuring a set of relationships (Nedelsky, 2011). Law, as Jennifer Nedelsky notes, "is one of the chief mechanisms (both rhetorical and institutional) for shaping the relationships that foster or undermine values;" in so doing, it creates relationships of power (Nedelsky, 2011, 3-4). The relational approach to law that Nedelsky promotes rejects a focus on individualized legal subjects, but rather treats people and objects as the product of, and in the context of, relations in which they are formed and understood. Traditional liberal individualism, she argues, "is not the only, or the best, way to articulate and implement care and respect for individuals" (Nedelsky, 2011, 7). Instead, individuals are viewed as a product of the relations that allow them to be autonomous, social, and to occupy subject position in the fields within which they operate.
In this paper, I bring together two concepts: networked governance , and the networked (relational) self, drawing on the literatures of networked governance and relationality. I argue that the lens of networks can help us to think in helpful ways about communications law and regulation, including in the realms of freedom of expression, privacy, and intellectual property. First, I outline the basic concepts of networked governance and relationality respectively, outlining the background literature on each. Second, I give an overview of the ways that scholars have used these concepts to think about communications law and policy to date. Third, I outline several ways that the network/relationality frameworks can be brought to bear on the topics of freedom of expression, privacy, and intellectual property.

This paper is intended to form the theoretical groundwork for a series of future more in-depth investigations setting out a networked/relational approach to freedom of expression, privacy, and intellectual property.

Id: 15826

Title: Free Competition and pluralism in the Chilean television and broadcasting market

Session Type: Individual submission

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Abstract: Regulation of the radio spectrum has been a complex and difficult issue to address. Both in the US, European countries and supranational entities such as the European Union have for many years tried to establish principles and rules in the distribution of ownership of state concessions and to establish rules on limits to the business concentration of television channels and Broadcasting stations.
The scarcity of the radio spectrum, the powerful reason for state intervention, has however been modified by the introduction of digital television and radio and the Internet. Norway was the first country in the world to terminate radio concessions for FM radios, a process that began in January 2017, which is the beginning of the end of the emissions by that traditional frequency. The initiative of the Nordic country seeks to ensure that there are more channels of broadcasting and more content diversity. The pay-TV industry - cable and satellite - is also undergoing major changes, as a phenomenon known in the United States as "cord cutting" has emerged. This term accounts for the large-scale withdrawal of customers of pay-TV services - especially cable - in favor of Internet platforms such as Netflix, Hulu and YouTube. Although this trend is not yet observed in other countries such as Chile, it deserves special attention because what happens in the United States is often replicated in other nations of the world not long ago.
However, many prior to the changes described and undoubtedly must be present in the discussion of future regulatory changes, there are different regulatory models. In the case of Chile, the television and broadcasting market, although it has some rules, is not strictly a true regulatory framework. One of these rules introduced in 2001, established the duty of owners or controllers of the media subject to state concession in having a favorable report from the Fiscalía Nacional Economica -National Economic Prosecutor- an institution charged with promoting and defending free competition for everything Fact or relevant act related to the modification or change in ownership or control. Since the entry into force of these rules, the National Economic Prosecutor has produced more than 500 reports. For that reason, it is in our opinion very relevant to analyze such resolutions, reports and rulings so as to be able to extract, if possible, principles and rules that the free competition system has ruled in order to evaluate the possible effectiveness of the control of free competition , Which should be the basis for future regulatory regulation.

Id: 16015

Title: Drones: Del espía militar al juguete indiscreto. Problemas jurídicos que plantea su uso

Session Type: Individual submission

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Abstract: Los drones son vehículos aéreos no tripulados que tradicionalmente se utilizaban para misiones militares de reconocimiento e incluso de ataque. Hoy en día se ha generalizado su uso y cumple otras muchas funciones: entretenimiento, grabación de planos aéreos en publicidad, cine o televisión, vigilancia, recuento de árboles, control de edificaciones, reparto de mercancías (aún por aprobar), etc.
Su tamaño es pequeño, y su coste, además, se ha abaratado mucho, lo que ha ayudado en gran medida a universalizar su consumo. Es el nuevo juguete de moda de grandes y pequeños pero, en realidad, no es un juguete. Es un aparato que comparte espacio aéreo con otros tipos de naves, son aparatos que llevan instalada una cámara que graba imágenes en alta definición mientras sobrevuela, por ejemplo, espacios privados, patios de colegio… Obviamente estos conflictos jurídicos surgen no por la existencia del dron en sí mismo, sino por el uso inadecuado que se hace de él, muchas veces por desconocimiento.
Por eso es necesario identificar los problemas jurídicos que surgen en torno al uso cotidiano de los drones por civiles y más concretamente cómo se resuelven. Cuestiones como si se pueden sobrevolar de espacios públicos y/o privados sin permiso o qué tipo de autorización se necesita, si es posible la grabación sobre esos espacios, qué hacer con esas imágenes si aparecen personas reconocibles. Habría que valorar si la solución jurídica cambia dependiendo del uso que se le vaya a dar a tales imágenes.
Quizás sería necesaria una reflexión sobre si debemos aplicar las normas existentes para casos semejantes o si, por el contrario, debería plantearse una legislación más laxa en cuanto al conflicto con ciertos derechos en aras de facilitar los avances tecnológicos.
Mi propuesta va en la línea de identificar los problemas jurídicos que se plantean con el uso civil de drones, de aportar las soluciones que se están dando en nuestro país y abrir un debate sobre la conveniencia de adaptar las normas a nuevas realidades o seguir aplicando el derecho como lo hemos hecho hasta ahora.

Id: 16347

Title: Human Rights of Journalists in Jammu and Kashmir: A Comparative Analysis Between Journalists Working in Jammu Region and Kashmir Region.

Session Type: Individual submission

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Abstract: Jammu and Kashmir has been a conflict area ever since the militancy erupted in Kashmir in 1990. The state has witnessed gross human rights violations and law and orders issues. When it comes to condition of journalists in the state, more than a dozen have lost their life while performing their duties. Media has been subjected to censorship including outright ban as was the recent case of a local daily Kashmir Observer in the month of July 2016. Media professionals are not allowed to perform their duty in troubled times and their movement is curtailed during the imposition of curfews.

Jammu region of the state is predominantly composed of Hindu residents whereas Kashmir is a Muslim majority region. Most of the conflict is surrounding the Kashmir region only which is known for its separatist ambitions given its Muslim majority.

This paper strives to find out if there is any difference between the journalists working in the two regions when it comes to awareness about the human rights violation of the journalists working in the state.

Methodology: In-depth interview of 10 accredited journalists, five each from Kashmir and Jammu region will be conducted. The list of such journalists is available on the website of the department of Information and Public Relations Jammu and Kashmir.

Key Words: Human Rights of Journalists, Freedom of Press, Media rights, Jammu and Kashmir.

Id: 16358

Title: Draft once; deploy everywhere' Digital universalism and (mis)understanding Brazil's Marco Civil da Internet

Session Type: Individual submission

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Abstract: Within the maelstrom that was Brazilian politics in 2016, one event that largely escaped attention was that the impeached President Rousseff's last legislative act was to approve regulation for the Marco Civil da Internet. Upon Congressional approval in 2014, this framework of civil rights for Brazilian Internet users drew much international praise (Public Knowledge 2014; Berners-Lee 2014). It is my contention that we must critically assess why this law garnered global plaudits as a template for Internet legislation, and to examine the Marco Civil's political-economic and socio-cultural context that this narrative of universality elides. Without such contextualization, the democratic virtues of the Marco Civil will be far harder to effectively replicate.

Developed using a multistakeholder model, and built around safe harbours, network neutrality and data protection, what was remarkable about the Marco Civil was not the originality of its provisions: its techno-legal principles all originated in Germany or the United States (Bennett 1992; Schiller 2000; Wu 2003). In reality, it was the timing of the Marco Civil that ensured its plaudits: Brazil enacted legislation safeguarding a civic Internet at a time when the Snowden revelations demonstrated the full extent of state surveillance of digital communications. Thus, the acclaim afforded to Brazil was premised on its status as applicator of these techno-legal policy measures, rather than their originator.

This is an important distinction because by celebrating Brazil merely as an applicator of Internet law we miss what was remarkable about the Marco Civil; the context of its passage. This refers to the way that the law's development was bitterly contested by civil society groups and a progressive PT government on one side, and telecoms groups and conservative politicians on the other, or the way that the law's provisions deviated from global norms or were politicized by associations with Brazil's history of military dictatorship.

Indeed, I contend that lauding the Marco Civil as a global template is a hallmark example of what Chan describes as "the myth of digital universalism" (2013): the presumption that digital technologies flow smoothly around the globe from centre to periphery and present a uniform set of effects. I further distill this idea by proposing the concept of 'draft once; deploy everywhere' Internet legislation. This describes a belief in the neutral transfer of Internet law that, I argue, underpins the multiple charters of Internet rights drafted since 1999 (Gill, Redeker & Gasser 2015). They ultimately represent a conflation of the replicability of statutes, with the replicability of bits. Identifying and problematizing this phenomenon matters because by applying a critical perspective to 'draft once; deploy everywhere' we sharpen our focus upon the endogenous, as opposed to the purely exogenous, factors that shape the formation and efficacy of Internet law and policy. The empirical dimension of this paper is based on document analysis of primary texts produced by the Marco Civil's stakeholder groups, as well as Brazilian media reports and secondary academic accounts.

Id: 16362

Title: Media ownership regulation in the digital age: Is Europe responding'

Session Type: Individual submission

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Abstract: The regulation of media ownership differs a lot across the Europe. Each of the 28 member states of the European Union has its own rules of the cross-media ownership. Some European countries regulate explicitly how much newspapers, TV or radio channels, or what exact share of them, can a physical or an artificial person own, and how can be the ownership combined. Other countries only use general competition law to prevent a creation of a monopoly.
This paper is based on a comparative study of the 28 EU member states, and their law systems regarding the ownership regulation. The researches combine media studies with methods of the comparative law. The authors categorize the states according to their approach to regulating the media ownership. They confront these categories with established theory of Hallin and Mancini (2004) and their liberal, democratic corporatist and polarized pluralist models of media systems.
The article also explores the imperfection of the contemporary media law, which was made to regulate terrestrial broadcasting. Many states did not adapt their laws, and only regulate the ownership of the terrestrial electronic media and the print newspaper. They do not even recognize online news, Internet television or on-demand services. These laws are often not able to be fully enforced in a digital age – they are built on measures like a market share of terrestrial broadcasting without including the digital share. Some acts use a category of a nationality - national newspapers or national TV channels – which is very problematic on the global Internet.
The digital age also opens a whole new range of questions. Does a society still need to secure the plurality of information by regulating media ownership, if anyone can access thousands of diversified sources on the Internet? Will we need it in the future, for instance in the age of digital broadcasting? Can the owner of a medium on the Internet, be identified, and which jurisdiction is he subjected to?

Id: 16422

Title: BETWEEN A NEUTRAL AND PLURALIST ENVIRONMENT: HATE SPEECH IN THE U.S. SUPREME COURT AND THE EUROPEAN COURT OF HUMAN RIGHTS

Session Type: Individual submission

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Abstract: The purpose of this paper is to understand the elements of hate speech protections comparing the legal mechanisms and judicial standards drawn by the U.S. Supreme Court and the European Court of Human Rights (ECHR). The paper will attempt to explain the elements that shape these two separate models of approaching extreme speech. While the U.S. Supreme Court has built a strong protection of political speech, and what fits under the label of hate speech, excluding narrow accounts of expressions (such as incitement speech), the ECHR has upheld laws criminalizing homophobic, praising terrorism, antisemitism, and Islamophobia. The key question is why the criteria used in the United States and the Council of Europe in setting up the limits between a protected speech and one that can be subject to criminal punishment differ so extensively. To answer this question, this paper will make a typology of hate speech in both systems from the decisions of the U.S. Supreme Court and the ECHR, into four categories: (1) Categorically-protected speech; (2) Pluralist-protected democratic speech; (3) Neutrally-protected speech; and (4) Impartially-balanced speech. For supporting these mutually exclusive categories of hate speech, the paper will use democratic the theory of deliberative democracy, and its consequences for the marketplace of ideas –and the neutrality assessment performed by the Supreme Court-, compared to the pluralist viewpoint of the ECHR system –along with its balancing test.

Id: 16539

Title: Privacy, metadata and migration status: A networked governance approach to protecting vulnerable populations against discrimination and harm.

Session Type: Individual submission

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Abstract: In general, privacy legislation focuses on the content of communications but not the metadata those communications generate. This approach assumes that metadata is not personally identifiable information and thus governments and companies do not infringe on peoples' privacy when collecting it. However, research shows that metadata can easily be traced back to individuals and can "be used to determine highly sensitive traits" (Mayer, 2016), which raises serious privacy concerns.

Foreign nationals can be especially vulnerable as they don't enjoy the same degree of privacy protection under the law in comparison to citizens. This makes them more susceptible to privacy violations which can lead to harms to their civil rights. This is especially true in a political climate increasingly hostile to immigration.

Some migrant populations are more vulnerable than others. Thus, the dangers and negative consequences of privacy violations related to metadata for undocumented immigrants, refugees and asylees is of particular concern. (This study limits its scope to migrants in or in transit to the United States).

Smartphones are a major source of metadata, so this paper looks at research on usage rates by immigrants in the US, and at insights into the importance of these devices for the most vulnerable groups (Wall, 2015).

Then, this work surveys empirical research showing that metadata can lead to grave intrusions into personal privacy. This includes various inferences about personal sensitive information described in Mayer (2016), O'Doherty (2016), Riedere and de Montjoye, (2015). Then, this work will empirically test if metadata can lead to assumptions about a person's current or past migratory status.

Using primary and secondary sources (ProPublica, works by La Fors-Owczynik (2016), Kalhan (2013 & 2014)), I describe how sensitive information is used by algorithms (from government and private entities) in ways that can lead to exclusion from social services, housing, jobs or access to information; and in the case of immigrants, harms unique to them: denied entry, removal or deportation.

Finally, after looking at current privacy legislation (US and European Union) and terms of service (Facebook, Google, others) a regulatory framework rooted in networked governance is proposed, as effective privacy protection necessarily depends on appropriate responses from both governments and private entities.

I make the case that networked governance (as defined by Larson, 1992) can be the answer if a country, such as the US, becomes less sympathetic to migrants and their privacy concerns, then organizations like the EU can exert a positive influence through bilateral agreements. The same goes for countries that send migrants to the US and want to protect their nationals abroad. Notions of global corporate citizenship to persuade tech companies to enact true protections to privacy, especially for vulnerable groups such as migrants is also key. Lastly, I stress the need for migrant protection organizations to recognize that metadata collection can lead to serious harm to the people they protect, and thus education is key to give them the ability to control the flow of their own information and protect them against discrimination and harm.

Id: 16615

Title: The First Amendment and Internet Hate Speech: Outdated solutions to a modern problem

Session Type: Individual submission

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Abstract: Hate crimes and hate speech happen across the globe but there is no uniformity in how countries treat those offenses. Several counties have some types of prohibitions against varying levels of hate speech related offenses. In addition, many countries also abide by overarching international treatises. In comparison to the international community, the United States is significantly more lenient regarding hate speech on the Internet. As a result of this permissible position, the U.S. is increasingly becoming a virtual safe haven for hate groups with white supremacist groups using the web to spread their ideology and as a hub for the organizing of hate actions against various marginalized groups. This proliferation of web-based hate sites can have consequences in the physical world. The Southern Poverty Law Center shows the existence of 892 hate groups operating in the United States in 2015, an increase of more than 100 hate groups since 201 and according to the FBI, law enforcement agencies reported 5,479 hate crime incidents involving 6,418 offenses in 2014. While there is no empirically proven cause and effect link of hate speech leading to hate crimes, there is a strong correlation between the two. Past attempts by states to regulate hate speech, as well as recent case law, substantiate that there is a connection between certain crimes and hate bias motives. The above statistics, combined with contentious race relations today, support the need a for a timely response to this proliferation of internet hate speech.

In the traditional liberal conception of free speech, the individual is both autonomous and sovereign, and the protection of speech, including hate speech, is viewed with an assumption of intrinsic societal value that leaves little or no room for discussions of possible harm. While traditional First Amendment scholars still hold sway with the courts, since the 1980s other legal scholars have offered and continue to offer critiques of the accepted position. In general, these scholars, whose academic backgrounds cover a wide spectrum, question the generally accepted suppositions that democracy is best preserved by protecting virtually all speech. Proponents of hate speech regulation see no value in protected hateful speech whose only intent is to denigrate and terrorize certain already oppressed groups and they disagree with the traditional view that hate speech causes no real harm.

Current conceptions by both traditional and critical scholars have fallen short in developing a constitutionally sound way to address the issue of internet hate speech in the United States. To address this problem, first I will discuss work by Michel Foucault and Axel Honneth, paying close attention to the ways in which their works analyzes how power operates in society. Through that discussion I will tease out the role that speech plays or can play in disrupting this power dynamic. Finally, I will illustrate how Honneth's theory of recognition might hold the key to establishing a legal restriction on a certain level of hate speech on the internet.

Id: 16635

Title: Privacy: A "first world luxury' in a society plagued by porn, pedophilia and human trafficking'

Session Type: Individual submission

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Abstract: Under the proposed topic for the Law and CPT sections joint panel, the authors aim to study the relationship between communication and information technologies and citizen rights, privacy and justice.
Specifically, they will analyze, on one side, the aforementioned concepts (privacy, pornography, human trafficking, child abuse, money laundering) from a legal perspective, and, on the other side, they will follow international news coverage of these issues through three scenarios. The image of children in migratory crises and war; prostitution and illegal business practices (Panama Papers) and the use of images of women or children when reporting sexual crimes and pedophilia.
The clash of cultures is shocking when we talk about privacy. In Europe, the terms “data protection”, “digital intimacy”, “habeas data” refer to aspects of private life that, since personal data is vulnerable when using ICTs, demands many more technical, political and legal safeguards to protect the privacy of telephone or electronic communications, the use of big data by big corporations or the threat of massive surveillance by democratic states, drone regulation, etc. However, the truth of the matter is that there is a much deeper dilemma. In a globalized society, it seems that we have grown used to the idea that there are minors, women, victims and citizens that belong to different categories.
A first case that bears analysis refers to the use of images of children to create awareness about any particular problem. We don´t find it surprising anymore to see the image of children who are victims of international conflicts in our TVs. A paradigmatic case is this picture of a child in Greek shores that shocked the world, but that according to Sister Guadalupe from Aleppo (Siria), was a mere montage.
But we need to ask ourselves what is more worrying: the doctoring of reality to make it fit the news or the fact that Western society needs to see such images (we need such products, understood as luxuries) to gain awareness and pay attention to tragedies as terrible as the war in Siria or the refugee crisis, trampling the basic human rights of these people in the process. What do we need to recognize that the right to life is an universal right that belongs to us all?
If we take into account that prostitution is a global business, how big has been revealed by the Panama Papers (Corredoira, 2016); our society is in need of deep reflection in regards to the ethical and legal values it is said to defend.
We believe that privacy is a luxury if inequality exists. Hastiness, frivolity and the need for instant news expose children, women and civilians caught in the middle of wars to photographers and drone cameras. Again, demanding a right to consent sounds insulting. Perhaps because we “consider

that certain human beings have more dignity than others” (as said by Pope Francis on Laudatio, Si, n. 90).

Id: 16638

Title: Internet Rules and Freedom of Expression: Analysis of the International Laws and Jurisprudence Impacting on Communication

Session Type: Individual submission

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Abstract: Human rights already exist for a long time, but the internet revolutionized some of them by improving the communication between people and stimulating their interaction. Whilst the internet facilitates the exercise of many human rights, at the same time it imposes challenges to the way these rights are interpreted and applied. This is exactly what happened to freedom of expression, as it became much easier for those who are internet users to express opinions, as well as to access and get other ones' opinions. Freedom of Expression is an old human right enshrined in the Universal Declaration of Human Rights and in the International Covenant on Civil and Political Rights, and the internet can be the perfect media for the exercise of this right, as long as it is free of surveillance and censorship. However, some issues are raising internationally.
In Brazil, the smartphone messaging service WhatsApp has already been blocked more than once as a punishment for violating different Court orders to store data regarding specific criminal investigations. In the United States, the Federal Bureau of Investigation ordered Apple Inc. to help to extract data from the locked smartphone from one of the shooters, but the company did not comply with the order, and in the end the US government could unlock the device.
In Europe, France and Germany are pushing for rules to allow states to break encryption. The United Kingdom passed the Investigatory Powers Bill, which initially intended to ban end-to-end encryption, but the Government retraced, and the final version adds new surveillance powers, the duty of internet providers to keep records of all websites visited by their customers and make them accessible for the government, as well as powers to force companies to help hack into phones, among other rules representing a mass surveillance. The Swiss Parliament passed the Intelligence Service Act, which regulates the information services, including espionage and counter-espionage. It created an independent surveillance authority within this body, which can intercept private communications, including internet and telephone, and carry out preventive and mass surveillance in certain situations.
This paper analyzes the changes brought by the internet to the exercise of freedom of expression and proposes ways to preserve and improve this human right in a globalized internet, outlining the role of the internet actors and discussing how law and policy can help promote freedom of expression on the internet. The adopted methodology comprehends a deductive approach and techniques of qualitative, theoretical, explanatory and bibliographic research, by consulting books, websites, journal articles, news and official documents. An analysis of new Bills passed by countries in America and Europe shows a tendency to increase the powers of intelligence agencies to monitor their citizens, and recent court orders for internet providers to delist websites worldwide represent a global censorship and violate the freedom of expression of all citizens. Both international and domestic laws have an important role to play in this area, as well as cooperation between countries to avoid unnecessary extraterritorial orders and make rules effective.

Id: 16676

Title: Nuevas amenazas mundiales en el mundo de los medios: ¿están las leyes preparadas para esto'

Session Type: Individual submission

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Abstract: La realidad informativa en el mundo está sufriendo graves amenazas para su adecuado desarrollo. Los acontecimientos ocurridos en Turquía, con graves repercusiones en el mundo de la comunicación social en forma de secuestros de publicaciones, cierre de cabeceras, cierre de cadenas de televisión, etc, se ha un ido a la ya grave crisis que los medios atravesaron en Grecia.

Por si esto fuera poco nos hemos encontrado después de las últimas elecciones norteamericanas con un panorama en el campo informativo de índole poco optimista con amenazas, impedimentos de preguntas, consideraciones negativas hacia la libertad de expresión, etc.

Este panorama se podría complementar con otras muchas incidencias ocasionadas por el terrorismo (caso de Francia, Colombia, etc) y en general por la falta de acción decidida de los distintos gobiernos en pro de una auténtica libertad de expresión.

En esta situación nos preguntamos: ¿están las leyes en el campo informativo preparadas para esta realidad? O más aun ¿son las leyes adecuadas para remontar estas circunstancias?. Nos parece y eso es lo que queremos investigar que es necesario una profundización en los campos legislativos de carácter general, de los distintos gobiernos, que refuercen la libertad de expresión ante posibles abusos.

Es muy posible que la respuesta legislativa deba ser más contundente en la defensa de los valores que la libertad de expresión representa y tengamos que ir más a las cuestiones de fondo, que representa el núcleo duro de esa libertad, frente a leyes que se fijan más en problemas parciales e incluso de carácter administrativo.

Por eso queremos en esta investigación fijar las líneas maestras en las que se deben de mover los principales países que de una manera más clara sufren la plaga terrorista o las acciones de todo tipo contra la libertad de expresión, ya que en muchos casos con la excusa terrorista se acometen cambios legislativos que atentan claramente contra la libertas de expresión.

El desarrollo de esas líneas maestras podrán aportar posibles soluciones a que el derecho de la información traducido en leyes operativas puede dar solución a estos problemas.

Id: 16710

Title: Interactive storytelling and collaborative content production through the Web: new challenges to exclusive intellectual rights

Session Type: Individual submission

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Abstract: In this article I discuss interactive storytelling and the challenges its expansion in the present information age have posed to the fields of culture, economics and law. In this effort, I identify a divide between highly profitable but more controlled interactive storytelling devices, and those that enable more creative participation, but which do not succeed as much. As these systems expand to many software and applications of the so-called “sharing economy”, a similar divide occurs between those that control information and user’s interactions and those that allow more horizontal and creative participation. I believe this has to do with exclusive and antagonistic perspectives of intellectual property, which I criticize in the paper with aid on Brazilian jurist Tercio Sampaio Ferraz Junior's work on "Free software and non-exclusive individual rights". For the sharing economy to effectively represent a way out of the crises of financial capitalism, new systems for information and cultural production evolving from interactive storytelling devices need to be protected by fair use disclaimers and by the judiciary, which should follow the principle: If there is no relevant market competition or clear and intentional moral injury, there should be no restriction.

Id: 16724

Title: HACIA LA CONSTRUCCIÓN DEL DERECHO A LA COMUNICACIÓN. HISTORIA Y EVOLUCIÓN EN LA CONSTITUCIÓN MEXICANA

Session Type: Individual submission

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Abstract: La Constitución mexicana está a punto de cumplir 100 años de vigencia y con ello es pertinente la reflexión del texto fundamental en la consolidación de libertades, de manera particular en aquellas relacionadas con la libertad de expresión. El modelo mexicano fue ensanchando derechos fundamentales como el derecho a la información, derecho de acceso a la información pública, derecho de réplica, derecho a las tecnologías de la información y comunicación (TICs), derecho de las audiencias, entre otros, los cuales son necesarios para interpretar el nuevo panorama de los derechos fundamentales de los mexicanos, su reconocimiento y retos en la interpretación de sus alcances en un nuevo entorno mediático.
El análisis histórico de las fuentes formales y reales del derecho nos dan cuenta de la construcción de lo que podría denominarse como una nueva rama del Derecho, o bien de la consolidación del Derecho de la Información, el cual ha tocado de manera transversal múltiples disciplinas y que hoy nos lleva al lenguaje técnico de las nuevas tecnologías. Para entender este entramado de conceptos, Antonio Pasquali teoriza sobre el derecho a comunicar y bajo esta visión es posible construir las dimensiones que nos ayudarán a identificar los derechos fundamentales reconocidos en la Constitución mexicana

Id: 16734

Title: Balancing Freedom and Safety Online: Is Nigeria's Cybercrime Act a Threat to Freedom of Expression or is 'Reasonably Justifiable in a Democratic Society"

Session Type: Individual submission

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Abstract: In his most recent report to the United Nations General Assembly, the UN Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, David Kaye, noted that increasingly many governments are curtailing freedom of expression beyond the permissible limits set out in Article 19(3) of the International Covenant of Civil and Political Rights. He concluded that: "Old tools remain in use, while others are expanding, as States exploit society's pervasive need to access the Internet. The targets of restrictions include journalists and bloggers, critics of government, dissenters from conventional life, provocateurs and minorities of all sorts." Nigeria is one such country where government resorts to "old tools", notably libel and sedition, to harass journalists, bloggers and everyday citizens. These restrictions have since been expanded to the Internet when in 2015 Nigeria's National Assembly passed an omnibus legislation, titled Cybercrimes (Prohibition, Prevention, Etc) Act, that seeks to provide "comprehensive legal, regulatory and institutional framework" on cybercrimes and "promotes cybersecurity". The Act covered wide-ranging matters from protection of critical information infrastructure and prohibition of manipulation of ATMs to criminalization of child online pornography and racist and xenophobic materials. While the bill was making its way through the legislative process and shortly after its passage, civil liberties organizations raised concerns about the adverse implications of some its provisions for freedom of expression. Sequel to the president's assent, concerns about freedom of expression became ominous when the police, relying on the Act, began arresting, detaining and or prosecuting several bloggers alleging one cybercrime or another for what is ordinarily a criticism, commentary or at worse civil libel. This paper provides a legislative history of the 2015 Cybercrimes Act and then discusses the menacing provisions vis-à-vis the constitutional requirement that limitation to freedom of expression should be "reasonably justifiable in a democratic society" and interrogates the (in)compatibility of those provisions with the limitations permissible under Article 19(3) of ICCPR. The paper concludes by recommending how to balance the legitimate need for security and safety for online communications with freedom of expression.

Id: 16836

Title: Leyes para la censura: Restricciones normativas para el ejercicio de la libertad de expresión y el derecho a la información en Venezuela

Session Type: Individual submission

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Abstract: Se presentará un diagnóstico de las restricciones para el ejercicio de la libertad de expresión, contenidas en la Ley de Responsabilidad Social en Radio Televisión y Medios Electrónicas (2010) y en otras normativas aprobadas en Venezuela a partir de 2010, que derivan en la aplicación de medidas de censura previa, que lesionan el ejercicio de la libertad de expresión y el derecho a la información.
Para este estudio se tomaran como referentes teóricos los aportes de Héctor Faúndez en su libro "Los límites de la libertad de expresión" (2004), así como los estándares para el ejercicio de las libertades informativas, establecidos en instrumentos de derechos humanos como la "Declaración Universal de los Derechos Humanos" (1948), la Declaración Americana de Derechos y Deberes (1948) y la Convención Americana sobre Derechos Humanos (1969).
Se parte de la premisa de que el ejercicio de la libertad de expresión, en cuanto a derecho es irrenunciable y que los estados tienen la obligación de promoverlo. Y en ese sentido, todo marco legal que refiera a este derecho debe ser estar orientado a respetarlo, de acuerdo a lo establecido en los tratados, pactos y convenios internacionales de derechos humanos.
Se partirá de una investigación de tipo documental, que se desarrollará a partir del análisis de contenido de leyes venezolanas en materia de comunicación, que permitirá cotejarlas con los principios establecidos en los instrumentos internacionales de derechos humanos; lo que permitirá identificar la naturaleza de las restricciones contenidas en las misma y el uso de estas como soporte para la aplicación de medidas de censura previa.
De igual forma se examinará si esas leyes guardan coherencia con las garantías establecidas en la Constitución Nacional del Venezuela en relación con el ejercicio de la libertad de expresión.
Se considera pertinente este tema por cuanto su estudio coincide con un momento país caracterizado por restricciones a las libertades fundamentales y actuaciones de los poderes públicos del país contrarias a lo estableció en la constitución nacional; cuya experiencia puede servir como referente para estudios en otros países con contextos similares.

Id: 16940

Title: The Role of Network Operators in China's Cyber Security Law

Session Type: Individual submission

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Abstract: China's traditional media like newspaper, magazine, radio and television are organizations of public institutions. They are mainly regulated through administrative means. As the ICTs develop, new media based on internet technology boomed rapidly in form of private enterprises. Large numbers of network operators emerged as a result of the development of ICTs. So, in new media era, the old regulatory approach is no longer applicable. New legislations are needed to regulate the operation of the cyber space.

In view of the enormous challenges and risks accompanied by the development of ICTs, in recent years, China has promulgated and revised several administrative regulations and laws to regulate the operation of the network and online communication. However, the legislatures hardly have enough time to discuss and brew the legislation sufficiently due to the rapid development of ICTs. So the new legislations can only take immediate and emergent problems into account. They can hardly have any forward-looking considerations. Thus, the network legislations are most of the low level of effectiveness. In this background, the NPC Standing Committee issued Cyber Security Law on 17th Nov 2016, and it will be implemented on 1st Jun 2017. This is the fundamental law for cyber space, so it is called "small constitution" of cyberspace. Its main purpose is to establish cyber security system, promote the construction of network infrastructure, and encourage ICTs innovation and application.

In the system constructed by Cyber Security Law, three parties are involved, the state, network operators (including network owner, network manager, and internet service provider), and net users. Among them, network operator plays the most important role. Network operators are not administrative authority. They have no obligations and responsibilities to fulfill the administrative management duty. But in order to solve the regulatory problems, many "powers" and "responsibilities" of the regulatory authorities are transformed into network operators' "duties". In essence, network operators are market players. The relations between network operators and net users are regulated by civil law, contract law, and tort law. According to the general rule of civil law, network operators are one party to network service contracts, network operators and net users are on an equal footing. But according to Cyber Security Law and Penal Law Amendment (9), if network operators do not fulfill regulatory obligations may constitute a crime "refusal to fulfill the information network security management obligations".

So, network operators are not only market players, but also bear important regulatory functions. If they find any information prohibited by law or administrative regulations, they should immediately stop the transmission, take eliminating measures to prevent the proliferation of information, save the records, and report it to relevant authorities. The fact that network operator plays a dual role can result in conflictions in liabilities of network operators. In other words, network operators' obligations as regulators and market players may conflict with each other, which may put network operators into a dilemma. This paper analyzes the legal status of network operators, and tries to propose solutions for cyber regulations.

Id: 16949

Title: TRANSFORMACIONES DE LO MEDIÁTICO Y RECONFIGURACIÓN DEL DERECHO DE LA COMUNICACIÓN

Session Type: Individual submission

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Abstract: Aquí sostenemos que antes de readecuar la "Ley de Medios" como producto formal de la actividad legislativa, se debe examinar, prioritariamente, la actual capacidad del derecho de la comunicación (1) para reconfigurarse conceptual y metodológicamente, conforme las coordenadas históricas que redefinen la cartografía jurídico – política de los nuevos tiempos.

Así, se requiere que el derecho de la comunicación se reconstruya reinterpretando y regulando adecuadamente las pulsaciones políticas, tecnológicas, económicas y culturales que signan las transformaciones de lo mediático y lo comunicacional.

En el plano general Ulrich Beck (2) señala que en el "globalismo": "el mercado mundial sustituye o desaloja al poder político" como ordenador de las relaciones entre los ciudadanos y el Estado que históricamente ha fungido como expresión del poder establecido y obedecido.

Así mismo, las tecnologías de la información y la comunicación que acompañan este proceso de sustitución del Estado-Político por el Estado-Empresa, tiran al suelo la noción de territorio y fronteras patrias que subyacían a la idea del Estado nacional.

De allí que los Relatores Internacionales sobre Libertad de Expresión se preguntan a qué autoridad corresponde la jurisdicción y potestad sancionatoria respecto de infracciones transnacionales en Internet.

En síntesis, se están erosionando las bases que sostenían nuestra vieja idea del Estado moderno (3) y para recomponer las cosas no es suficiente con maquillar la Ley de Medios; por el contrario, el derecho de la comunicación requiere ser sometido a una operación de alta cirugía jurídica que sincronice, conceptual y metodológicamente, los marcos legales, institucionales y regulatorios con lo comunicacional y lo mediático de nuevo cuño (4).

En el plano específico los diversos efectos societales generados por la penetración de las tecnologías de la información y las comunicaciones; la clausura del Estado Interventor (5) que ostentaba el monopolio de los operadores públicos; y la apertura de las comunicaciones a la libre competencia, inducen la configuración de un nuevo escenario.

Dicho escenario está empujando el desarrollo de nuevas y muy especificas transformaciones jurídicas para el ejercicio de la libertad de expresión; el diseño de organismos reguladores dentro de la estructura del Estado; y la estructuración de paquetes legales, regulatorios e institucionales encaminados a garantizar la competencia y el pluralismo.

Así, la reconfiguración del derecho de la comunicación debe abordar los siguientes aspectos:

1. La capacidad de las actuales taxonomías y categorías jurídicas para abordar la complejidad de los contenidos(6) y alcances (7) normativos (8) de lo comunicacional y lo mediático.
2. La autonomía técnica y política de los organismos reguladores de medios: ¿Una recomposición de la teoría de la división de los poderes públicos?
3. Los operadores públicos como medios de servicio gubernamental o medios estales autónomos.
4. Normas sobre protección de las diversas ciudadanías; garantías para el mercado; la libertad e independencia periodística; derechos de la oposición política; y las potestades que se reserva el Estado.
5. El régimen de propiedad y concentración de medios.

Definida sustancialmente la reconfiguración sistémica del derecho de la comunicación se podrá readecuar formalmente la Ley de Medios.

Id: 17002

Title: Freedom of information and democracy: A comparative examination into the right to know.

Session Type: Individual submission

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Abstract: At its core, the concept of freedom of information is based upon governmental transparency and accountability. In the United States the Freedom of Information Act (FOIA) permits "any person" access to all federal agency records and is subject to only 9 exemptions. Thus FOIA is intended to provide the citizenry with information, with the knowledge that is necessary to govern.

It seems counterintuitive that U.S. freedom of information (FOI) legislation is unrelated to the prized constitutional guarantees of freedom of expression and free speech. Yet the Supreme Court has ruled that freedom of information for the public and for the press is not afforded constitutional protection. This conundrum is made more interesting by a comparative look at freedom of information as it has spread internationally from the U.S. throughout the globe. Many nations have taken the U.S. concept of FOI and incorporated it not only into their legislative codes but also into their constitutional framework. The escalation of the principle from a statutory right to a constitutional guarantee by adoptive nations may suggest a deeper commitment to the "marketplace of ideas" to which the U.S. purports to advance.

The purpose of this essay is to examine, in a regional comparative context, FOI laws in Latin America and the U.S. I will examine whether FOI is a statutory right, a constitutionally protected guarantee or both. Further comparison will be conducted as to the extent and breadth of legislatively crafted exemption to these laws. For brevity's sake the sample of Latin American countries analyzed will be select and representative rather than inclusive.

In order to do so, I begin with a brief explication of freedom of information, its origins and role in functioning democracies. I then draw distinctions between a statutory right to public access and the constitutionally protected right to the same. Lastly I will compare Costa Rican, Mexican and U.S. FOI laws examining in particular constitutional, legislative rights to public access and any exemptions granted therein.