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# Free software and Latin America

The challenge is often political rather than technical

David Sugar

In 2002, the then-U.S. Ambassador to Peru John Hilton (<http://www.wired.com/news/business/0,1367,54141,00.html>) delivered a threatening letter (<http://www.linuxjournal.com/article/6244>) to the Peruvian congress on behalf of a powerful American private interest. The letter, which was leaked to the press, stated that the Microsoft Corporation and its chairman Bill Gates disapproved of Peruvian politicians debating a proposed law, Special Bill 1609 ([http://linuxtoday.com/news\\_story.php3?ltsn=2002-05-06-012-26-OS-SM-LL](http://linuxtoday.com/news_story.php3?ltsn=2002-05-06-012-26-OS-SM-LL)), which favored the use of free software in public administration. Hilton warned its passage would harm U.S.-Peru relations. The bill was quietly dropped after then-Peruvian president Alejandro Toledo was invited by Microsoft chairman Bill Gates to personally receive a donation for a Toledo controlled Peruvian foundation.

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This incident was an early salvo in a brewing international conflict over free software. As nations of the world increasingly turn to free software to cut costs and promote local

development, some powerful North American commercial interests have responded by outright bullying. Sometimes they have done so by proxy, using public servants like Ambassador Hilton. Other times they have threatened legal action to intimidate ([linktext](#)) outspoken critics such as Brasil's National Institute of Information and Technology (ITI) President Sergio Amadeu da Silveira, who compared Microsoft business practices to that of drug dealers. Sometimes, they have threatened governments directly, like last November (2004), when Microsoft CEO Steve Ballmer threatened ([http://www.theregister.co.uk/2004/11/18/ballmer\\_linux\\_lawsuits/](http://www.theregister.co.uk/2004/11/18/ballmer_linux_lawsuits/)) to sue Asian governments who choose to use free software.

## What is this challenge about?

Part of what distinguishes free software commercially from proprietary software is a matter of licensing. While all software is under copyright restriction, commercial proprietary software is often licensed under terms that create additional restrictions, such as limiting where one can use such software and who may be allowed to use it. Often, proprietary commercial software include licenses which explicitly deny users: the right or ability to modify software to fit their needs or access their own data, the right to speak about the functionality of the software they have purchased, or the right to resell it to others when they no longer wish to use it. In contrast, free software expressly asserts and grants these fundamental rights through licensing, and does so in a way

that enables others to fully reclaim these rights such as by providing source code.

Free and proprietary commercial software have co-existed uneasily for a long time in many parts of the world. However, I believe the reason that certain private North American commercial interests have responded directly in Latin America is that many of the nations there have chosen to promote the use of free software specifically in public administration. There is already a long history for the support and use of such software in Brasil by the Workers party, starting from the days when they controlled the state government of Rio Grande do Sul and instituted private/public sector partnerships through projects such as procergs ([http://olinux.uol.com.br/artigos/264/print\\_preview.html](http://olinux.uol.com.br/artigos/264/print_preview.html)). Most recently the government of President Luiz Lula Da Silva has chosen to use free software solutions built around GNU/Linux exclusively, in a project to make computers available to the poor (<http://query.nytimes.com/gst/abstract.html?res=F40614FD395B0C7A8EDDAA0894DD404482>), as recommended by MIT (<http://www.computerworld.com/softwaretopics/os/story/0,10801,100494,00.html>) this past March.

Free software in public administration is not just about software for special government programs such as digital inclusion for the poor. This is a battle about the purchase and use of all software by national governments and the terms such software will be provided under. This about the procurement of servers and database applications used to house government data. This is also about the software that will be purchased and used on the desktops of government office workers every day, and whether they will continue to purchase and use Microsoft Windows and Microsoft Office under the terms of a monopoly supplier, or free software alternatives such as GNU/Linux and OpenOffice.

As Latin American governments increasingly use free software, suppliers will need to adapt to provide it. Private industries which interact with government will also be effected to remain compatible, and provide additional private markets for those vendors. All of these create a national economic environment that certain companies, such as Microsoft, would need to change in order to fully participate in.

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## Why do Latin American nations choose free software?

One reason that Latin American governments are promoting free software is the question of initial cost. In Brasil, they expect to save over one billion dollars (<http://www.brazzil.com/2004/html/articles/apr04/p136apr04.htm>) annually through the use of free software and the elimination of license fees. Many other Latin American governments are of course keenly aware of the cost benefits of free software. In some countries, such as in Peru and Argentina, they have tried passing special procurement laws to more rapidly increase the adoption of free software in government. In Venezuela, the use of free software in public administration is now supported directly by President Hugo Chavez (<http://venezuelanalysis.com/news.php?newsno=1457>).

While it is true that the total cost of using software is not represented in the purchase price or license fees alone, most other factors also tend to favor free software and better explain the potential for large cost savings through its use. One reason is commercial free software will often work on existing and older hardware rather than requiring new hardware to be purchased. Another is that since proprietary commercial software publishers depend on the number of licenses they can sell, it is often desirable to require as many additional software sales to perform a given level of work as possible. It therefore comes as no surprise to me that I often find the same workload that can be done, for example, with a typical GNU/Linux system may require three or four times as many proprietary servers, which also represents additional hardware and support costs.

The use of free software can also result in lower costs through the absence of monopolies. One cannot achieve

a monopoly in free software in part because there can always be another free software publisher that can supply the same goods at a lower cost should this occur. This is in fact one of the main reasons that governments prefer using free software instead of proprietary commercial software: when money is spent on proprietary software, only a small proportion of that money goes towards funding useful services and software development, as a large part of it goes as a monopoly rent to the shareholders of the proprietary software company. On the other hand, in the world of free software, where there are no such monopolies, money spent on free software is good for creating jobs and hence offers other direct and local economic benefits. In Latin America, money that is spent on proprietary commercial software serves mainly to make already-rich foreign software publishers even richer.

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In trying to create a market for or to promote the use of free software, many Latin American countries, such as Peru, have often chosen to do so through procurement laws, which cover how a government will purchase goods and services. These laws typically state the terms of purchase that a government will use. Often they are designed to prevent bribery, and to make the process of government purchase transparent. This is often done through the use of competitive bidding. Competitive bidding allows products created by different manufacturers and publishers to compete on providing the same service, and by doing so, prevents the government from being forced to rely on a sole source supplier. Proprietary commercial software, by its very definition and through the rights it takes away from users, is software which can only come from a single supplier.

In providing opportunities for Latin American citizens to directly participate in the development and worldwide commercial software market locally, free software offers incentives for forming a local software industry that can then compete on an equal basis with that of any other advanced

country in the world. What we often forget is that software does not require expensive plants or high capital investment to develop. Software may only require people who are free to use their skills and natural talents. Certainly, the nations of Latin America can and do produce people with such talents and skills. Free software means these people can practice these skills for their own benefit and the benefit of their society as a whole without having to look for work in or migrate to foreign lands. By choosing to procure free software, the national government can directly encourage this.

### So what's the problem?

If Latin American countries choose to create an economic environment that accepts participation by free software, existing corporations need not be excluded. Companies like Microsoft could choose, for example, to change the way they license their existing products. They are also free to adapt and offer services based on existing free software already in the marketplace. Instead of competing in these new markets, some companies have responded by trying to make it impossible for Latin American governments to choose and use free software at all.

These companies not only resort to bullying, but also lobby the U.S. government to modify free trade treaties and use international organizations to include conditions that try to make it impossible for Latin American nations to choose alternative products or develop local markets.

I have, in particular, seen the World Intellectual Property Organization (WIPO) used in this way to promote the private commercial interests of wealthy corporations. WIPO is often used to promote treaties and laws which handle ideas, culture, and literature as if they were physical property. WIPO has also been used to export the North American corporate notions of pharmaceutical and software patenting to developing nations. Private corporations then use these same treaties to enforce existing North American patent monopolies, thereby preventing the development of competitive local industry. Another example of market control through trade treaties is the "IP rights chapter" of the Free Trade Area of The Americas (FTAA) treaty.

One of the ways I have seen Latin American countries respond to WIPO and other patent bearing treaties has been to band together with other developing nations around the world to help promote a development agenda (<http://>

[www.eff.org/IP/WIPO/dev\\_agenda/](http://www.eff.org/IP/WIPO/dev_agenda/)) for WIPO and bring it into harmony with the wishes of the WIPO general assembly. Yet powerful American and European commercial interests have chosen to use the WIPO chair to explicitly bar NGOs that represent the interests of developing nations from attending or participating in WIPO discussions on a development agenda, even those organizations already duly certified and recognized with observer status.

## Conclusion

The people of Latin America, of all people, surely must understand well what corporate bullies are. Last century many nearby Caribbean nations were routinely invaded by marines as part of the banana wars (<http://experts.about.com/q/673/3343542.htm>) to prop up the interest of specific North American corporations such as United Fruit.

While last century's bullies came with tanks and guns, the bullies of this new century come now with the laws and treaties they wish Latin Americans to adopt. These laws and treaties undermine the heritage and most basic rights

that Latin American citizens enjoy; and not for the benefit of Latin America, but instead, once again for the benefit of private North American corporate interests. The right to innovate is not a privilege to be restricted to a tiny minority, it's not even a right specific or exclusive to the question of free software alone, but is a basic and fundamental right every human being must be free to enjoy.

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### About the author

David is an active maintainer for a number of packages that are part of the GNU project (<http://www.gnu.org>). He has also served as the voluntary chairman of the FSF's DotGNU steering committee (<http://www.dotgnu.org>).