Latin America and protection of personal data: Facts and figures (1985-2012)

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Introduction.

This report and the accompanying map summarize the regulations for the protection of personal data in 20 countries in Latin America from 1985 to December 2012.

The studied countries are: Argentina, Bolivia, Brasil, Chile, Colombia, Costa Rica, Cuba, Ecuador, El Salvador, Guatemala, Haití, Honduras, México, Nicaragua, Panamá, Paraguay, Perú, República Dominicana, Uruguay and Venezuela.
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Constitutional conclusions.

- **70%** of Latin American countries incorporate in their Constitution explicit provisions concerning aspects related to the protection of personal data.

- **100%** of the constitutional provisions incorporate the subject's right to access personal data, and **92.85%** explicitly mention the “personal data” or “personal information”.
Constitutional conclusions.

- **85.71%** establish the subject’s right to request rectification or correction of erroneous information, while **64.28%** grant the constitutional right to request the suppression, elimination, destruction or cancellation of the personal data.

- **64.28%** considered the updating of the information as a right of the data subject.

- **57.14%** establish the “habeas data”, and 7.14% the “acción de amparo” and the “acción de protección de privacidad”.

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Constitutional conclusions.

- **50%** incorporate the right to know the purpose behind the processing of personal data, and **21.42%** the right to know the use of that kind of information.

- **28.57%** considers the confidentiality of personal data as a fundamental human right.

- **14.28%** of the analyzed constitutions expressly grant constitutional rank to the protection of personal data.
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Constitucional conclusions.

- Only Panama (2004) and Mexico (2009) explicitly establish the right to the protection of "personal information" and to "personal data protection".
- Dominican Republic (2010) is the only country that contains a basic set of constitutional principles (quality, legality, loyalty, security and purpose) which must rule the processing of personal data.
- Panama is the only country whose Constitution requires that personal data must be collected with the consent of the data subject and for specific purposes.
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Some data protection law conclusions

- 100% of the countries have sectorial data protection laws on, among others, medical records and population census.
- 40% have general data protection laws (comprehensive data protection law)
- 100% of the general data protection laws govern the international transfer of personal data, but only 12.5% refer to the international collection of personal information.
- During 2010-2012, the number of general data protections laws increased significantly. The European Union´s data protection regulation has been the most influential in Latin American legislative developments.
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Resources

Remolina Angarita, Nelson. (2012)
- *Insuficiencia de la regulación latinoamericana frente a la recolección internacional de datos personales a través de internet*. Capítulo de libro publicado en “Quaestiones Disputatae de la colección del Doctorado en Ciencias Jurídicas de la Pontificia Universidad Javeriana, Bogotá. Disponibles en:
  http://habeasdatacolombia.uniandes.edu.co/?page_id=474

**GECTI:** http://gecti.uniandes.edu.co/ or http://gecti.org/
**OBSEVATORIO CIRO ANGARITA BARÓN SOBRE PROTECCION DE DATOS PERSONALES:**
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