



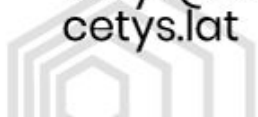
Social Media Platforms and Civil Society in Latin America: A View from the Nonprofit Organizations

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In the last decade, Latin American nonprofits have built new means and capacity to participate in the governance of online content. At the same time, nonprofits in the region face significant limitations to serving as meaningful actors in this space. This report describes three types of engagements between nonprofits and social media companies; they include the following: conversations about updates to content moderation rules, discussions about decisions on specific pieces of content, and the Facebook Oversight Board global consultation. The report focuses on three aspects of the engagement between companies and nonprofits that constrain the potential for these interactions to translate into policy development, including: the timing of the engagement, the scope of the consultation, and companies' internal structure. The final section introduces regional projects that promise further involvement in content governance. This report shows the preliminary findings of a qualitative study consisting of interviews with 23 participants from 17 organizations working in the region. Consequently, it describes the perspectives of the nonprofits working in the space and their views on what limits their role and what reforms could enhance it.

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I. Introduction

In the last decade, nonprofits in Latin America developed a vibrant tech policy environment. From Mexico to Argentina, organizations from civil society have organized and grown to occupy a place in internet global governance, participating in international and regional forums, fostering relationships with local and US-based companies, and developing research and advocacy capacities. Although a few years back the primary focus of Latin American activism was government regulation, as companies grew larger, advocates also developed agendas around privacy protection and content moderation. This report examines how the relatively new relationships between these organizations and US-based social media companies have succeeded or failed to include Latin America in the governance of online speech. It aims to decipher how nonprofits, experts, and advocates working in the region see the factors limiting their own role and what reforms could further empower them.

Social media giants with the largest presence in Latin America – Facebook and Instagram, Twitter, and YouTube – have rules that determine what content is allowed on their sites. Platforms also organize the distribution of content through other means beyond the binary choice of leaving up or taking down content. This includes demonetization of content, fact-checking, labeling, adding interstitials, downranking, or promoting content, among others. Through these mechanisms and rules, these private actors control much of the speech distributed online. That power to regulate is highly concentrated within these few private actors. Governments have tools at their disposal to participate in that regulation, but those tools are necessarily limited.¹ Even if governments set the standards of content moderation, implementation would require a heavy hand from companies given the need for highly granular rules and the high volume of content.² Beyond the operability challenges for governments to intervene, most of the content that companies regulate is legal speech.

In this context, civil society, and particularly nonprofits, have a fundamental role to play.³ They can represent the public interest within the private rule-making processes. This report empirically assesses the current challenges that Latin American nonprofits currently face to play that role within companies' internal processes to update content moderation rules. This report answers a narrow question: What opportunities does engagement between US-based companies and civil society in Latin America create, and what elements limit those opportunities?

Answering this question has three goals. First, in some cases, identifying obstacles in these relationships may be a first step to broadening the opportunities for civil society participation. Second, reflecting on the costs and benefits of participating in companies'

¹ On the available regulatory models, see Maia Levy Daniel and Carolina Aguerre, *Intermediarios de Internet: consideraciones para reflexionar en el contexto de Argentina*, Centro de Estudios en Tecnología y Sociedad (CETyS), November 2019.

² Monicka Bickert, "Defining the Boundaries of Free Speech on Social Media," in *The Free Speech Century* (Lee Bollinger and Geoffrey Stone, eds.) (2018).

³ On the role of civil society in internet governance, see Diego Canabarro, *El desarrollo institucional en la gobernanza de internet y la participación de la sociedad civil: una evaluación de los retos y perspectivas desde una mirada de la comunidad técnica*, Centro de Estudios en Libertad de Expresión y Acceso a la Información (CELE), December 2019; Carolina Aguerre, *The who, the what and the how. Mapping stakeholders, issues and mechanisms of Internet governance in Latin America*, PoliTICs N°30, ISSN: 1984-8803 (2020).

outreach efforts can inform nonprofits' decisions on whether, when, and how to take part in those engagements. Finally, I hope this report will be a step forward in the broader project of imagining new institutional arrangements that ensure public participation in the governance of online content.

The report is based on interviews with 23 participants from 17 organizations working in the region conducted between May and August 2020. The next section discusses the three experiences of engagement that participants refer to most frequently: the reporting mechanisms between organizations and companies, the Facebook Oversight Board global consultation, and the stakeholder engagement processes managed by the companies as part of their processes for policy development. The last section outlines promising projects to increase nonprofits' capacity and avenues for future research. The annex outlines the methodology used in this project.

II. The Possibilities and Constraints of Stakeholder Engagement

Companies' interactions with nonprofits take different formats. Conference panels and informal meetings at multi-stakeholder forums, trainings where companies showcase their products, and conversations about how to enforce a content moderation rule in the local context are some salient examples. Most participants report that these conversations have become more frequent over the last few years, and especially with Facebook, the company most invested in engaging civil society organizations in the region. This section maps the variations within nonprofits' experiences engaging with social media companies. The first part discusses how organizations in the region engage the companies to "appeal" individual decisions about content. When companies either take down or leave up a piece of content, some organizations use formal mechanisms and informal backchannels to have the companies reverse their decisions. This is one type of interaction that most participants have had with the companies and one that most participants consider effective.

The second part describes the experience of some participants during the Facebook Oversight Board global consultation process. Facebook has been developing an independent board that will review Facebook's decisions regarding specific pieces of content. As part of the process, Facebook conducted meetings and opened a portal to gather feedback from around the world.⁴ This may be the most ambitious effort to engage public interest organizations and constituencies around the world to date. Reported by Facebook as a widely successful process,⁵ this part of the report traces the mixed experience of Latin American organizations.

⁴ On this consultation process, see Kate Klonick, *The Facebook Oversight Board: Creating an Independent Institution to Adjudicate Online Free Expression*, *Yale Law Journal* (2020). For some examples of Latin American civil society participation in the process, see *Considering Facebook Oversight Board: Turning on expectations*, Centro de Estudios en Libertad de Expresión y Acceso a la Información (CELE), May 2019; *Facebook Oversight Board: A Perspective from Latin America and the Caribbean*, *Al Sur* (2019).

⁵ Brent Harris, *Global Feedback and Input on the Facebook Oversight Board for Content Decisions*, Facebook Newsroom, 27 June 2019, <https://about.fb.com/news/2019/06/global-feedback-on-oversight-board/>

The third part describes other types of interactions in which a specific content moderation rule or product is discussed with nonprofits. This part highlights some new opportunities for nonprofits to participate in the design of content moderation and discusses three types of constraint for these engagements: timing, topics, and the internal structure of companies.

Finally, the last part draws on such experiences and assesses the risks and opportunities that nonprofits in the region face when participating in these engagements. Although stakeholder engagement is not designed to promote bottom-up change, consultation processes offer an opportunity to influence policy development, especially when civil society input is targeted at offering a better formulation of a policy that a company has decided to update or when advice offers context the company overlooked.

● **Reporting Mechanisms: Enforcing the Companies' Rules**

Some participants report that the most successful engagements take place when nonprofits try to have a company eliminate or reinstate a specific piece of content, that is, when nonprofits help enforce the companies' policies. This happens through informal and formal channels. Respondents make use of the networks they have built with the policy teams at these companies over the last few years. Some nonprofits have joined a Facebook program for "trusted partners," which gives these special users the option to report content in an institutionalized and, according to most of them, extremely effective way. In fact, one of the program's members uses the function "*seldom, because it is very effective, so we have to know the case really well before reporting it.*"⁶

Before Facebook began this more formal program, nonprofits used to reach out to a contact person via email. The same mechanism remains in place for content that the platforms have wrongfully removed. And nonprofits use this informal system to report content on platforms other than Facebook, especially on Twitter. Participant L04 is a founder of a leading Mexican organization that is "*in constant and fluid contact*" with Facebook and Twitter. When discussing conversations around specific instances of content, he explains, "*We have a direct channel to tell them, 'Hey, watch out, this should have not been taken down (...)* A case I remember very clearly in the context of the pandemic was a product of automatic moderation. What happened is that they tried to give preference to official information from official sources with the goal of trying to avoid disinformation. But there were some problems. One that is somewhat funny and paradoxical is that there was an official government site that was being blocked on Twitter because even though it was a government site... Twitter kept mistaking it as a site without proper sources. Obviously, we let them know, and they corrected that."⁷

The "trusted partners" have a special button on the platform to report content that should be taken down. As mentioned above, participant L03 is cautious about clicking the button but has decided to use it under some circumstances. She talks about the MAP – Movimiento Acitivista Pedófilo (Activist Pedophile Movement), which is leading a campaign in some South American countries to have pedophilia recognized as a sexual orientation and have it included in the LBTQI+ movement. A Facebook group associated with the movement posted

⁶ Interview with informant L03.

⁷ Interview with informant L04.

the pictures of a young man participating in a LGBTQI+ pride parade as if he were associated with the MAP. The user and his friends reported the use of the image but received no response. *“So, we did it through this special channel.”*

The program is useful for many organizations. An advocate who works specifically on online gender violence and provides direct client services says the “trusted partner” program is an incredibly helpful tool. The organization used to help long-time activists who had issues on the platforms (usually Facebook) because their content was routinely flagged and taken down. *“In one case, it was information about abortion distributed by a feminist collective. In cases like that, we would write to our contact person. But then I stopped receiving answers, and it became too frustrating... But then at the beginning of this year, a new person from Facebook approached us and told us they were aware of our work and wanted to ask us to be trusted partners, so now we have that little button... Lately I have been using it to report groups that support and advocate for pedophilia and groups that organize coordinated attacks.”*⁸

No one is quite certain about what happens after having made a report, but the effectiveness of the program is one of the few things all participants who make use of it agree on. That effectiveness, though helpful for organizations with a team dedicated to channel users’ problems, also poses challenges, of which many participants are well aware. The program can transform the organizations into enforcers of the platforms’ rules. Rather than challenging how companies operate, nonprofits do the job of understanding the context and help the platforms avoid mistakes. For organizations interested in building alternative digital spaces, this is a problematic role. As participant L12 concludes, *“This is terrible because we are working with a company that in my opinion may as well stop operating.”* Nonprofits also worry that their participation in the program further marginalizes those without connections and access to the companies: *“Users without recourse to us do not have the same rights. That is not fair.”*⁹ For these participants, what drives engagement with the companies are the short-term gains of achieving a fair outcome in each case. As one participant concludes, *“We have to help the people who need it, right?”*¹⁰

Reflecting on those tensions, participant L01 – who works at the local office of an international organization – discusses her doubts about becoming a trusted partner. *“Our mission is not to select content and make decisions of what should stay up. When we used to have direct communication with the companies, we would use that channel as a means of advancing our cause to support journalists. But today if we want to participate in these mechanisms, we should ask ourselves why we want to have this direct channel. And we should ask ourselves what to do with those journalists who cannot escalate their cases.”* The system enables these nonprofits to improve the appeals process in individual cases but does not create a meaningful structural change to ensure that everyone has access to that process. Indeed, nonprofits’ participation can make the system look more legitimate while further marginalizing users who lack access to sound networks. Most civil society organizations struggle with the fact that accepting a small role in generating marginal improvements can at the same time legitimize platforms’ power. As the next subsections show, this tension appears in different forms in all types of engagement between nonprofits and companies.

⁸ Interview with informant L09.

⁹ Interview with informant L10.

¹⁰ Interview with informant L12.

- **Facebook Oversight Board Global Consultation Process**

In late 2018, Facebook announced it would create an independent Oversight Board to review its decisions to take down or leave up content on the platform. The project, as it stands today, consists of 20 experts from around the world (although a quarter of them come from the United States, and only two come from Latin America) who will review Facebook's decisions around specific pieces of content and will be able to make recommendations to change Facebook's internal rules. The board is expected to start reviewing cases in late 2020.¹¹ The process to design the board and its operations involved a global consultation process.

The experience of the participants was quite mixed. They all describe a similar process but evaluate it quite differently. For some, it was the best example of productive and serious engagement with civil society: *"It was excellent. There was a level of due diligence that was really fantastic. Everything we could have asked for. You may like the idea itself or not, but the process was the best one I have seen."*¹² For others, the consultation process was very limited: At best, a means to get *"advice on all the available options so that they could choose which one they liked best,"*¹³ at worst, *"a way to transfer responsibility to civil society for Facebook's own problems."*¹⁴

A global consultation with so many stakeholders is necessarily limited. Not everything can be up for discussion. The first workshop in this global outreach took place in Singapore. Kate Klonick reports that that first experience did not go terribly well. Facebook had planned to ask the participants to share their thoughts on the new board, but participants were not able to engage meaningfully with such a broad prompt.¹⁵ In contrast, asking participants to answer narrower questions about the specifics of the board design could lead to more concrete and constructive conversations but also limits the scope of the input.

On the one hand, participants found the engagement too narrow and not significant. One of the limitations they highlight is the timing of the consultation. Many participants feel that all meaningful elements *"were already decided."*¹⁶ Another limitation was the scope of the consultation. Participant L03 talks about how little time there was to make proposals and exchange ideas, stating, *"Most of us know about content takedowns, but they would spend a lot of time showing us examples of content moderation, the same examples we had seen already. Why did they not let us talk and raise important issues instead?"* When asked about which concern she would have liked to raise, she responds, *"A court model makes no sense. It just creates unrealistic expectations."* She concludes, *"We were not there to make any kind of decision."* Finally, despite the efforts to make the outreach global, a participant points out

¹¹ For a detailed account on the promises and pitfalls of the Facebook Oversight Board, see *The Facebook Oversight Board: A significant step for Facebook and a small step for freedom of expression*, Article 19, 21 May 2019; Javier Pallero and Carolyn Tackett, *What the Facebook Oversight Board means for human rights, and where we go from here*, Access Now, 1 June 2020.

¹² Interview with informant L14.

¹³ Interview with informant L03.

¹⁴ Interview with informant L01.

¹⁵ Kate Klonick, *The Facebook Oversight Board: Creating an Independent Institution to Adjudicate Online Free Expression*, Yale Law Journal (2020), at 2455.

¹⁶ Interview with informant L03.

the difficulty in reversing the power imbalance between the global North and global South, stating, *“The consultants they hired were all from the United States. They did global workshops and meetings, and what have you, but the people running the show were from the United States.”*¹⁷

On the other hand, for those who found the workshops relevant, the questions about the details of the design of the procedure and institutional function were important and genuinely up for debate. Participant L10 shares the same view about the timing and scope of the consultation, but there is less frustration in her tone: *“There was no room to propose a different model. I mean, everything was pretty finalized, but there were some adjustments to make. So we were there for those adjustments.”*

Some participants signal the experience as different from other engagements with Facebook: *“That was designed to gather opinions and impressions from a diverse group of people. And these companies are very sensitive to this type of things, so in the case of the Oversight Board, yes, I did feel like they [Facebook] were interested in listening to what we had to say about its design, about how it was being built.”*

Rather than contradictory, these experiences highlight different expectations. Those who emphasize the failure of the process to integrate their structural views on the project expected the process to enable a bottom-up design process in which those who participate as stakeholders have power to lead the initiative. On the other hand, those who were more enthusiastic valued the possibility of providing feedback and influencing the tweaks of the board’s design even when they acknowledge that the goal of participating was constrained to finalizing the project as designed by Facebook and US-based experts.

● **The Limits of Stakeholder Engagement**

Beyond those two specific cases of engagement, companies, especially Facebook and Twitter, also engage nonprofits to obtain feedback on how to update their content moderation rules. In the case of Twitter, some conversations take place in the context of its Trust and Safety Council. YouTube is notably absent in the interviews.

These conversations seem to have been more frequent in recent times, and there are instances in which participants do feel heard and part of the rule-making process. However, many participants report three main elements that, in their view, constrain the impact of their own participation: the substantive scope of the conversations, the timing, and the obscure internal corporate structures.

1. Too Little

Some participants have the impression that the productivity of the conversations changes depending on the topic. When the company is interested in changing a rule, the conversation may lead to concrete results. However, when the interest in changing rules comes from civil society, participants report slim opportunities for debate. In the case of Facebook, getting the context right to enforce hate speech policies is an example of the

¹⁷ Interview with informant L11.

former, whereas discussing the rules around nudity illustrates the latter. Participant L10 heads a feminist tech policy organization in South America. In her experience, *“They do want to do something about hate speech. So they ask us questions to understand the context better, like what words are offensive, for example, what words refer to racial or ethnic issues, or to gender and sexual orientation. They want to avoid mistakes and avoid censoring without understanding the context. So we explain to them who the actors are, how the expression is used, when the slur can be used as a joke. But there are other things that they do not want to change. For example, the issue of nudity. There, the discussion is a dead end. They do not say that. They are very diplomatic. They listen to us, but they don’t change anything. This rule [that forbids female nipples on the platform] is convenient for them. If they change it, a large group of users may be unhappy or leave the platform.”*

As an example of these dead-end discussions, two activists from this organization talk about a recent meeting that took place in Colombia and brought together different organizations. *“They [Facebook] told us about an exception to the rule they made in the case of an artist who performed naked. They have an exception to their nudity rules for political demonstrations. I remember I told them that from a feminist perspective, just showing your nude body is a political expression. So how are they going to take that into consideration? But the woman who was presenting did not respond anything. She laughed kindly and just said, ‘That violates our rule; sexual content is not allowed.’ Facebook decides what content is sexual through their own patriarchal view that hyper-sexualizes female, trans, and nonbinary bodies.”*

Furthermore, not all organizations have the same level of access to policy discussions. A South American organization that also does intensive work around gender violence on platforms says, *“It is not like they ever ask us what we think about the policies.”¹⁸* That is in part what pushes the organizations to use the channels described in this section’s first part to help victims navigate instances of harassment, threats, coordinated attacks to report content, and non consensual distribution of intimate images. With no room to discuss the rules or the product design to achieve structural change, some organizations choose to make use of the available mechanisms to assist users.

2. Too Late

Timing of the consultation also limits the ability to influence how platforms work. When describing many interactions, participants report that the conversation has the goal of sharing information rather than being a bidirectional interaction. Even though there is time for questions and feedback in all interactions, a participant considers that *“they want to know if there are legal risks or if there is something they overlooked about the legal context, but the change in the policy is already finalized, and they are just running it by us.”¹⁹* He believes the reason companies are interested in the engagement *“is not to get feedback, but because if they show us how a product works, we can distribute that information to others, right? If we know how a new product works, we will be able to answer more quickly to problems that others bring to us. For instance, I remember when Facebook launched Messenger for Kids. They [Facebook] came to showcase the product. And I think it is a good product. There were some instances when I have recommended it to others. But when the policy representative comes and tells me about the*

¹⁸ Interview with informant L09.

¹⁹ Interview with informant L07.

product, I think she is interested in hearing if there is any conflict with the local law, something like that. But I feel like this is a food chain, and when the information gets to us, it is just that, just to inform us ... I understand that is my role, so I am not disappointed."

Nonprofits are still interested in the engagement for two reasons. First, the information they receive about new developments enables them to do their jobs more effectively. Second, some believe the conversation may lead to more meaningful engagement in the future. *"It is not like Facebook or the representative who is there will say, 'Hey please tell me how to improve this rule,' but the conversation gets started, right?"*²⁰ However, given the constraints, some nonprofits consider that the time, effort, and free labor demanded make the engagement not worth undertaking.

3. Whom Am I Speaking to?

A limitation for engagement that many participants share is the impression that the policy representatives they engage with lack power inside the companies. Transparency is now a central demand from civil society²¹ and an area in which there has been notable progress. Civil society constantly asks social media companies to report on their content moderation guidelines and their enforcement along with the algorithms they use to distribute and moderate. A less frequent demand is on transparency around the internal structures of these companies, in other words, how the teams divide their work and who makes decisions along with what arguments and rationales are persuasive inside the companies' decision-making processes.

A constant and serious constraint to these engagements is that nonprofits do not know what kind of power the policy representatives have. In the words of the director of a leading nonprofit, *"We never get to Silicon Valley. We fight against people just like us, who have no capacity to act or decide anything. I can't deny that the relationships are fluid. I have someone to talk to on Facebook, on Google, on Twitter, and that is much better than not talking to anyone. But the organizations that have access to Mark Zuckerberg or the head of global policy ... how many are there? [...] The person responsible for South America at [company]. I know her, she is my friend, she is great, but she has zero influence."*²²

Respondents give surprisingly similar answers in this regard. Another advocate shares, *"Now, these conversations guarantee absolutely nothing because, deep inside, I believe these people can do very little. All decisions are made elsewhere. These people are like satellites orbiting around and making no decisions. So even if we are talking to someone from Facebook and they say, 'You have a point, I will try to bring this to someone in Menlo Park,' I know that is not going to happen necessarily."*²³ *"We know that even though [the companies] seek our input, there is no real hope that our feedback will translate into real change ... maybe organizations in the United States with more direct access can have different results."*²⁴

²⁰ Interview with informant L10.

²¹ On the importance of corporate transparency, see for example Fundación Karisma, ¿Dónde están mis datos?, 2015, 2016 and 2017 reports available at <https://web.karisma.org.co/pagina-principal/que-hacemos/investigaciones/demd/>.

²² Interview with informant L06.

²³ Interview with informant L07.

²⁴ Interview with informant L17.

Not knowing the internal structure of companies, the processes for policy development, and the type of arguments and considerations that companies find persuasive makes it difficult for stakeholders to assess the value of the engagement and its potential for actual influence. This lack of transparency also prevents outsiders from framing their advice in a way that is most persuasive or helpful for the companies because no one seems to have a clear understanding of which considerations drive policy development.

- **Participating or Legitimizing?**

"It is always the same. It is almost like they are just trying to get validation from us. But if we do not participate, then we do not have a voice, right?"²⁵

These are stories of nonprofits struggling with the double effect of stakeholder engagement: companies manage risk, whereas nonprofits obtain information and some substantive changes here and there. In recent times, Latin American nonprofits have developed great capacity and built a voice in international debates. In a region where governments have few levers to pressure foreign social media companies, the voice of civil society organizations is essential to represent the region in the governance of online content.

As this section shows, these engagements have indeed led nonprofits to winning some fights. Through informal channels and formal partnerships, they are able to channel users' demands and appeal content moderation decisions. Through participation in formal consultation processes like the one designed to build the Facebook Oversight Board and other formal stakeholder engagement initiatives such as the Twitter Trust and Safety Council, nonprofits have a voice in these debates and are active constituencies in these governance systems. The limitations nonprofits perceive are, however, serious: the timing and scope of the engagements provide little opportunity for meaningful input, and the obscure internal structure of companies leaves stakeholders in the shadows as to how that input is processed. *"Policy representatives are always taking notes. But I do not know what they do with them."²⁶* Even though companies may process all global input through the same formal mechanisms, this common perception may come from a lack of communication or trust around how companies manage nonprofits' input and a more general perception of Latin American nonprofits' relative power.

Beyond pushing companies to make substantive changes, one of the main incentives for civil society to engage with the companies is access to otherwise unavailable information. Just like capacity and understanding of how speech works on these platforms is necessary to participate in the conversations, the reverse is also true. Participation in different conversations, forums, and trainings help nonprofits acquire the information they need to do their job: *"We want to do serious work. And for that we need to be informed; we want to know why Twitter makes certain decision about Trump's posts. We talk to them because we want that information. That is the first reason."²⁷*

²⁵ Interview with informant L03.

²⁶ Interview with informant L10.

²⁷ Interview with informant L06.

The perfect conditions for stakeholder engagement are hard to define. Companies are unlikely to be able to consult with hundreds of nonprofits before every policy change or even before major ones. Even the Facebook Oversight Board global consultation, which has been the most ambitious effort to engage stakeholders, was nowhere near to constituting a mechanism for collective design.

The instances in which civil society's input is most impactful are those in which that input helps a company advance its own goals. In the case of nudity, a policy that Facebook seems to have no interest in changing, civil society's demands go unheard. But when the input helps companies improve the enforcement of their own rules, things are more promising. In Paraguay and Peru, Facebook has actively sought and followed civil society's explanations of the local context to apply its hate speech policies around specific slurs or threats. Channels to report and correct specific mistakes in the enforcement of content moderation rules work well. Even though here, too, nonprofits face a dilemma: it is possible to use the opportunity to bring justice to some users while legitimizing an appeal process to which many users lack access. And trusted flaggers programs can transform nonprofits into some strange type of companies' employees. A participant perfectly synthesizes this tension, *"I always tell my colleagues we are not here to process users' complaints; we should only do that when it is worth it. But my colleagues, well, they are activists and care a lot, so they think all cases are worth it."*²⁸

III. Regional Potential

This section outlines opportunities for further involvement of the region in the global governance of content online. They are based on what nonprofits in the region are already working on. I focus on three projects: Al Sur, the Inter-American System of Human Rights, and engagement with companies. This is not an exhaustive list or even a program for action. Rather, it gathers some projects that the participants refer to as successful, promising, interesting, or moving in the right direction.

- **Al Sur**

Al Sur is a coalition of 11 Latin American organizations that represent advocates and academics that had been collaborating for several years in an informal capacity. It may be the strongest ongoing effort to build a regional voice. Most forums and initiatives are built on the principle of diversity and geographical diversity is usually salient in the selection of representatives. Building a regional coalition could make participation in these spaces more representative of a larger number of local voices. Particularly, Al Sur can help smaller organizations take advantage of the resources of bigger players. It can also improve its members' capacity by enabling collaborative projects that can give all organizations the opportunity to be part of a greater number of initiatives and be represented at additional institutions and forums. According to some interviewees, this has been one of the initial goals of Al Sur: *"There were open calls for proposals and input before OAS or the UN, and maybe*

²⁸ Interview with informant L07.

one single organization did not have time to participate, but if two or three organizations were working together, then we were able to prepare something and submit it.”²⁹

Building a regional coalition poses multiple difficult questions. Particularly, presenting itself as a regional voice could send the misguided message that interests and views in the region are homogeneous. Some organizations report tough challenges finding purpose and common ground on which to speak as a region. Two participants highlight the differences between the European Union and Latin America, and correspondingly between EDRi and Al Sur. *“In Europe, they have something we do not: a common framework that is the European Union. Here, we have the Central American Integration System, the Mercosur, but not all countries in South America are part of it, the Pacto Andino. It is all much more fragmented.”³⁰* Along the same lines, another participant reflects on the role of Al Sur, *“I think one of the first references for Al Sur was European Digital Rights, EDRi, which is basically an organization of organizations. But well, in Europe it makes a lot of sense because there is the European community... In Latin America, we don't have any of that. There is no Latin American Parliament. So the question is what the role of Al Sur is, in what forums it will participate. And we don't have a clear answer to that question yet.”³¹* Participants also emphasize that integration takes a great deal of time and work, and Al Sur is an emerging project. *“The fact that we get to work together, trust each other, that is enough. High expectations kill good projects.”³²*

● **Inter-American System of Human Rights**

Latin America may not be as integrated as the European Union is, but the Inter-American system of human rights does constitute a sound institutional framework in the region. The Inter-American system has also produced some initial reports and documents on online speech,³³ although so far, these efforts have been mostly targeted to states. Building upon these standards is a strategy that could give nonprofits and states a sounder framework from which to push companies to make changes in line with regional human rights standards. A group of organizations has recently produced a document assessing how companies should change how they regulate speech on their platforms to comply with these standards.³⁴ This work fits within a global project to demand large social media companies adopt international human rights law as their own content moderation rules.³⁵ The companies have embraced the framework, as demonstrated for instance by the fact that the Facebook Oversight Board charter refers to human rights as an appropriate framework upon which the board should make decisions. However, it is still necessary to

²⁹ Interview with informant L07. See e.g. *“Oversight Board” de Facebook una perspectiva desde América Latina y el Caribe*, Al Sur (2019) available at <https://www.alsur.lat/en/report/facebook-oversight-board-perspective-latin-america-and-caribbean> (Al Sur's submission on the Facebook Oversight Board).

³⁰ Interview with informant L05.

³¹ Interview with informant L07.

³² Interview with informant L03.

³³ Catalina Botero, “Capítulo IV: Libertad de Expresión e Internet,” en Informe Anual de la Comisión IDH 2013, OEA/Ser.L/V/II.149, 31 December 2013; Edison Lanza, “Capítulo III: Estándares para una Internet Libre, Abierta e Incluyente,” Informe Anual de la Comisión IDH 2016, OEA/Ser.L/V/II, 15 March 2017.

³⁴ Observacom et al., *Estándares para una regulación democrática de las grandes plataformas que garantice la libertad de expresión en línea y una Internet libre y abierta*, Observacom Publicaciones, July 2020.

³⁵ David Kaye, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Report on Online Hate Speech, A/74/486, 9 October 2019.

translate the standards designed for state regulation into rules that companies can implement at scale.³⁶ In that context, participating in the development of new international human rights standards could provide a promising avenue for influencing the governance of online speech.

- **Engagement with Companies: A Matter of Expectations**

Despite important limitations, engagement with companies does enable some forms of participation in content governance. These relationships could be strengthened, and the role of civil society could be more meaningful.

At the same time, engagement entails risks. When pushing for greater inclusion, it is wise to have a clear picture of the tradeoffs. Engagement can offer legitimacy to moderation practices while offering little change in return. It can also consume too many resources from nonprofits, leaving civil society with insufficient time to advance their own agendas. Paid consultancies could address some of these issues,³⁷ but not all of them.

Engagement with companies is best described by the titles of many of the institutions in which the conversations take place: advisory councils. The role of civil society is to act as advisers. Companies set the goals and ask for help to achieve them. Helping the companies in that endeavor is not meaningless: well-designed policies can protect users' interests and advance different visions of what constitutes a good environment for public conversation. However, participation requires time and usually unpaid labor and does not necessarily open a space to pursue civil society's own goals. Each organization decides what fits its mission best, although it is important to note that not engaging with companies is a luxury that many local nonprofits cannot afford: these spaces offer the main source of information that nonprofits need to carry out their work.

Future research including the perspective of companies and organizations based in other regions will provide a more complete account of these relationships. Based on these descriptive accounts, the conceptual question that must be answered is whether voluntary stakeholder engagement mechanisms have the capacity to keep companies accountable to the public interest and, if so, which structural changes are necessary to fulfill that promise.

³⁶ On the pitfalls of the human rights project, see Brenda Dvoskin, *International Human Rights Law Is Not Enough to Fix Content Moderation's Legitimacy Crisis*, BKC Medium Collection, 16 September 2020.

³⁷ Interview with informant L17 (pointing out that "we have to do all this consultation work for free for these people who make insane amounts of money").

Annex: Methodology and Limitations

This report is based on conversational semi-structured interviews with 23 participants from 17 organizations. The organizations were selected from various sources: members of Al Sur, organizations that submit input to the UN on various projects, members of Twitter Trust and Safety Council, and participants in international conferences and forums such as RightsCon and IGF. An overwhelming majority of contacted organizations were interested in participating. Informants were not compensated for their participation.

All interviews were conducted in 2020 between May and August over Zoom. They were between 45 minutes and two hours long. Before the interviews, all participants were told that their names and organizations would be anonymized in this report and in any future publications. All but two interviews were conducted in Spanish and translated into English. Quotes were edited slightly. Everyone tends to speak in a less structured way than they write, making reading unedited quotes confusing and, at times, fatiguing. The editing of the quotes attempts to respect the voice of the participants while making the quotes easy to read and understand.³⁸

Many Latin American countries are not represented in the sample, especially countries from Central America and the Caribbean. This reflects both a study limitation and the tech policy environment in Latin America, where many countries do not have enough representation in the global governance of online content.

An overwhelming majority of the experiences narrated by the participants include Facebook, some include Twitter, and extremely few refer to YouTube. Accordingly, the report also focuses on Facebook more than other companies that do not have such strong initiatives to engage civil society.

Finally, the design of the project departs from a problematic assumption about Latin America as a valid unit of analysis. As discussed in this report, one of the axes of diverse representation in global spaces that governs online speech is geographical diversity. Usually these spaces consider Latin America as one of the geographical units to be represented. That is the justification for the research design. However, that assumption is open to contestation, as it assumes a common agenda and a common set of interests in the region that are not necessarily present.

³⁸ On the editing of quotes, see Patricia Ewick and Susan Silbey, *The Common Place of Law* (1998), at 258.