

Derechos Digitales' comments to the AIAB regional consultation on Latin America and the Caribbean

Delivered by Jamila Venturini on May 21st, 2024.

Thank you AIAB for opening this important space and for the invitation.

I'd like to use this opportunity to share some considerations for your future work, from the perspective of human rights and inclusion. I'd like to highlight three points, considering the research we have been developing in Latin America at Derechos Digitales since 2020 and that I invite you all to visit:

1. The final AIAB report needs to put emphasis on the mechanisms and procedures that should be observed by States while supporting, developing and deploying AI. This includes not only the implementation of prior human rights impact assessments to guide decisions on governmental uses of AI, but also obligations regarding transparency and accountability, on meaningful multistakeholder participation in decision making processes involving AI.

- In the same lines, **recognizing the role of mature access to information and data protection frameworks for a proper regulation of AI and recommending States to adopt and enforce such legislation would be important in the context of Latin America** in a moment in which international pressure and cooperation presents a narrow understanding of AI governance and regulation that may jeopardize key advances on other fields that are still pending in the region.

2. Any idea of trade-offs between fundamental rights should be removed from the final report. On the contrary, learnings from the Inter-American System of Human Rights should be adopted to guide States on balancing those rights - in particular the framework on the legality, necessity and proportionality. Such framework is particularly relevant when it comes to AI deployment by the public sector and is being deeply ignored by Latin American governments in their experiments with technology.

- Additionally, the report should reinforce the numerous recommendations from different international standards regarding the banning AI applications that "cannot be operated in compliance with international human rights law and impose moratoriums on the sale and use of AI systems that carry a high risk for the enjoyment of human rights", such as remote biometric recognition technologies in public spaces.

3. Several of the concerning deployments of automated systems and AI in Latin America are a result of international cooperation. Those include the implementation of biometric surveillance systems, including remote facial recognition in public spaces without due observance of normative obligations and the adoption of predictive systems within welfare programs, both with concerning potential consequences in terms of discrimination, exclusion and inequality. Thus, the negative impacts of AI in Latin America can be mitigated if development banks play their role.

- The final AIAB report should recommend that **any support for the implementation of these types of systems is preceded by human rights impact assessments and guided by strict transparency and accountability measures**; and that similar responsibilities are transferred to States once they receive support to implement a system.

- **It should also stress that international bodies including aid agencies, UN bodies, development banks and others are accountable for their participation in the AI lifecycle.** A global AI governance structure should have a function to oversee those institutions and ensure that their use and support to AI is aligned with international human rights law.
- Investments for digitalization and AI deployment should be carefully considered under necessity and proportionality criteria, so as not to divert investments in more fundamental programs and policies, which are often threatened by reductions.

To finalize, I'd like to emphasize that the global governance of AI should allow further dialogue and integration of different actors at different levels and offer support to States in dealing with extra-territorial aspects of AI research, design and development. The AIAB final report needs to focus on proposing a structure that allows exchange of information for better decision-making and offers concrete mechanisms to assist the monitoring of compliance.

Thank you.