

Internet y los efectos extraterritoriales de las leyes



Nota conceptual de la Internet Society (ISOC)

Septiembre de 2018

Cómo evitar los procesos normativos y decisorios que limitarán Internet en todo el mundo

Internet es global. Por lo tanto, las normas y resoluciones judiciales que la afectan pueden tener efectos 'extraterritoriales'. Esto plantea dos preguntas: ¿qué tan cautelosos son los estados a la hora de prevenir efectos nocivos e innecesarios fuera de sus fronteras y cómo pueden minimizar dichos efectos?

Internet es una red de redes que en su mayoría consisten de redes de gestión privada; algunas de dichas redes cruzan las fronteras nacionales, y muchas de las mismas organizaciones también atraviesan fronteras (por ejemplo, las corporaciones internacionales). El valor de Internet yace en su naturaleza abierta y global. La globalización es una característica de Internet y no una falla, algo que todos los sistemas jurídicos del mundo deberían reconocer en lugar de intentar "corregir". Las decisiones que tienen alcance extraterritorial deberían emitirse de formas que permitan que Internet evolucione como una tecnología abierta, segura, fiable y globalmente conectada para todos.

Esta nota conceptual presenta problemas que ocurren cuando los estados ejercen jurisdicción extraterritorial; es decir, cuando elaboran políticas o emiten resoluciones judiciales que producen efectos fuera del territorio nacional, ya sea de forma accidental o intencional. Sugerimos un enfoque que impida o minimice las resoluciones judiciales o normativas capaces de dañar las características únicas y el alcance global de Internet. Pero, fundamentalmente, los estados no deberían impedir la circulación de ideas e información que trae Internet, especialmente a sus propios ciudadanos.

Resumen ejecutivo

- El progreso social y económico que Internet produce a nivel global se basa en sus cualidades de apertura, innovación sin restricciones, interoperabilidad, colaboración y competencia (las "invariantes de Internet")². Si socavamos estas cualidades, estaremos poniendo en riesgo todos los beneficios que trae Internet.
- En este momento, las autoridades decisorias de varios estados están imponiendo normas que afectan Internet en otros lugares, obstaculizan la innovación, desalientan



la inversión en sus propios países y se arriesgan a crear nuevas brechas digitales que perjudiquen a sus propios ciudadanos.

- Las autoridades decisorias pueden mitigar estos problemas al alentar enfoques colaborativos descentralizados, incluyendo procesos de desarrollo de normas internacionales, para diseñar las políticas y leyes relativas a Internet. Dichos procesos y estructuras pueden crear mejores resultados ya que tienen una participación más amplia y permiten una mayor reacción política y sostenibilidad económica que algunos enfoques verticales descendentes.³
- Estos principios básicos ayudarán a guiar a las autoridades decisorias y a mitigar los daños extraterritoriales involuntarios.
 - **Sopesar riesgos y beneficios.**
 - **Fijarse en lo que se hizo anteriormente.**
 - **Colaborar con otros actores**
 - **Enfocarse en la actividad/conducta, no en el medio**
 - **Ser consciente respecto de las cualidades de Internet y de lo que ellas representan.**

Antecedentes

Muchas leyes nacionales están destinadas a producir efectos a nivel extraterritorial; se aplican a individuos o empresas fuera de las fronteras del estado que las creó. Esta práctica existe desde hace más tiempo que Internet, pero sus efectos se ven exacerbados tanto por la naturaleza transfronteriza de las redes como por la motivación que algunos países tienen por ejercer autoridad sobre Internet. Entre algunos ejemplos se incluyen los siguientes:

- Desde hace tiempo, las leyes estadounidenses apuntan a empresas extranjeras, inclusive la Ley Helms-Burton de 1996,⁴ sobre sobornos o sanciones referentes a países terceros.
- La normativa de la UE sobre protección de datos, como el Reglamento general de protección de datos (GDPR, *General Data Protection Regulation*), se aplica respecto de empresas de afuera de la UE que usan los datos personales de ciudadanos europeos.
- Las modificaciones al derecho penal de la República Popular China efectuadas en 2011 ahora incluyen a personas o empresas que, no habiendo nacido en China ni residiendo allí, pueden ser culpables de corrupción contra el Estado chino o sus ciudadanos.

Los efectos que las leyes producen intencionalmente a nivel extraterritorial apuntan a procurar que las personas no se conviertan en víctimas de infractores que se encuentran fuera de su jurisdicción. Si bien los gobiernos tienen la responsabilidad de proteger a sus ciudadanos de la ilegalidad, la naturaleza transfronteriza de Internet puede crear conflictos que surgen de actividades que son lícitas en un país e ilícitas en otro. A comienzos de los años 2000, con la popularización y comercialización de Internet, el caso de Yahoo! puso de manifiesto los desafíos de la regulación de Internet. La empresa estadounidense de búsquedas y resultados, Yahoo!, se vio obligada a retirar los anuncios de venta de objetos nazis en Francia, y sus representantes afrontaron cargos penales⁵.

No obstante, muchas leyes sobre Internet y marcos internacionales solo regulaban cuando era absolutamente necesario para promover el comercio, y fomentaban la apertura e innovación en el desarrollo de las redes. Por ejemplo, la idea de "mero intermediario", según la cual los operadores de redes no son responsables por el contenido del tráfico, está presente en varias leyes, inclusive la Directiva de la UE sobre el comercio electrónico de 2000.⁶ Los gobiernos

implementaron una normativa laxa a nivel nacional, mientras que a nivel regional e internacional trabajaron juntos para que Internet prospere.⁷

En la actualidad, las inquietudes de los gobiernos y ciudadanos relativas a la privacidad, ciberseguridad, impuestos, competencia e integridad electoral han emitido una nueva ola de efectos extraterritoriales, tanto en las reglamentaciones como en las resoluciones judiciales. Entre algunos ejemplos se incluyen los siguientes:

- En 2014, un tribunal español creó un *derecho al olvido* en los resultados del buscador de Google para toda Europa.⁸
- En 2017, la Corte Suprema de Canadá confirmó una sentencia que ordenaba a Google "desindexar" un sitio web, haciendo valer la jurisdicción de los tribunales canadienses por sobre los intermediarios de Internet que se encuentran en otros países. No obstante, la Corte no profundizó sobre cómo llevar esto a cabo, lo que generó incertidumbre y confusión.⁹
- En 2017, un tribunal estadounidense ordenó a una amplia gama de motores de búsqueda y proveedores de servicio de Internet (ISP) bloquear la fuente académica sci-hub, además de confiscar sus nombres de dominio (una respuesta más habitual a las supuestas violaciones de derechos de propiedad intelectual).¹⁰
- La GDPR¹¹ fue expresamente diseñada para proteger los datos personales de usuarios europeos, cualquiera sea la jurisdicción en donde se procesen.
- La ley estadounidense de aclaración del uso legítimo de datos en el extranjero (Ley CLOUD) coordinó los intereses de las fuerzas de seguridad y de las empresas de tecnología estadounidenses para garantizar el acceso a los datos a nivel internacional. No obstante, fue objeto de críticas por minimizar los intereses de otros actores.
- China adopta medidas para aumentar el alcance extraterritorial de su régimen de filtro y control de contenido.¹²
- El Reino Unido y algunos países de Medio Oriente parecen estar alejándose de un enfoque de "detección y eliminación" en cuanto al contenido ilegal o no deseado para imponer a las plataformas de tecnología una obligación positiva de controlar el contenido existente o incluso evitar que se suba a Internet.¹³

Debido a Internet, las tomas de decisiones generan cada vez mayores efectos a nivel extraterritorial, así como un riesgo de socavar lo que hizo de Internet una fuerza tan poderosa y positiva.

Qué hace tan poderosa a Internet: Las "invariantes de Internet"

Internet tiene cualidades esenciales que la convirtieron en un facilitador global del progreso social y económico. Nos referimos a estas cualidades como las *invariantes de Internet*¹⁴, porque si bien las aplicaciones *de* Internet suelen variar, la fuente que subyace a la fortaleza de Internet permanece invariable. La sumatoria de estas invariables garantiza que Internet sea una plataforma abierta para la innovación y creatividad.

Al apoyar las ***invariables de Internet*** se garantizará el desarrollo de innovaciones de la próxima generación, así como que todos tengan la oportunidad de gozar sus beneficios y ventajas:

Alcance e integridad globales: Una Internet integral, en donde la información enviada desde un punto pueda llegar a cualquier otro.

Objetivo general: Internet no fue concebida para fines o modelos de negocios específicos, sino para el uso general. No existen limitaciones integradas en cuanto a las aplicaciones o servicios que la utilizan.

Innovación sin restricciones: Cualquier persona puede crear un servicio nuevo en Internet sin tener que pedir permiso, siempre que éste cumpla las normas técnicas y mejores prácticas existentes.¹⁵

Accesibilidad: Cualquier persona puede utilizar Internet; no solo para su consumo, sino también para aportar contenido, crear un servidor y añadir redes nuevas.

Interoperabilidad y acuerdo mutuo: Mediante normas de tecnología abiertas y acuerdos mutuos entre los operadores de distintas partes de Internet.

Colaboración: Las mejores soluciones a los problemas nuevos surgen de la colaboración voluntaria entre actores.

Componentes reutilizables: Las tecnologías se suelen desplegar en Internet con un objetivo, solo para luego utilizarlas con otra finalidad. Esta creatividad y resolución de problemas sería imposible sin soluciones cerradas de integración vertical.

Ausencia de favoritos permanentes: El éxito depende de la relevancia y utilidad, y no de una posición privilegiada. Los ganadores actuales no deben "retenerlo". La apertura e innovación son el alma de Internet.

¿Cómo podrían los efectos extraterritoriales de algunas normas y resoluciones judiciales nacionales oponerse a la premisa de las invariantes de Internet?

¿Por qué una jurisdicción extraterritorial puede ser un problema?

Las normas y resoluciones judiciales nacionales con aplicación extraterritorial pueden tener consecuencias negativas y a menudo imprevistas. En aras de la analogía, llamémoslas "síntomas extraterritoriales de Internet":

- **Imprevisibilidad:** La imprevisibilidad en cuanto a la aplicación y ejecución de las leyes internas puede sofocar la innovación por presentar mayores riesgos e incertidumbres para los productos y servicios nuevos.
- **Incongruencia:** Debido a que varias organizaciones intentan implementar decisiones y normas, puede haber variaciones en el modo de implementar las normas. La proliferación de normas y complejidad significa que solo las organizaciones más grandes puedan asegurar su observancia.
- **Toma del poder:** Algunos estados intentan recuperar el poder sobre Internet, y sobre otros países, por lo que les representa una amenaza a su autoridad. Esto puede intensificar el conflicto de leyes en la medida en que cada país o tribunal se esmere en salir victorioso, e incluso puede crear un mayor sentido de incertidumbre y rencor hacia las intervenciones del exterior. La confusión que en consecuencia se genera entre los usuarios podría reducir su confianza en Internet.
- **Acción no coordinada:** Las acciones reguladoras unilaterales a nivel nacional desplazan y socavan las maneras colaborativas de examinar los problemas e impiden el desarrollo de normas internacionales. Si bien aumentan la fricción tanto entre las redes como entre los Estados nación, generan resultados que se limitan a las sensibilidades sociales y económicas de una jurisdicción o incluso de un solo conjunto de actores.

- Fragmentación:** Las aplicaciones que se ejecutan en Internet comienzan a comportarse distinto en la variedad de países,¹⁶ o el contenido no está disponible. El resultado es un creciente grado de fragmentación de Internet, creando nuevas brechas digitales, y concentración de los beneficios de la innovación en algunos países, ya que se prohíbe o disuade el ingreso de productos y servicios del extranjero a su mercado.

Externalidades negativas de la jurisdicción extraterritorial

Una externalidad negativa se da cuando algunas personas u organizaciones gozan el *beneficio* de hacer algo, pero otros asumen en gran medida los *costos*. Un ejemplo típico es la contaminación aérea creada por un país que intoxica los ríos y bosques de otro.

La extraterritorialidad jurisdiccional puede crear externalidades negativas en las redes (al socavar las invariantes de Internet) y de forma más amplia en la gobernanza y participación en la economía digital.

A. Externalidades en las invariantes de Internet

Invariantes de Internet	Externalidades de la jurisdicción extraterritorial
<p>Alcance e integridad globales: Una Internet integral, en donde la información enviada desde un punto pueda llegar a cualquier otro de cualquier red del mundo.</p> <p>Accesibilidad: Cualquier persona puede utilizar Internet; no solo para su consumo, sino también para aportar contenido, crear un servidor y añadir redes nuevas.</p>	<p>Fragmentación de Internet: niega y desafía el alcance e integridad globales de Internet; crea nuevas brechas digitales cuando el acceso a las herramientas de información y comunicación es desigual.</p>
<p>Objetivo general: Internet no fue concebida para fines o modelos de negocios específicos, sino para el uso general.</p> <p>Componentes reutilizables: Las tecnologías se suelen desplegar en Internet con un objetivo, pero otros momentos o personas pueden darles a nuevos usos.</p> <p>Ausencia de favoritos permanentes: El éxito depende de la relevancia y utilidad, y no de una posición privilegiada. Los ganadores actuales no deben "retenerlo".</p> <p>Innovación sin restricciones: Cualquier persona puede crear un servicio nuevo en Internet sin tener que pedir permiso, siempre que éste cumpla las normas técnicas y mejores prácticas existentes.</p>	<p>Incongruencia: Distintos actores intentan dictar resoluciones y normas complicadas que a menudo no son fáciles de hacer cumplir. La proliferación de normas y complejidad significa que las organizaciones más grandes pueden cumplir las normas de manera más fácil, lo que genera problemas de competencia a las empresas más pequeñas e incluso una nueva brecha digital entre las empresas grandes y establecidas, y las más pequeñas y posiblemente más innovadoras.</p> <p>Se favorecen las soluciones verticalmente integradas impulsadas por los contextos legales y culturales de los participantes y países más importantes, en lugar de las tecnologías reutilizables abiertas que los nuevos participantes pueden destinar a otros fines.</p> <p>En lugar de distribuirse por todo el mundo, los beneficios de Internet se concentran cada vez más en los países que cuentan con una mayor influencia internacional y empresas con recursos para</p>



	garantizar la observancia, lo que convierte a ciertas empresas en <i>favoritas permanentes</i> .
<p>Interoperabilidad y acuerdo mutuo: Mediante normas de tecnología abiertas y acuerdos mutuos entre los operadores de distintas partes de Internet.</p> <p>Colaboración: Las mejores soluciones a los problemas nuevos surgen de la colaboración voluntaria entre actores.</p>	<p>Toma del poder: Los estados intentan tomar o reafirmar el poder en el plano internacional, ya que cada uno compite para salir ganando, imponiendo intereses unilaterales aplicando un método descendente cerrado. Esto intensifica tanto los conflictos jurisdiccionales como la fricción entre las redes.</p> <p>Acción no coordinada: Las acciones unilaterales descendentes desplazan y socavan los métodos colaborativos de análisis de cuestiones. Pueden afectar el desarrollo de la red de manera negativa. Debido a que Internet es una red de redes, si se imponen cambios en distintas redes, existirá un riesgo de que dichas redes dejen de funcionar en conjunto. Esto separa a los actores en lugar de unirlos, lo que resulta en un mundo de "juego de suma cero" en el que todos pierden.</p>

B. Externalidades más amplias

Se refieren a una gama de externalidades políticas y económicas que afectan tanto a la gobernanza como al modo en que las personas participan en la economía digital:

- **Fragmentación:** Además de crear una Internet fragmentada, la jurisdicción extraterritorial impulsa tanto la fragmentación gubernamental como comercial,¹⁷ lo que resulta en ofertas más estrechas y limitadas en varios países.
- **Interrupción del modelo de negocios** debido a que las empresas intentan afrontar la carga de la observancia de leyes que posiblemente están en conflicto. Esto aumenta la incertidumbre de las empresas que operan a nivel mundial y debilita el marco de la inversión y el comercio internacional. También se pueden generar problemas de consolidación y competencia si solo las empresas más grandes y que cuentan con los mejores recursos pueden afrontar la complejidad legal y el riesgo comercial del cumplimiento normativo.
- La creación de nuevas **brechas digitales**. A medida que la tecnología avanza en ciertas partes del mundo, muchos países consideran a la regulación como un modo de "ponerse a la par" con ese progreso. Dicha regulación acarrea el riesgo de tener un alcance limitado y reflejar sensibilidades culturales, económicas y sociales incompatibles con las de otros países. Esto limita la variedad de información y servicios disponibles, creando nuevas brechas digitales entre los usuarios de distintos países.
- Resentimiento y **tensión internacional** generados por los estados que imponen su voluntad en otros países. Cuando se percibe que un agente estatal utiliza la legislación nacional de manera agresiva para imponer su hegemonía a nivel global, es esperable que los demás reaccionen en consecuencia¹⁸. Además, la extraterritorialidad socava la colaboración internacional desviando la atención y los recursos del desarrollo colaborativo de marcos y normas internacionales. La extraterritorialidad crea un mosaico de normas incongruentes a medida que las distintas instituciones de distintos

países abordan los asuntos internacionales utilizando leyes y procedimientos diferentes.

Principios para tratar las resoluciones y regulación de Internet

Recién estamos comenzando a hablar sobre regulación. Puede que algunos jueces y reguladores estén tratando estos temas por primera vez. Estos principios preliminares pretenden ayudar a las autoridades decisorias a lograr sus objetivos a la vez que procuran que Internet continúe impulsando el empoderamiento social y crecimiento económico, tanto a nivel nacional como en el extranjero:

1. Considerar los riesgos y beneficios

- Las decisiones más limitadas y focalizadas crearán la menor cantidad de consecuencias negativas imprevistas. ¿La decisión *debe* tener eficacia extraterritorial para que funcione?
- Considerar activamente la función y el impacto de las decisiones sobre otros actores, inclusive de otros países.

2. Fijarse en lo que se hizo anteriormente.

- Es probable que otros gobiernos o tribunales hayan reflexionado sobre las mismas preguntas complejas. Puede que organizaciones internacionales o regionales ofrezcan fuentes para consultar los modos en que otros han abordado los asuntos¹⁹, inclusive las mejores prácticas en materia de regulación, normas e incluso marcos legales sugeridos.

3. Ser consciente respecto de las cualidades de Internet.

- Las cualidades únicas de Internet (las "invariantes de Internet") pueden brindar un parámetro adicional para determinar la eficacia de la regulación. Recomendamos a los formuladores de políticas que las agreguen como evaluadoras para una toma de decisiones adecuada.

4. Enfocarse en la actividad/conducta, no en el medio.

- Diseñar leyes, normas y resoluciones que atiendan la conducta o actividad ilícita o indeseada en sí, en lugar del medio donde se desarrolla. Por ejemplo, ¿el fraude que ocurre en Internet (p. ej., el phishing) difiere sustancialmente del fraude fuera de línea? Si bien Internet añade nuevas dimensiones o puede cambiar la escala o el alcance de una actividad, no siempre necesita que la elaboración de normas esté dirigida a ella en sí.

5. Buscar colaboraciones con otros actores

- Buscar activamente oportunidades para resolver problemas con todos los actores pertinentes, inclusive a nivel regional e internacional donde la cooperación y colaboración para la elaboración de normas puede ser altamente eficaz.

6. Aplicar el principio de proporcionalidad

- ¿La medida normativa fue más allá de lo necesario para lograr un objetivo legítimo? ¿Los beneficios alegados exceden los costos?

Hay mucho por hacer para que el enfoque tradicional de estado-nación hacia la reglamentación y la Internet global puedan seguir evolucionando. Estos principios son un punto de partida. Hay una necesidad tanto de reconocer y resolver algunas de las diferencias

identificadas en los sistemas jurídicos alrededor del mundo como de asegurar que Internet continúe siendo una fuente de oportunidades y fuerza positiva.

1 Reconocemos que la extraterritorialidad implica distintos niveles de interpretación y aplicación. No obstante, a los fines de esta nota conceptual, se referirá a la capacidad jurídica de un agente estatal de ejercer potestad más allá de sus fronteras. No incluye los términos de servicio que las empresas privadas imponen a los usuarios particulares alrededor del mundo.

2 Las "invariantes de Internet" se refieren a las cualidades fundamentales que hacen única a Internet. Son inherentes al diseño original de Internet y, de alterarse o debilitarse significativamente, socavarían la naturaleza abierta y generativa de Internet.

3 <https://www.internetsociety.org/internet-invariants-what-really-matters/>

4 <https://www.internetsociety.org/resources/doc/2016/internet-governance-why-the-multistakeholder-approach-works/>

5 https://en.wikipedia.org/wiki/Helms%E2%80%93Burton_Act

6 Yahoo!, Inc. v. La Ligue Contre le Racisme et L'Antisemitisme, 169 F. Supp. 2d 1181, 1186 (N.D. Cal. 2001)

7 <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32000L0031>

8 El artículo 512 de la Ley sobre el Derecho de Autor en el Milenio Digital de EE. UU. (DMCA, Digital Millennium Copyright Act) contiene un principio similar

9 Google Spain SL, Google Inc. v Agencia Española de Protección de Datos, Mario Costeja González (2014)

10 <https://www.osler.com/en/resources/regulations/2017/supreme-court-of-canada-upholds-global-search-engi>

11 <https://torrentfreak.com/sci-hub-loses-domain-names-but-remains-resilient-171122/>

12 https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2016.119.01.0001.01.ENG

13 <https://citizenlab.ca/2016/11/wechat-china-censorship-one-app-two-systems/>

14 <https://arstechnica.com/tech-policy/2016/05/uk-ip-enforcement-2020-notice-trackdown-teach-kids/>

15 <https://www.internetsociety.org/internet-invariants-what-really-matters/>

16 El mejor ejemplo de innovación sin restricciones es la web, creada en Suiza por *sir* Tim Berners-Lee, quien permitió que todo el mundo pueda acceder a su tecnología.

17 <https://gizmodo.com/dozens-of-american-news-sites-blocked-in-europe-as-gdpr-1826319542>

18 Internet Fragmentation: An Overview, World Economic Forum,

http://www3.weforum.org/docs/WEF_FII_Internet_Fragmentation_An_Overview_2016.pdf

19 There is precedent: Kenneth W. Dam, *Extraterritoriality in an Age of Globalization: The Hartford Fire Case*, 1993 SUP. CT. REV. 289, 324;

ver también Thabo Mbeki, President of South Africa, Statement to the National Houses of Parliament and the Nation at the Tabling of the Report of the Truth and Reconciliation Commission (Apr. 15, 2003), <http://www.anc.org.za/ancdocs/history/mbeki/2003/tm0415.html>

("[C]onsideramos completamente inaceptable que las cuestiones centrales para el futuro de nuestro país se juzguen en tribunales extranjeros que no asumen responsabilidad por el bienestar de nuestro país.")

ANEXO

Aviso legal: La siguiente es una lista no exhaustiva de leyes nacionales, destinadas a tratar las cuestiones relativas a Internet, que tienen efectos extraterritoriales. La lista excluye intencionalmente algunos ámbitos de legislación (p. ej, leyes tributarias) cuando, en la mayoría de los casos, la extraterritorialidad está arraigada a su diseño original.

Africa				
Country	Statute Name	Year of Adoption	Category	Description of Extraterritorial Effect
Kenya	Computer and Cybercrimes Bill	2018	Cybersecurity, Freedom of Expression	This bill introduces 17 offences intended to prevent and control cybercrime, including imposing penalties on individuals circulating “false, misleading or fictitious data,” whom share pornographic content, or whom engage in cyber terrorism. <u>Extraterritorial effect:</u> the bill has a broad scope and Section 42 (2) makes it clear that this law applies outside of Kenya if an offence is committed by a Kenyan citizen or someone ordinarily resident in Kenya.
South Africa	Cybercrime and Cybersecurity Bill	2017	Cybersecurity	This legislation criminalises cyber-facilitated offences of fraud, forgery, and extortion. <u>Extraterritorial effect:</u> South Africa’s jurisdiction will be expanded to “all offenses which can be committed in cyberspace ... to deal with cybercrime which originates from outside our borders” (<i>extraterritoriality by design</i>).
	Electronic Communications and Transactions Act	2002	E-Services, Security	This law seeks to enable and facilitate electronic communications and transactions. It also introduced requirements for government agencies to roll out e-services, and criminalises certain cybercrimes like hacking, phishing, and intercepting or interfering with data. <u>Extraterritorial effect:</u> Section 90 of the law states that a court in South Africa has jurisdiction where “the offence has had an effect in the Republic [of South Africa].”
Tanzania	Electronic and Postal Communications (Online Content) Regulations	2018	Media Regulation, National Security	This law introduces a requirement for all blogs that contain information about the Tanzanian government to hold a license to do so. Permits can subsequently be revoked if a website publishes content that “causes annoyance, threatens harm or evil, encourages or incites crimes” or jeopardizes “national security or public health and safety.”

				Bloggers must also remove “prohibited content” within 12 hours or face fines of not less than five million Tanzanian shillings or a year in prison. <u>Extraterritorial effect</u> : any blog posting information about Tanzania, regardless of where it is hosted in the world or the nationality of the author or publisher, is prior to publication required to obtain a license from the Tanzanian government.
Uganda	Over the Top Services Tax	2018	Internet Freedom	Uganda has imposed a levy of 200 Ugandan shillings per day on citizens who use social media platforms like Facebook, Skype, Twitter, and WhatsApp. <u>Extraterritorial effect</u> : the law applies to all Ugandan citizens, everywhere in the world (at present it is only being implemented on a national level, with the country’s major telecom companies developing special mobile money menus through which users can pay the tax.) Note: this law is still alive as of the date of publication: http://www.theeastafrican.co.ke/business/Ugandans-raise-volume-on-social-media-tax-protests/2560-4680280-i4ipp0/index.html
Zambia	Cybersecurity & Cybercrimes Bill	2018	Cybersecurity	The bill was adopted to “promote an increased cybersecurity posture, facilitate intelligence gathering, investigation, prosecution and judicial processes in respect of preventing and addressing cybercrimes, cyber terrorism and cyber warfare.” <u>Extraterritorial effect</u> : Part XI of the law is extraterritorial, noting that it applies to “any person, irrespective of the nationality or citizenship of the person” who engages in a cybercrime, “directed against equipment, software, or data located in Zambia regardless of the location of the person.”
Asia-Pacific				
Country	Statue Name	Year of Adoption	Category	Description of Extraterritorial Effect
Australia	Interactive Gambling Amendment Bill	2017	Gambling	This law requires any website which provides or advertises online gambling services, regardless of whether or not the vendor has assets in Australia, to obtain a license from a designated agency if it makes its services available to Australian users. <u>Extraterritorial effect</u> : the law states “this Act extends to acts, omissions, matters and things

				outside Australia” for the purposes of applying civil non-compliance provisions.
	Privacy Enhancement (Enhancing Privacy Protection) Act	2014	Data Protection	This law introduces a set of privacy principles that are intended to see personal data be handled and stored in a more secure manner throughout its lifecycle. <u>Extraterritorial effect:</u> an organization “carrying on business” in Australia must comply with this law even if domiciled in a foreign jurisdiction. This will necessarily include foreign organizations with an online presence, even if that entity has no physical presence in Australia, if it has customers located in Australia.
	Spam Act	2013	Advertising	This law regulates the distribution of unsolicited electronic communications. <u>Extraterritorial effect:</u> Section 14 of the Act applies where an Australian computer network has received a spam message.
	Therapeutic Goods Advertising Code	2018	Advertising	This regulation introduces new required warning statements that must be displayed or communicated to consumers before medicines can be sold, and clarifies that no advertisement may target a person under 12 years of age. <u>Extraterritorial effect:</u> Section 6 states that the law applies “in Australia and a place outside Australia,” if it involves “the promotion of therapeutic goods online” by either an Australian business targeting consumers abroad, or a foreign business targeting Australian consumers.
China	Anti-Terrorism Law	2015	National Security	This law requires both Chinese and foreign technology companies to create ‘cyber police stations’ which provide Chinese law enforcement with surveillance access to any and all data concerning Chinese users. ISPs and platforms are also obliged to block terrorism-related content if asked to do so by designated law enforcement. Extraterritorial effect: the law applies to any data concerning a Chinese national, regardless of where in the world he or she may live.
	Cybersecurity Law	2017	National Security	This law applies to all enterprises that employ networks or information systems in their operations and sets forth significant cybersecurity obligations.

				<p>It also introduces penalties for individuals and entities who commit cybercrimes.</p> <p><u>Extraterritorial effect:</u> Article 75 makes it an offense for anyone “outside of China” to cause damage to the critical information infrastructure of China. In the case of a breach of this provision, the law empowers Chinese authorities to freeze the property of or take “any other necessary sanction” against the offender.</p>
India	Information Technology Act	2000	Cybersecurity	<p>This law criminalises the failure to assist law enforcement in decrypting information; gaining unauthorised access into a private computer system; publishing obscene information; disseminating child pornography; and other cybercrimes.</p> <p><u>Extraterritorial effect:</u> the law “confers extraterritorial jurisdiction on Indian courts and empowers them to take cognisance of offences committed outside India even by foreign nationals provided that such offence involves a computer, computer system, or computer network located in India.”</p>
	Copyright Act	2012	Intellectual Property	<p>This statute provides moral rights, neighbouring rights, and transferrable economic rights to the creators of literary, dramatic, musical, and artistic works and the producers of films and sound recordings.</p> <p><u>Extraterritorial effect:</u> this law states that Indian courts have jurisdiction to adjudicate upon disputes arising within the territories of India. As a result, a website based outside of India that facilitates the infringement of copyright by providing infringing copies of a work to users in India will confer jurisdiction on the courts in India to adjudicate the matter.</p>
Indonesia	Law on Information and Electronic Transactions	2016	Cybersecurity, Freedom of Expression, Data Protection	<p>Article 26 of the law introduces a right to be de-indexed, Article 40 enhances the government’s ability to block or filter content to prevent the dissemination of illicit content, and other provisions seek to increase the privacy rights of Indonesians.</p> <p><u>Extraterritorial effect:</u> the law imposes data processing obligations on any entity which handles the data of Indonesian citizens, including foreign owned and foreign operated platforms and services,</p>

				though how enforceable this law is remains questionable.
	Regulation on Personal Data Protection in Information Systems	2016	Data Protection	This regulation introduces new rules on when personal information can be collected and processed, and administrative sanctions for the misuse of personal data. <u>Extraterritorial effect:</u> the regulation has a broad scope and applies to individuals and entities domiciled in Indonesia or overseas which are conducting actions that have a legal effect in Indonesia and/or which harm the interests of Indonesia.
Japan	Amended Act on the Protection of Personal Information	2017	Data Protection	This decade-old privacy law was amended to adapt to various changes in the information technology landscape. <u>Extraterritorial effect:</u> Article 75 of the law states that it is applicable to entities that are domiciled outside of Japan which obtain and/or process the personal information of Japanese residents. This extraterritorial effect was intentional, and while largely intended to reign in financial institutions, the language applies to all data controllers.
Malaysia	Anti-Fake News Act	2018	Freedom of Expression	The Act covers “news, information, data and reports which is or are wholly or partly false” and applies only to digital publications and social media platforms. <u>Extraterritorial effect:</u> the law applies to offenders outside of Malaysia, including foreigners, if Malaysia or a Malaysian citizen are affected.
	Sedition Bill	2015	Freedom of Expression	This existing law was amended in order to empower the Sessions Court of Malaysia to order the removal of “seditious publications” from the global Internet. <u>Extraterritorial effect:</u> a separate piece of legislation, the Extra-Territorial Offences Act, creates a schedule of Malaysian laws that may be enforced “beyond the limits of Malaysia.” There are currently two items in its schedule; the Official Secrets Act, and the Sedition Bill.
New Zealand	Harmful Digital Communications Act	2015	Freedom of Expression	This law provides for fines, and potentially imprisonment, for people who post “harmful” speech online. <u>Extraterritorial effect:</u> the law creates criminal offences which are subject to the Crimes Act 1961. Section 7 of the Crimes Act provides for

				circumstances where prosecutions may happen extraterritorially. Where an offence is committed by someone who is either a New Zealand citizen or ordinarily resident in New Zealand, and they have targeted their harmful speech at a New Zealand citizen or resident, even if the act was committed outside of New Zealand, then there is the provision for extraterritorial enforcement.
Pakistan	Prevention of Electronic Crimes Bill	2016	Cybersecurity	This legislation is intended to combat terrorism, harassment, the sharing of child pornography, spamming, encryption, and other perceived forms of cybercrime. The law also grants Pakistani law enforcement agencies broad powers to access personal data and to remove content from social media platforms without judicial oversight. <u>Extraterritorial effect:</u> the bill specifically notes that it applies to all Pakistani citizens outside of the country's territory.
Philippines	Republic Act No. 10175 "Cybercrime Prevention Act"	2012	Cybersecurity	This law has a number of provisions regarding libel and improper online behaviour. <u>Extraterritorial effect:</u> the law assumes jurisdiction "over any violation of the provisions of this Act including any violation committed by a Filipino national regardless of the place of commission."
	Republic Act No. 10173 "Data Privacy Act"	2016	Data Protection	This law, passed in 2012 but only coming into effect in 2016, protects Filipinos from the unauthorized processing of their personal and/or identifiable information. <u>Extraterritorial effect:</u> Chapter 1, Section 6 of the law says it has extraterritorial application if a data controller enters into a contract in the Philippines. As an example, a foreign owned and operated website which allowed the registration of a data subject resident in the Philippines would be entering into a contract with them.
Singapore	Computer Misuse and Cybersecurity Act	2017	Cybersecurity, National Security, Data Protection	This law seeks to put an end to cybercrimes that cause, or could cause, "serious harm" to Singaporean computer networks. <u>Extraterritorial effect:</u> Section 11 of the law states, "the provisions of this Act shall have effect, in relation to any person, whatever his nationality or citizenship, outside as well as within Singapore."

	Personal Data Protection Act	2012	Data Protection	<p>This law sets forward a minimum set of protections and obligations that data controllers must provide Singaporean data subjects.</p> <p><u>Extraterritorial effect:</u> the law casts a wide net and applies to any entity which holds or the processes the personal data of any living or deceased individual who is ordinarily resident in Singapore.</p>
South Korea	Personal Information Protection Act	2011	Data Protection	<p>This law regulates all sectors that collect and/or process personal information, with the exception of public institutions collecting information under the Statistics Act.</p> <p><u>Extraterritorial effect:</u> the law's reach is not limited to local data processors and, accordingly, extraterritorial application is possible with respect to matters that affect South Korean data subjects.</p>
Taiwan	Personal Information Protection Act	2012	Data Protection	<p>This law brings to Taiwan a number of core data collection and processing principles that were contained within the European Union's 1995 data protection directive. It applies to both the public and private sectors and mandates data minimalization, fair and lawful processing, the deletion of unnecessary data, and special protections for sensitive data. Contraventions of the Act, where damage is caused to another person, can be punished by imprisonment up to two years or substantial fines.</p> <p><u>Extraterritorial effect:</u> Article 51 of the law is explicitly extraterritorial, stating it "applies to [the] collection, processing, or use outside of the territory of the Republic of China by a public agency or non-public agency of personal data of nationals of the Republic of China."</p>
Thailand	Computer-Related Crime Act	2016	Cybersecurity	<p>This Act states that any person "who enter[s] into a computer system, publicise[s] or share[s] false information that "could" cause damage to [Thailand's] national security, public safety, economic security, public services and infrastructure or provoke public panic will be subject to five years' imprisonment."</p> <p><u>Extraterritorial effect:</u> the Act applies to anyone who is engaging in such activities aimed at Thailand, a Thai citizen, or a Thai resident.</p>
Turkey	Law on the Establishment	2018	Freedom of Expression	<p>Turkey amended its existing radio and television legislation to empower the Radio and Television</p>

	of Radio and Television Enterprises and Their Media Services			<p>Supreme Council to monitor the Internet for radio, television, and on-demand broadcast content that has been uploaded by Turkish publishers. It does not apply to content uploaded by individuals on to social media. The law requires Turkish publishers to obtain a license from the Council, and empowers the Council to block access to content uploaded by 'illegal' publishers.</p> <p><u>Extraterritorial effect:</u> the law applies to foreign media service providers and platform operators who are targeting audiences in Turkey, regardless of whether they provide their service and broadcasts in the Turkish language or have a local office.¹⁸</p>
Vietnam	Cybersecurity Law	2018	Data Localisation, Data Protection, Freedom of Expression	<p>This law imposes requirements on the processing of personal data that is captured in Vietnam. The law applies to all entities which offer services in Vietnam.</p> <p><u>Extraterritorial effect:</u> the language of this law is broad and captures almost all varieties of online business activities. The scope is that it applies to any entity which, "provide[s] services on the telecommunication network, internet, and other value-added services on the internet in Vietnam."¹⁸ If a foreign bank's website was accessed by a foreign national on vacation in Vietnam, for example, it would be captured by the language of this law, even if that seems highly unlikely to have been the law's intent, based upon public statements by Vietnamese lawmakers.</p>
Europe				
Country	Statue Name	Year of Adoption	Category	Description of Extraterritorial Effect
European Union	Consumer Protection Regulation	2017	Freedom of Expression	<p>This regulation gives consumer protection agencies within the European Union the authority to order ISPs, web hosts, and domain registries to block or delete websites without judicial oversight.</p> <p><u>Extraterritorial effect:</u> websites that can be blocked or deleted are not limited to European ones, so it is in theory possible that a website not hosted in the EU could be permanently deleted at the request of a consumer protection agency.</p>
	Directive on Attacks	2013	Cybersecurity	This directive criminalises "attacks on information systems" and introduces new criminal offences for

Against Information Systems			obtaining illegal access to an information system and/or interfering with its systems and/or data. <u>Extraterritorial effect:</u> this directive says that a criminal act occurs where an offence against an information system occurs on its territory, irrespective of whether the offender is physically present or not in its territory or a national of the member state. However, where the offender is a national of the impacted member state, and committed the offence outside of the member state's territory, the directive has "extraterritorial jurisdiction based on the restrictive active nationality principle."
General Data Protection Regulation	2014	Privacy	With a few exceptions, any organisation – no matter where in the world it is – that processes the personal data of persons ordinarily resident in the European Union will fall under the scope of the GDPR. <u>Extraterritorial effect:</u> the territorial scope of the GDPR is broad and explicit that it is intended to apply to data controllers outside of the EU.
Privacy and Electronic Communications Directive	2002	Cybersecurity	This directive was intended to focus on the security of electronic communications and to eliminate spam, but has come to be known as the 'cookie law' for mandating that websites disclose if they place a cookie on a European user's hard drive. <u>Extraterritorial effect:</u> the directive is tied to the EU's Data Protection Directive 1995 (subsequently superseded by the GDPR) in that it requires that the personal data of EU residents can only be transferred to non-EU countries if that country has an adequate level of personal data protection. As a result, the directive extends to apply to organizations located outside of the EU that process electronic communications data in connection with providing electronic communication services to EU end-users.
Payment Services Directive 2	2015	Financial Services	This directive regulates payment services and payment service providers throughout the European Union and the European Economic Area. The directive's purpose is to increase pan-European competition and participation in the payments industry, and to harmonise consumer protection rights and obligations across the member states.

				<p><u>Extraterritorial effect:</u> The original directive, adopted in 2007, had a limited scope, but it was amended in 2015 to have a broader, extraterritorial scope to cover “one leg transactions.” This makes it explicit that a payment service provider outside of the European Economic Area, but whom is processing a payment for an EU consumer at a non-EU website, must comply with the directive’s requirements.</p>
Finland	Information Society Code	2015	Privacy, Cybersecurity, Ecommerce	<p>This regulation consolidated 10 existing laws regulating ecommerce, privacy, data security, the communications sector, and the information society into one.</p> <p><u>Extraterritorial effect:</u> The territorial scope of the regulation was broadened to adopt the same language as was in the GDPR at the time it was being drafted in 2014. This regulation is therefore intended to apply to entities which are established outside of the EU but which maintain or use devices for the transmission of communications in Finland or which provide services online, provided that the user of such services is in Finland. (Whether the extraterritorial nature of this provision can be enforced remains to be seen.)</p>
Germany	Copyright and Related Rights Act	2017	Intellectual Property	<p>This statute grants moral and exploitation rights to the producers of eligible digital and non-digital works of literature, art, and science.</p> <p><u>Extraterritorial effect:</u> the statute is applicable to foreign-owned or foreign-operated websites that infringe copyright, provided that the website’s content is available in Germany and “intentionally addressed” to German users. A common indication for the intention to address German users is the language of content being in German. Such an interpretation has been upheld by the German Supreme Court.</p>
	Network Enforcement Act (NetzDG)	2017	Freedom of Expression	<p>Netzwerkdurchsetzungsgesetz (Network Enforcement Act) requires online platforms with more than two million users to remove “obviously illegal” posts within 24 hours or risk fines of up to €50 million.</p> <p><u>Extraterritorial effect:</u> the law applies to any platform, regardless of whether it would ordinarily fall within German jurisdiction, where hate speech</p>

				may be uploaded or viewed by a German citizen or resident. Implementation has been challenging.
Russia	Code of Administrative Offenses	2018	Freedom of Expression	This amendment to an existing bill introduces fines for search engines that link to websites that are unlawful within Russia. The law requires that search engines cross-check their results against a central database of banned domain names, and not include in their Russian language search results any content that would link to a domain name on this list. <u>Extraterritorial effect:</u> The law is extraterritorial in that it applies to any search engine that can be accessed within Russia, regardless of whether the search engine targets Russian users or has a local presence inside of the Russian Federation.
	Law on Information, Information Technologies, and Information Protection	2017	Freedom of Expression	This law requires Russian users of online messaging apps, including WhatsApp and Telegram, to be registered to a local cellphone number. <u>Extraterritorial effect:</u> the law applies to non-Russian users who are not resident in Russia if they use a platform or app that is Russian owned, like VKontakte.
Serbia	Personal Data Protection Act	2008	Data Protection	This law sets out a basic framework for the protection of personal information. <u>Extraterritorial effect:</u> this law has a broad jurisdictional scope that applies to all users and processors of personal information who collect or process personal information in the territory of the Republic of Serbia, regardless of where they are domiciled.
Switzerland	Federal Data Protection Act	1992	Data Protection	This law governs the processing of personal information by private parties and federal bodies. The processing of personal information by cantonal authorities is subject to separate state legislation. <u>Extraterritorial effect:</u> enforcement of this law is possible against an entity domiciled outside of Switzerland where “the result of the violation of privacy occurs in Switzerland (provided the violator should have expected the results of the violation to occur in Switzerland).”
The Netherlands	Cybercrime III	2016	Cybersecurity	This law permits the Dutch police to hack into computers located in foreign jurisdictions in limited circumstances. Ordinarily, the law requires that the police first seek assistance through mutual legal

				<p>assistance treaties (MLAT). However, if the location of a computer cannot be determined (for instance, because an anonymizer like TOR has been used) and it is therefore unknown as to whether an MLAT exists, the police may hack into the foreign computer for the purposes of gathering evidence.</p> <p><u>Extraterritorial effect:</u> this law permits Dutch law enforcement to perform searches and to install location-tracking malware on computers physically located in a foreign territory by unilaterally applying Dutch criminal procedural rules to foreigners.</p>
Turkey	No. 6698 “Law on Personal Data Protection”	2016	Data Protection	<p>This law is Turkey’s first dedicated privacy and data protection statute, and was modelled after the European Union’s 1995 Data Protection Directive.</p> <p><u>Extraterritorial effect:</u> this law is not explicitly extraterritorial. However, the law must be read in conjunction with the Criminal Code of Turkey. Article 8 of the Criminal Code states, “Turkish law is applied to the offences that are committed in Turkey. Where the act constituting an offence is ... felt in Turkey, the offence is presumed to have occurred in Turkey.”</p>
United Kingdom	Computer Misuse Act	1990	Cybersecurity	<p>This information security law has been amended numerous times since being adopted. The law permits the prosecution of British nationals for cybercrimes that happen outside of the UK and which do not hurt the UK, where the offence committed is also an offence in the jurisdiction where it took place.</p> <p><u>Extraterritorial effect:</u> In 2015, the Act’s jurisdiction was amended to become extraterritorial where a cybercrime is committed by a British national.</p>
	Digital Economy Act	2017	Content Regulation	<p>This Act introduces a requirement for websites that distribute pornography to install controls to verify the age of their users.</p> <p><u>Extraterritorial effect:</u> the age-check requirement is extraterritorial as it applies to any website or other online platform that provides pornography “on a commercial basis” to people in the UK, regardless of where the website itself is based.</p>
	Investigatory Powers Bill	2016	National Security	<p>This legislation consolidates together into one law existing investigatory powers that are available to British law enforcement and security and</p>



				intelligence agencies which are enshrined in several other regulations. <u>Extraterritorial effect:</u> the bill permits authorized parties to demand or intercept data from foreign-based companies that have, or may have, British users.
	The Gambling (Licencing and Advertising) Act	2014	Gambling	This law changed the way in which gambling was regulated in the UK from a point-of-supply to a point-of-consumption basis. Section 1(2) of the Act says it is applicable where equipment is located within the UK, or where “no such equipment is situated in Great Britain but the facilities are used there.” This means that remote gambling operators now require a licence from the British government if their gambling facilities are used in Britain, even if no equipment is located here. <u>Extraterritorial effect:</u> a license attracts a remote gaming duty of 15% on all profits generated from British citizens, no matter where in the world the operator is situated or from where the customer accesses the facility.
Latin America and the Caribbean				
Country	Statute Name	Year of Adoption	Category	Description of Extraterritorial Effect
Brazil	Law 12,737 “Dieckmann law”	2013	Cybersecurity	This law, named after a celebrity who fell victim to cybercrime, aims to tackle Brazilian nationals who are committing cybercrimes both inside and, expressly, outside of Brazilian jurisdiction. <u>Extraterritorial effect:</u> any Brazilian citizen, regardless of where in the world they are, can be charged under this law if they engage in phishing, unlawfully extracting credit card numbers, extortion, or other fraudulent activities.
	Law 12,965 “Marco Civil da Internet”	2014	Civil Rights Framework	This law sets forth that access to the Internet is a requisite to the exercise of civic rights in Brazil, and imposes a number of obligations on service providers in order to guarantee the rights of Brazilians online. <u>Extraterritorial effect:</u> the law applies to Internet businesses that have at least one Brazilian user, regardless of whether or not they have Brazilian servers or a local office. Failure to comply with the

				law can result in fines of up to ten percent of revenue originating from Brazil.
	Law 13,709 "General Data Privacy Law"	2018	Data Protection	<p>This statute, modelled after the European Union's General Data Protection Regulation, creates a new legal framework for the collection and processing of personal information in Brazil in both the public and private sectors.</p> <p><u>Extraterritorial effect:</u> this statute applies to any processing: (1) "carried out in the national territory (e.g., in Brazil); (2) associated with the offering of goods or services in the national territory or involving the personal data of individuals located in the national territory; or (3) of personal data collected in the national territory." Processing activities conducted wholly outside of Brazil, but which impact Brazilian citizens, would therefore fall within this provision.</p>
Colombia	Law 1581 "Provisions for the Protection of Personal Data"	2012	Data Protection	<p>This statute sets forward a legal framework for the management of personal and sensitive information.</p> <p><u>Extraterritorial effect:</u> the law itself does not define its scope. However, in a 2016 circular, the Colombian data protection authority issued interpretation guidance on the law. According to an analysis by Privacy International, its scope should be seen as extraterritorial. They note, "the processing of personal data is carried out in Colombian territory not only when the data collector is domiciled in Colombia, but also when, in order to undertake the collection, use, circulation or storage of the personal data, it uses "means" that are located in the Colombian territory."</p>
Mexico	Law Regulating Financial Technology Institutions	2018	Fintech	<p>This law regulates (1) crowdfunding platforms that connect entrepreneurs with investors, and (2) e-money companies which deliver electronic payment services through cryptocurrencies. Such firms must now obtain a license to operate.</p> <p><u>Extraterritorial effect:</u> foreign businesses with no presence in Mexico are not required to obtain a license from the Central Bank of Mexico, however they must notify any Mexican consumers that their activities are not supervised by the Mexican authorities. Furthermore, foreign providers of these services are still obliged to comply with Mexican anti-money laundering requirements, including</p>

				reviewing customer names against a Ministry of Finance blacklist.
	Federal Law for the Protection of Personal Data Held by Private Parties	2011	Data Protection	This statute regulates the collection, processing, publication, and sharing of personal information by data controllers, granting privacy rights to individuals which are not waivable under any covenant or agreement between parties. <u>Extraterritorial effect:</u> while the 2011 law itself does not specify a scope, its accompanying regulations published in 2013 and 2014 are clear that the law is intended to have an extraterritorial effect. The regulations note that the law is applicable to any entity not established under Mexican law that is executing a contract under Mexican law; for instance, with a data subject who is resident in Mexico.
Peru	Law 29,733 “Law on the Protection of Personal Data”	2011	Data Protection	This law offers a framework intended to ensure that the fundamental right to privacy is afforded to Peruvian citizens. <u>Extraterritorial effect:</u> the law applies to all personal information processing activities that are conducted on Peruvian territory, even when conducted by entities located abroad. As the definition of data “processing” is very broad, it would apply, theoretically, to any website or database containing the data of a Peruvian citizen that can be accessed from within Peru.
Venezuela	Special Law Against Computer Crimes	2001	Intellectual Property	This statute criminalizes five categories of offences, including the unauthorized dissemination of copyrighted material, the use of the Internet to access child abuse imagery, and the use of computer systems to steal records or commit espionage. <u>Extraterritorial effect:</u> Article 3 of the law states, “Extraterritoriality. When any of the offences provided in this Law are committed outside the territory of the Republic, the perpetrator will only be subject to its provisions if the offence has an effect within the territory of the Republic and the person responsible has not been judged for said offence, or has evaded prosecution or conviction by foreign courts.”

North America				
Country	Statute Name	Year of Adoption	Category	Description of Extraterritorial Effect
Canada	Canadian Anti-Spam Law	2014	Advertising	This law regulates the distribution of unsolicited electronic communications. <u>Extraterritorial effect:</u> the law's broad, extraterritorial reach "applies where a computer system located in Canada is used to send or access an electronic message."
	Personal Information Protection and Electronic Documents Act	2000	Privacy	This law governs how private sector organisations may collect, use, and disclose personal information in the course of their business. <u>Extraterritorial effect:</u> there can be no cross-border movement of personal data belonging to Canadian residents unless the target country has enacted legislation establishing substantially equivalent data protection norms.
United States of America	Allow States and Victims to Fight Online Sex Trafficking Act and Stop Enabling Sex Traffickers Act	2018	National Security, Freedom of Expression	These bills make intermediaries liable for "knowingly assisting, supporting, or facilitating a sex trafficking violation," and are the first-ever federal legal precedents that permit the government to go after and prosecute websites for content that their users post. <u>Extraterritorial effect:</u> the laws apply to US citizens who engage in human trafficking, even if they do so in jurisdictions where this practice is not banned or use non-American platforms outside of the US in order to engage in this crime.
	California Consumer Privacy Act	2018	Privacy	This state privacy bill codifies privacy and consumer protections into law, and introduces new penalties for the misuse of personal data. <u>Extraterritorial effect:</u> this bill has potential extra-territorial application; subject to certain thresholds, it applies to businesses, no matter where in the world they are located, that collect information from California residents.
	Clarifying Lawful Overseas Use of Data (CLOUD) Act	2018	Data Localisation, National Security	This law empowers federal US law enforcement agencies to compel US-based technology companies via warrant or subpoena to provide requested data stored on their servers, regardless of whether the data is stored in the US or on foreign soil.

				<p><u>Extraterritorial effect:</u> in Section 3(1), the law states that it applies to any data held by an American “provider of electronic communication service[s] or remote computing service[s] ... within or outside of the United States.”</p>
	Digital Millennium Copyright Act	1998	Intellectual Property	<p>This law introduced penalties for copyright infringement on the Internet, and criminalises the production and dissemination of technology, devices, or services intended to circumvent measures that control lawful access to copyrighted works.</p> <p><u>Extraterritorial effect:</u> the law’s extraterritorial reach has been the subject of much litigation and even more debate, but it is generally accepted now that it has a binding extraterritorial reach on American companies operating abroad whose foreign subsidiaries violate its clauses.</p>

Middle East and Adjoining Countries

Country	Statue Name	Year of Adoption	Category	Description of Extraterritorial Effect
Egypt	Anti-Cyber and Information Technology Crimes Law	2018	Cybersecurity	<p>This law introduces criminal penalties for cybercriminal activities such as circulating disinformation or using the Internet for purposes which “violate public morals.” Article 7 of the law grants the competent authority in charge of investigating cybercrime the right to shut down websites that spread ‘fake news’ against the Egyptian state or threaten “national security.”</p> <p><u>Extraterritorial effect:</u> the law authorizes the competent authority to shut down (not block) foreign websites, though it is unclear how this would happen in practice.</p>
Oman	Royal Decree No 12/2011 Issuing the Cyber Crime Law	2011	Cybersecurity	<p>This legislation introduces into the Omani Penal Code criminal offences for the unauthorized access to a computer system, and interference with a computer system or data, among others.</p> <p><u>Extraterritorial effect:</u> Chapter 1 Article 2 states it shall apply “even if committed wholly or partially out of the Sultanate whenever damage to its interests is ensued, or if the criminal result is ascertained within its territories or being intended to be ascertained therein even though not yet ascertained.”</p>



United Arab Emirates	Federal Law on Combatting Cybercrimes	2012	Cybersecurity	<p>This law criminalises the use of the Internet to commit a wide range of offences, punishable by a fine and/or imprisonment. The key offences include: defamation; publishing “illegal content”; hacking and phishing; money laundering, credit card fraud, identity theft; inciting criminal and terrorist acts; and threatening state security.</p> <p><u>Extraterritorial effect:</u> Article 47 of the law states that it has extraterritorial application, however it still remains to be seen how the authorities will enforce the law outside of UAE jurisdiction.</p>
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¹⁹ <https://www.internetsociety.org/resources/doc/2017/internet-infrastructure-security-guidelines-for-africa/>