

IGF 2017 Workshop Report

Session Title

Assessing implications of Internet Shutdowns according to Internet Governance Principles (WS178)

Date

Tuesday, December 19

Time

15:00 - 16:30

Session Organizers

Brazilian Internet Steering Committee – CGI.br (Organizer)
Institute for Technology and Society – ITS Rio (Co-organizer)

Chair/Moderators

Paul Fehlinger (Internet & Jurisdiction Policy Network)
Thiago Tavares (SaferNet / CGI.br Board Member)

Rapporteur/Notetakers

Jamila Venturini (CGI.br advisory team)
Vinicius W. O. Santos (CGI.br advisory team)

List of Speakers and their institutional affiliations

Carlos Affonso (Civil Society, ITS Rio, Brazil)

Kyung-Sin Park (Technical Community, Korea University / Open Net Korea)

Monica Rosina (Private Sector, Facebook, Brazil)

Neide Oliveira (Government Sector, Federal Prosecution Service, Brazil)

Peter Micek (Civil Society, Access Now, US)

Stefanie Felsberger (Civil Society, A2K4D, Egypt)

Susan Chalmers (Government Sector, NTIA, US)

Key Issues raised (1 sentence per issue)

- The nature and motivations of Internet and application shutdowns
- The differences between complete Internet shutdowns and specific application shutdowns
- The cross-border effects of shutdowns
- The economic impacts of shutdowns

- The impacts of shutdowns to human rights and freedom of expression
- How Internet governance principles and multi-stakeholder ecosystem deal with shutdowns

If there were presentations during the session, please provide a 1-paragraph summary for each Presentation

Thiago Tavares opened the first segment of the session, presenting all participants and introducing the subject. He set the stage for discussions, drawing upon the main topics involved with Internet and applications shutdowns, starting from the fundamental differentiation between both. He talked about a series of reasons and impacts related to different forms of shutdowns, presented some indicators of shutdown events around the globe and listed a set of challenges that are faced by countries in which those shutdowns happened. He underscored the importance of principles and brought up the Manila principles, the NETmundial principles, as well as the CGI.br principles for the use and multistakeholder governance of the Internet.

Paul Fehlinger opened the second segment of discussions, giving a brief overview of the jurisdictional aspects inherent to the discussion. He went through a set of topics, like the ways national laws are applied (or not) bearing in mind the cross-border nature of the Internet, underlining the challenges of dealing with multiple jurisdictions in Internet access and use. Drawing upon the cross-border effects of Internet shutdowns, Paul reiterated the differences between complete Internet shutdowns and specific applications shutdowns, recalling that Internet shutdowns are operationalized via the infrastructure itself and are the most extreme measure that can be undertaken to render the Internet as a whole unavailable, potentially affecting not just the country that enacts the measure but also neighboring countries and even entire regions.

Monica Rosina asserted that application and Internet shutdowns isolate people and affect the economy. She presented Facebook's mission and the number of active users on the platform in Brazil and throughout the world and said that the company rejects all kinds of shutdowns. She also said that the rise of such measures in some countries is concerning. Monica said that blocking Facebook or WhatsApp, for example, put people away from their family, decrease economic activity and growth, and even temporary shutdowns have implications to development. Finally she presented an assessment of the economic impacts that recent shutdowns had in Brazil and in the world.

Neide Oliveira recalled the fundamental rights of access to information and freedom of expression. She considered that all shutdown cases that happened in Brazil were useful from the view point of raising awareness about right to communication and other fundamental freedoms in the country. She went through a set of topics, ranging from legal and illegal uses of platforms, court orders and the way private entities deal with them to topics like metadata and encryption. She brought up the problem of the lack of response from some private entities to court

orders in countries like Brazil, mainly regarding access to unencrypted metadata. She said that freedom of expression can not be an excuse for the practice of crimes. She reinforced that the Federal Prosecution Service respects freedom of expression in Brazil, as well as other rights granted in Federal Constitution. She specifically mentioned the WhatsApp blocking cases in Brazil and said that the company systematically violates Brazilian law.

Carlos Affonso stated that shutdowns commonly occur as a result of third party actions on a given platform. He defended that it is necessary to differentiate illegal uses of platforms from illegal platforms as a whole. He mentioned a set of documents dealing with the subject of application shutdowns, recalling the fact that this is not a new discussion as it was already raised in the context of controversies surrounding the SOPA and PIPA cases in the United States, for instance. Carlos recalled that in Brazil this discussion was taken to the Supreme Court which should decide on a clause from Marco Civil which determines the suspension of some activities related to platforms operation and that was used to justify some of the WhatsApp blocking cases. He highlighted that in his interpretation, this clause do not authorize complete blocking of applications and should be used only in case of privacy and data protection rights violations. Finally, he mentioned that these measures that can have effects on different jurisdictions regardless of the origin of the shutdown order, as it happened in the WhatsApp cases in Brazil, which affected users in countries like Chile and Argentina.

Susan Chalmers shared some thoughts about the sessions promoted by the NTIA during the IGF USA on the topic. She framed the issue of Internet fragmentation that can come along with shutdown measures. She described three types of fragmentation: technical, commercial and governmental. She also talked about government interference in Internet applications, arguing that when governments try to restrain the free flow of information and impose data localization it impacts the Internet ability of self-healing as a whole. Even if it makes sense from a country's point of view, those measures may undermine the resilience of Internet's physical and transport layers. As a solution, she proposed the development of capacities and dialogue between law professionals and the technical/operational field.

Prof. K. S. Park argued that the actions undertaken in Brazil are not just a matter of freedom of expression. He considered that they are a privacy issue, as they raise concerns about the activities of the Judiciary branch. He asked whether it is legitimate that judges punish someone for not producing certain types of classified data. He said that a court order should not go beyond some limits, giving the example of United States where a court order cannot force a company like Apple to break an iPhone encryption, even if the gadget belongs to a proved terrorist. Park said that Korea enacts a sort of censorship initiative which implements complete website shutdowns and gave some examples that took place in his country, where websites were blocked directly through the the Domain Name System.

Stefanie Felsberger brought up the Egyptian case where, in 2011, specific application shutdowns evolved to complete Internet shutdowns. She said that the way of dealing with these things nowadays is different and the shutdowns have commonly been focused on international news websites. She also raised the economic issues related to blocking measures, recalling the impacts of such actions in Egypt economy in that period. She argued that this is a fundamental issue to be considered in the debate.

Peter Micek presented an AccessNow campaign to monitor and fight shutdowns around the world. He said 56 incidents were registered in 2016, increasing to more than 77 in 2017. He recalled Internet Governance principles and stated that they are fundamental to build and keep the Internet as it should be. He argued that the multi-stakeholder ecosystem that runs the Internet as we know cannot cope with such shutdown measures, underlining that they involve clearly unilateral decisions that do not take account of the affected stakeholders and are not made through transparent or democratic and inclusive processes. He then questioned who would have the power to deny access to the Internet, when and under which circumstances, considering that these blocking measures are a form of discrimination, identifying only certain specific platforms. According to him, they violate the network neutrality principle, targeting only specific applications, services and communities and affect the network stability, as they can damage the infrastructure itself.

Please describe the Discussions that took place during the workshop session: (3 paragraphs)

The session had many different views and framings for the discussion of Internet shutdowns and application blocking, mainly due to the great diversity among participants and the audience. Different set of principles that are considered core values for the Internet Governance Multistakeholder Ecosystem were raised as fundamental ideas to guide debate and decision making processes regarding the workshop subject.

Different aspects of the topic under discussion were raised by participants and the audience. One of the main topics discussed was the economic impacts of shutdowns in the country where they are implemented, as well as to other countries that can be affected by them. This led to the topic of jurisdiction.. The moderators and some of the participants recalled and reiterated the cross-border externalities that could derive from such measures. The WhatsApp case in Brazil and its effects in neighboring countries was one of the most cited examples.

Other aspects as those related to human rights and freedom of expression were also discussed during the session, with several examples, like the Egypt's Internet shutdown and the privacy and data protection concerns drawn upon governmental and private interference in the Internet. Principles on intermediary liability and network neutrality were repeatedly mentioned as core values to guide analysis and decision about shutdowns.

Please describe any Participant suggestions regarding the way forward/ potential next steps /key takeaways: (3 paragraphs)

A participant from the audience called for more research on the impacts of Internet shutdowns on people that are not directly using the Internet-based services, considering those that are relying on other applications that are also affected by a given Internet shutdown. The participant gave the example of mobile money and payments that could be affected by shutdowns, in a way that people could be impacted in daily and fundamental activities related to education or health-care, for example.

Metadata was another topic framed by participants as something that deserves more attention and debate. There was a call for recognizing the inherent value of metadata to criminal investigations, as it could cover great part of the demands for investigating, decreasing the request for personal data by public authorities and enhancing cooperation with private platforms.

Also as a key takeaway of the session, participants drew upon the jurisdictional aspects of the debate so as to point out the existing limits, challenges and need for enhancement regarding international cooperation involving countries, enterprises, civil society organizations and others.

GENDER REPORTING

Estimate the overall number of the participants present at the session
Between 80 to 90 participants

Estimate the overall number of women present at the session
Around 40

To what extent did the session discuss gender equality and/or women's empowerment?

Not discussed.

If the session addressed issues related to gender equality and/or women's empowerment, please provide a brief summary of the discussion

Not applicable.