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IACHR Inter-American
Commission on
Human Rights

RIRCU PRACTICAL GUIDES TO COVID-19

03

How to promote universal internet access during the COVID-19 pandemic?



The Inter-American Commission on Human Rights (IACHR), in collaboration with its special rapporteurships, introduces a series of practical guides addressing topics linked to human rights in the context of the COVID-19 pandemic. Drawing on Inter-American human rights standards, it has developed public policy recommendations to guide practices and decisions adopted by States in relation to the pandemic. This is a commitment of the Rapid Integrated Response Coordination Unit to dealing with the COVID-19 crisis (RIRCU COVID-19).



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SUMMARY OF CONTEXT

Today, the Internet is a crucial tool for enhancing people's quality of life, allowing for decentralized interactions unhampered by borders. Indeed, the Internet is a medium for **the exercise of other human rights**. The right to information, the rights of assembly and association, civil and political rights, the right to education, the right to participate in cultural life, the right to health, and other rights find in the net a forum that to some extent offsets the limitations for the exercise of rights during the pandemic.

In the current health emergency context generated by COVID-19, Internet access with minimum quality standards proves to be fundamental. The isolation and/or social distancing measures imposed in most countries underscore the need to accelerate universal Internet access policies by expanding the infrastructure that supports it, facilitating access to suitable devices, and promoting digital literacy. The Internet access gap in the context of the pandemic affects, deteriorates, or delays the guarantee of all human rights that are not totally or partially exercised by this means.

The Inter-American Commission on Human Rights (IACHR) and its Office of the Special Rapporteur **identified** that indigenous communities, women, Afro-descendants, children and adolescents, the elderly, and other groups with special needs are disproportionately suffering from limited access to and availability of digital technologies. This digital divide reinforces the preexisting and widely-documented inequalities endured by these groups.

In **Resolution 1/20**, the IACHR established that one of the States' obligations in addressing the pandemic was to "ensure that everyone has the broadest possible access to the Internet, and to develop affirmative measures to close the digital divide facing vulnerable, lower-income groups quickly." The OAS General Assembly also maintained that information and communication technologies (ICTs) are crucial for economic development and poverty reduction.

“ It is important to prioritize measures that address the connectivity needs of groups in vulnerable situations, such as indigenous peoples, women, the disabled, afro-descendants, children and adolescents, the elderly, and others.”

Internet access in the region

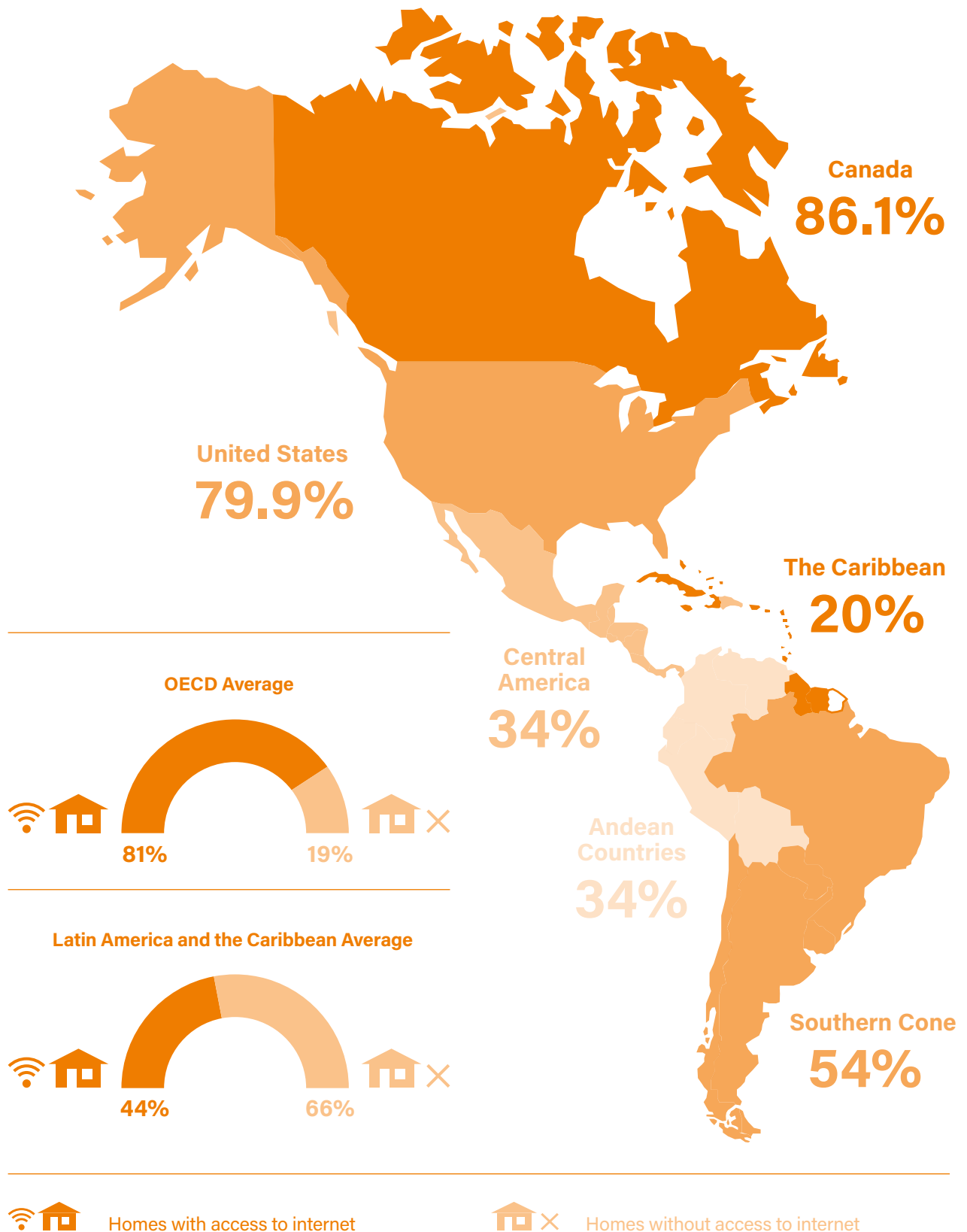
Despite the efforts and commitments made by the region's States to expand access to the net, the digital divide is one of the most obvious of the many inequalities exposed by COVID-19. In 2016, in the report on **"Standards for a Free, Open, and Inclusive Internet"**, the Office of the Special Rapporteur for Freedom of Expression had already noted that this phenomenon "increases vulnerability and exacerbates inequality, perpetuating exclusion." The **figures** show that globally only 53.6% of the population (4.1 billion people) has access to the Internet, while 47% (3.6 billion people) is still not connected.

- » In the Americas, nearly 23% of the population is disconnected. There are varying levels of Internet penetration according to countries, subregions, and communities.
- » In some States in the hemisphere, more than 70% of the population has no Internet access. The highest disconnection rates are found primarily in Central America and the Caribbean, and in some South American countries.
- » There are inequalities in Internet access based on sociodemographic factors and the digital divide weighs heavier on vulnerable communities. Income level is a significant barrier because reduced economic capacity brings greater digital isolation. Even when there is an Internet connection, the devices normally used in vulnerable situations are frequently of low quality and there are very few devices compared to the number of members in a given household.
- » The deployment of infrastructure has prioritized urban areas, negatively impacting the enjoyment of rights via the Internet in rural areas and affecting the hemisphere's rural, afro, and indigenous communities in particular.
- » On average, there are approximately five times more mobile wideband subscribers than fixed wideband subscribers for every 100 inhabitants, demonstrating greater accessibility and availability through mobile connections. The most recent figures show that in Latin America and the Caribbean, for example, the penetration of fixed broadband is 10% while the penetration of mobile broadband is 30%.

In the context of COVID-19, the Rapporteurs on Freedom of Expression of the OAS, the United Nations, and the OSCE emphasized in a **joint statement** that:

"Internet access at a time of crisis is critical. It is essential that governments refrain from blocking Internet access (...) Especially at a time of emergency, when access to information is of critical importance, broad restrictions on access to the Internet cannot be justified on public order or national security grounds."

HOMES WITH ACCESS TO INTERNET IN THE AMERICAS



Source: produced by the IACHR, with input from IDB and the ITU Telecommunication Development Bureau

INTERNET AS A CRUCIAL MEDIUM FOR THE EXERCISE OF OTHER HUMAN RIGHTS IN THE CONTEXT OF THE PANDEMIC

Access to information

The Internet makes it possible to keep people informed regarding the COVID-19 pandemic situation and related health recommendations, facilitates access to medical resources and consultations with specialists (telemedicine), and optimizes citizens' ability to have timely knowledge regarding economic assistance or other emergency resources that are available on line.

Human interaction in isolation and emotional health

Accessing the Internet in the context of a prolonged pandemic — where physical distancing is in itself a preventive measure — in many cases determines the ability or inability to have family, social, and community life interactions. The ability to have medical visits or psychological or psychotherapy sessions on line during the pandemic helps to reduce the stress, anxiety, and/or depression caused by isolation or social distancing. The Internet is also a way to access entertainment (with services such as streaming, social networks, gaming applications, and video chats) and materials that guide physical activities, strategies that have even been recommended by the **World Health Organization (WHO)**.

Access to education

The Internet has become a vital medium for the development and achievement of children and adolescents in accessing the benefits of formal and non-formal education. However, as the IACHR points out in its **Practical Guide on access to the right to education for children and adolescents during the COVID-19 pandemic**, although the use of technology is one strategy to address school closings, the digital divide exposes the limits of that approach. Not all students nor teaching staff have access to IT hardware or to an efficient internet, radio or TV connection, or the skills and appropriate working conditions to be able to use and take advantage of available digital platforms.

Freedom of expression

The Internet has facilitated global interactions despite restricted movement and has been the scene of important discussions on public health issues. The work of the press, citizen oversight and control over policies to address the pandemic, and peaceful assembly, among other activities fundamental for democracy, have been highly affected by the context of the pandemic. Internet access does not replace but it is an alternative for the exercise of these rights associated with freedom of expression.

Access to working life

The pandemic has forced millions of workplaces to switch to remote methods that are possible thanks to Internet access, underscoring the relevance of connectivity for some people's working and professional development. Telework has brought significant challenges such as schedules and intensive working relationships while it has accentuated preexisting differences in access to job opportunities, making explicit the exclusion of those for whom telework is not an option. The labor informality that existed before the pandemic affects 51% of working people in Latin America and the Caribbean, according to **data from the International Labour Organization (ILO)**.

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POTENTIALLY INFRINGED RIGHTS

Although the Internet is an essential medium for the full enjoyment of human rights, it also involves potential risks to the exercise of other rights that the States must address. It is essential that any regulation or public policy intended to ensure Internet access be accompanied by mechanisms to safeguard the rights to privacy, equality, non-discrimination, and freedom of expression, among other rights.

In the context of the pandemic, legislative initiatives arose that proposed to create new criminal offenses to sanction the dissemination of “fake news” on social networks. This is occurring in the context of the growing phenomenon called the “infodemic” that was the subject of a warning from the World Health Organization. This is an excessive amount of information — sometimes correct, sometimes not — that makes it difficult for people to find reliable sources and authoritative guidance when they need it. The “infodemic” may include spreading disinformation, misinformation, or rumors regarding the virus, prevention measures, treatments, and possible vaccines. On this point, the Office of the Rapporteur insists that the States should pay attention and provide resources for digital literacy and education measures that promote people’s ability to use the Internet autonomously, independently, and responsibly.

In addition, measures to prosecute and criminalize journalists, activists, and human rights defenders of those who express criticism, question certain governmental measures, provide “extra-official” information, or denounce deficient healthcare or the lack of health supplies have been observed. Some governments have also imposed Internet shutdowns and interruptions, or limitations on accessing specific websites.

On the other hand, since the outbreak of the COVID-19 pandemic, numerous governmental initiatives have emerged to make beneficial use of information technologies during the health crisis. For example, mobile applications are being used to gather personal and health data in order to do epidemiological monitoring to control the spread of the virus. It is important to keep in mind that some characteristics of these apps could violate personal privacy, obliging governmental authorities to ensure that any technological tool that is developed meets the requirements of legality, necessity, and proportionality.

→ *At a time when public demonstrations, protests, or meetings become difficult and must take additional precautions to prevent contagion, it is vital to ensure universal access to the Internet as a means available to the public for making their demands and complaints.*

Right to freedom of expression

Legal basis:

- » The American Declaration of the Rights and Duties of Man and the American Convention on Human Rights not only protect people's right and freedom to express their own thoughts but also the right and freedom to seek, receive, and disseminate all kinds of information and ideas.
- » The Inter-American Court of Human Rights **has indicated** that this right includes the use of any appropriate means to disseminate thought and have it reach the largest number of recipients. In addition, **it has emphasized** the positive obligation of the States to guarantee the plurality of the media. In this regard, it indicated that States should not only minimize restrictions on information but should also allow the media to be open to all without discrimination, ensuring that there are no individuals or groups that are, a priori, excluded.
- » The **2011 Joint Declaration on Freedom of Expression and the Internet** from the Rapporteurs on Freedom of Expression recommends that, in order to ensure the effective and universal enjoyment of this right, measures should be adopted to gradually guarantee everyone's right to access the Internet.

Rights to equality and non-discrimination

Legal basis:

- » As **the IACHR established in its report on the Internet**, States are required to guarantee that everyone has the ability to seek, receive, and disseminate opinions and information under equal conditions, particularly those in vulnerable situations or critical voices on matters of public interest. This means that not only should States refrain from discriminating in terms of the exercise and guarantee of rights but should also adopt positive administrative, legislative, or any other measures that may be needed to reverse discriminatory situations.

Right to privacy

Legal basis:

- » Both the American Declaration (Art. V) and the American Convention on Human Rights (Art. 11) guarantee the right to privacy. This includes protection from arbitrary or abusive interference in the private lives of individuals, their families, their homes, or their correspondence.
- » The **IACHR Office of the Special Rapporteur for Freedom of Expression** established that this right is "closely linked to the State's obligation to create a safe environment for the exercise of freedom of expression, as violation of communication privacy has a chilling effect and hampers the full exercise of the right to communication."

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RELEVANT MEASURES IDENTIFIED IN THE REGION

The IACHR recognizes some relevant measures that the various States in the regions and their regulatory agencies have adopted to guarantee access to and continuity of Internet services and telecommunications.

- » Some States have adopted measures ordering companies providing mobile and fixed telephony, Internet, and cable TV to implement measures other than suspending or cutting services due to late payment or failure to pay.
- » Some States have implemented virtual education applications under the *zero-rating* or *zero tariff* method so that students will not be harmed educationally and can continue with their classes without extra cost. This method allows Internet providers to offer access to specific applications free of charge and at no cost in the data plan. For example, portals have been developed through which providers offer free browsing from all mobile telephones, whether prepaid or postpaid, to educational platforms in the public system. In other cases, the prior operation of digital technology programs allowed the closing of educational institutions not to affect the continuity of classes.
- » In other cases, measures have been taken to adapt existing services to the needs of the pandemic. In this way, **eligibility requirements and procedures have been made flexible**, certain administrative exemptions have been extended, the increase in new registrants in aid programs has been prioritized, and specific funds have been allocated to strengthen already existing programs and create new ones, such as those focused on health care.
- » In addition, investment plans have been allocated to connectivity plans to mitigate the digital divide in rural and remote areas through fiber optic technology and mobile wireless coverage.

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RECOMMENDATIONS TO THE STATES

Universal access to a free, open, and inclusive Internet essentially depends on the positive measures that the States are required to adopt to reach individuals and groups that due to various factors (socioeconomic, geographic location, age, et al.) have not yet been able to access the worldwide network.

The actions and measures adopted by other actors in the digital ecosystem are also crucial. **Private telecommunications and Internet service provider companies** are increasingly more relevant in the challenge of reducing the digital divide. Civil society and the academic sector are called upon to intervene in developing frameworks and alternative proposals — nonprofit, social in nature, and communitarian — that help to make the right to information effective.

General

- 01** Given the context of the pandemic, the States must accelerate the processes involved in designing and implementing public policies that in the short term guarantee both quality access and the development of digital skills through the launch of digital literacy programs with a human rights perspective. Along these lines, some temporary and short-term measures to be adopted by the States should include:
- » Promoting alternatives so that telecommunications companies do not suspend or cut off services for late payment or failure to pay;
 - » Temporarily suspending taxes related to Internet services while the pandemic lasts;
 - » Actively promoting use of the spectrum and facilitating licenses for the deployment of local and community networks;
 - » Ensuring that every internal access policy incorporates three principles:
 - i)** open and competitive coverage, without limits on access to content and with total adherence to the principle of net neutrality;
 - ii)** access to devices in the quantity and of the quality consistent with people's needs and considering socioeconomic conditions;
 - iii)** monitoring of literacy processes and the development of digital skills and qualifications.
 - » Working to expand and improve coverage collaboratively with both small operators and community networks.
 - » Authorizing operators on an exceptional basis to manage the traffic passing through their networks during the pandemic, seeking to guarantee continuity in the delivery of service and continuous access to essential content related to health, information on COVID-19, remote education, and generally content authorized or developed by States to guarantee rights.
 - » Taking affirmative and differential measures to address the vulnerable situations experienced by specific groups of people (indigenous communities, afro-descendants, women, children and adolescents, the elderly, and others), enabling them to access basic services such as education, medical care, remote job opportunities, and contact with their families.
- 02** Promoting educational measures allowing everyone to make autonomous, independent, and responsible use of the Internet.
- 03** Not resorting to widespread shutdowns or the suspension of content, applications, or websites with the objective of combating deliberately false news on COVID-19.
- 04** Respecting and guaranteeing the right to privacy as a guiding principle of the digital environment and as an assumption for the exercise of freedom of expression on line. In this respect, States must ensure that the deployment of digital technologies that may limit the right to privacy and fundamental freedoms in general are established by law, have a defined purpose and a specific timeframe, and are evaluated periodically as to their efficacy and impact risks.

- 05** Promoting and strengthening national Internet governance mechanisms.
- 06** Producing data and statistics on Internet access levels throughout the country that are used to guide the design of public policies, that at a minimum include figures broken down by provinces and geographic areas, gender, age, and type of connection, particularly including figures on Internet penetration in vulnerable communities, rural areas, communities historically subject to discrimination, and indigenous peoples.
- 07** Promoting the support of independent human rights bodies established at the domestic level – such as national Public Defenders’ Offices or Ombudspersons — in the planning and deployment of public policies on access and connectivity, as these bodies are able to provide a perspective that is respectful of human rights in such processes.