

# JURISDICTION AND INTERNET GOVERNANCE: ELEMENTS FOR A ROADMAP

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A free, open and inclusive digital society can only emerge and be organized through a convergent effort of all stakeholders - public, private and civil society actors alike - just as the Internet itself evolved.

An institutional ecosystem progressively emerged in the last decades to enable and maintain the technical interoperability of the Internet infrastructure. However, preserving the global cross-border nature of cyberspace is more than a technical issue. To handle the growing tensions between jurisdictions online, governance mechanisms as innovative as the network itself have to be developed.

Failure to do so would lead to the proliferation of uncoordinated national decisions, with unintended and detrimental consequences for all, jeopardizing the global exercise of human rights and innovation, with high social and economic costs.

## TRANSBORDER SPACES

Today, more than 3 billion people exercise their universal human rights as they communicate and interact in cyberspace, irrespective of their location around the globe. Likewise, the Internet's openness enables innovative new services to be immediately accessible worldwide, regardless of where they are incorporated.

This very success has a consequence: as interactions and services become more transnational, so do the legal challenges related to the use of the network. Online content or activities legal in one country can be illegal in another. Decisions in one territory impact actors elsewhere.

## A FRAGMENTED INTERNATIONAL LEGAL SYSTEM

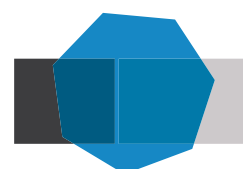
The international legal system has not evolved in parallel to cope with the rapid emergence of digital spaces. It remains a fragmented patchwork of diverse and sometimes incompatible national legislations based on geographically determined jurisdictions. Inter-state cooperation mechanisms, when they exist, are limited in scope and handle Internet-related matters with difficulty.

Tensions are growing as a result of the status quo. This pits national sovereignties against one another and places the responsibility on Internet operators and platforms to decide upon requests from multiple countries. Users fear that their rights will be overlooked in this context.

## COLLABORATION NEEDED

To handle the jurisdiction issue, a choice has to be made: either we progressively re-align cyberspace along the territorial boundaries of national jurisdictions, or we collectively develop an interoperability framework that allows the coexistence of diverse national laws and norms in these shared cross-border online spaces.

To preserve the transnational nature of cyberspace, we need to collaborate. Only a transparent and accountable governance framework can preserve for the future generations of digital natives the characteristics that have made the global Internet so successful.



**INTERNET  
& JURISDICTION**  
A GLOBAL MULTI-STAKEHOLDER  
DIALOGUE PROCESS

## A GLOBAL MULTI-STAKEHOLDER PROCESS

In organizing NETmundial, Brazil and its co-convenors aimed at fostering a more common understanding of Internet governance challenges and to catalyze concrete initiatives that could help further evolve the corresponding institutional ecosystem.

Since 2012, the Internet & Jurisdiction Project has served as neutral facilitator for a global multi-stakeholder process on a specific and crosscutting issue: transborder tensions around Internet content.

In a series of meetings around the world, participants from more than 80 entities from governments, civil society, private sector, international organizations, academia and the technical community have identified the need for a set of procedural norms to ensure due process in the handling of transborder requests regarding domain seizures, content takedowns and access to user data.

## MOVING FORWARD

On the basis of this existing groundwork, time has come to strengthen efforts and resources towards the development and application of an operational framework.

Therefore, the Internet & Jurisdiction Project will implement the following roadmap for its activities to contribute to the operationalization of NetMundial's outcomes:

- Formation of a balanced multi-stakeholder facilitation group to help the Internet & Jurisdiction process produce a draft framework by the end of 2014
- Conduct iterative online consultations
- Use of existing events, including in particular the 2014 Internet Governance Forum, to conduct open consultations allowing all stakeholders to provide ongoing input and feedback into this process
- Organization of a dedicated conference in early 2015 to present and discuss the draft framework

