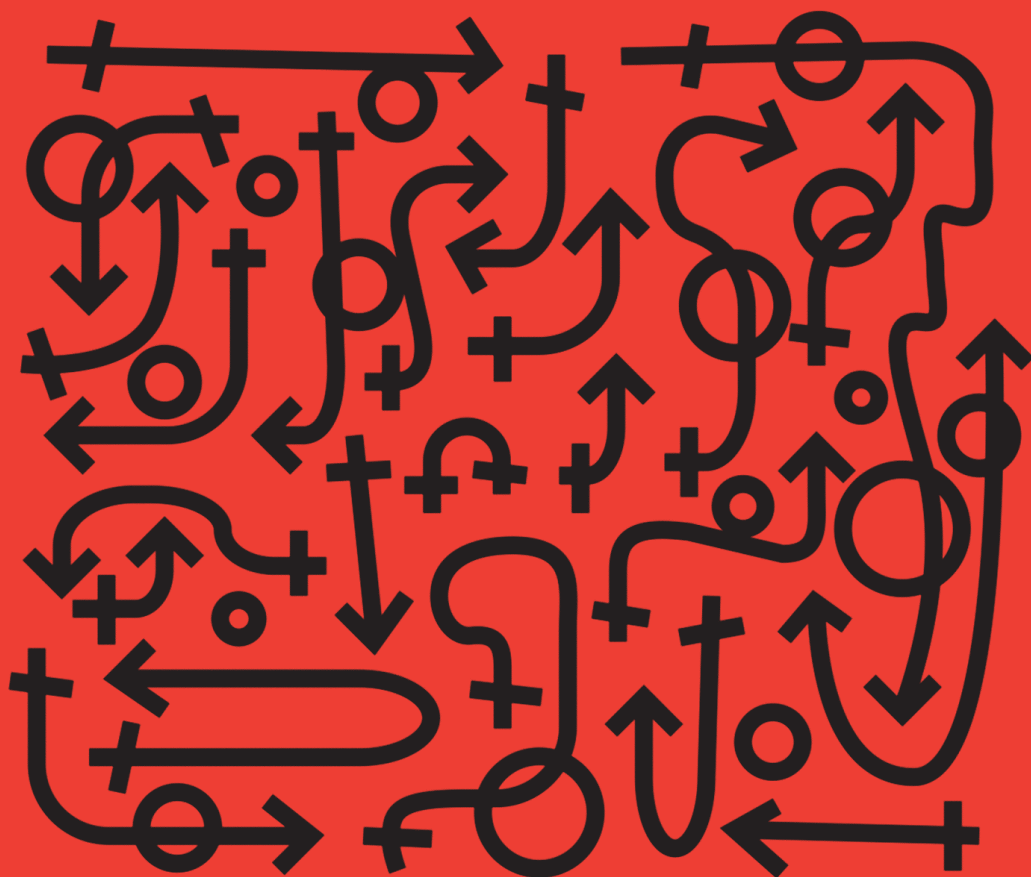


GLOBAL INFORMATION SOCIETY WATCH 2015

Sexual rights and the internet



ASSOCIATION FOR PROGRESSIVE COMMUNICATIONS (APC)
AND HUMANIST INSTITUTE FOR COOPERATION WITH DEVELOPING COUNTRIES (Hivos)

Global Information Society Watch 2015

Sexual rights and the internet

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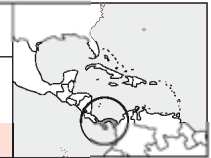
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PANAMA

THE CRITICAL NEED FOR LEGISLATION TO COMBAT SEXUAL VIOLATIONS ONLINE IN PANAMA



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Introduction

With the evolution of the internet, every day more and more people have access to information via any device that has a connection. Before the 1990s, access to information was comparatively limited, and expressions of diverse sexualities and desires were easier to control: authorities focused on censoring magazines, newspapers, movies and the media.

While the internet has facilitated the free flow and exchange of information, this potential has a dark side. Just as there are people that see the creative and positive possibilities in technology, there are people with criminal intentions who exploit these possibilities, whether through online fraud, theft, sexual harassment, or child pornography, among others.

Panama is no exception to this new global reality. There were 1,899,892 internet users in Panama in 2014 (a 52% penetration rate), and 1,039,840 Facebook users at the end of 2012.¹ However, when it comes to sexual violations online, the authorities have not acted with the necessary speed to develop appropriate policies and laws. There are also currently no legal processes to support the investigation and prosecution of these crimes.

In this report, we analyse the situation in Panama, and recommend the steps that our country has to take to improve the situation.

Key gaps in the legislative and institutional context in Panama

Panama has no laws to punish the online sexual violations that occur daily. We are at a point where it is time to take action. The following are key areas that need to be raised for public discussion amongst state actors, civil society groups, and the private sector.

a) It is necessary to broaden Panama's Penal Code when referring to sexual crimes.

Panama's Penal Code, in Title III, Chapter I, Articles 174-178, refers to sexual crimes and stipulates various punishments in terms of the length of prison sentences, depending on the seriousness of the

sexual offence and who commits it. However, there is no mention of sex crimes on the internet, which is a legal vacuum.

This section of the Penal Code must be urgently revised to bring it in line with international norms. A roundtable needs to be held, bringing together the three branches of the state (executive, legislative and judicial) as well as business and civil society representatives, to update the Penal Code.

b) Add amendments to Law 82 of 24 October 2013, where the rights of women in Panama are mentioned.

In Articles 1 to 22, this law refers to the protection and rights of women in all spheres. However, similar to the Penal Code, it lacks legislation dealing with the rights of women online, and the violations of these rights.²

We often see videos on different social networks where the integrity of women is violated. They are shared and discussed without any restrictions, and there is no legal recourse for the victims of this kind of online abuse.

Currently there is also no law dealing with so-called "revenge porn" in Panama. In 2010 the winner of a beauty pageant in Panama was the victim of revenge porn when her former partner posted an intimate video of the two of them together on the internet. For this reason, when someone types her name into Google, 95% of the results are related to this video.

The main victims of revenge porn are women, while the perpetrators go unpunished due to the legal vacuum.

c) Increase resources to the public ministry so that it can implement any changes to legislation and has the capacity to prosecute.

Improvements to existing laws must go hand-in-hand with human and technological resources allowing the authorities to investigate criminal organisations as well as any online sexual violation.

Currently cyber harassment complaints are neglected, because the human resources of the Panamanian justice system are not geared for these

¹ www.internetworldstats.com/central.htm

² The legislation can be read here: www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=95689&p_country=PAN&p_count=5

kinds of crimes. There should be a unit dedicated to these crimes, because current resources are used to solve cases that are more attractive and that create a positive perception of the country.

Communications and surveillance equipment is needed that allows the authorities to track cyber criminals. It is important to mention here that usually the people who use the internet to commit sexual offences have access to advanced technology, and skills.

We must create and build momentum for this kind of resource mobilisation to ensure that complaints are taken seriously by the authorities.

d) Promote internet governance in Panama.

We are in favour of using the internet to promote networking, education, the sharing of information and entertainment. Creating an internet governance law in Panama means ensuring that internet content is legal by creating rules and regulations for the safe use of the internet.

Once progress is made on this issue, the law must include, within its sections, the issue of sex education in schools. Currently there is no curriculum dealing with sexuality and the internet. Such a curriculum must deal with the needs and realities of the youth growing up in a digital world, as well as offer advice and support for their families and guardians.

e) Internet service providers (ISPs) in Panama play a fundamental role in this struggle. They are not working closely with the public ministry by sharing information.

There should be a close relationship between the public ministry and ISPs, including mobile data service providers. All online sex crimes committed in Panama in one way or another happen through local internet networks. Cross-border cooperation agreements are also necessary, given the transnational nature of the internet.

We are in an information age, and everything we do generates data, and also metadata – technical data needed to establish the communication itself. Though data remains private, metadata can be used in the fight against online sexual violations.

Conclusions

Given that there is currently no legislation to combat online sexual violations in Panama, the sexual rights of internet users are under threat in this country.

The dilemma we face in Panama is similar to that faced across the world. The task of regulating and monitoring sexual violations online is difficult

due to the fact that not all sexual content shared online violates sexual rights. Much of it is shared and viewed with the adult consent of all parties involved. Any legislation needs to protect this kind of content in terms of the rights to freedom of expression and association.

There is a long way to go to reach our goal, but it is important to create a base that we can start to work from. It is the responsibility of the state, civil society and the private sector to develop workable legislation.

Action steps

The following advocacy steps can be suggested for Panama:

- A commission must be created involving the three branches of the Panamanian state, together with civil society and the private sector. This commission should be dedicated to discussing the legal reforms necessary so that sexual rights are respected on the internet.
- Create mass media campaigns so that all users of social networks in Panama are vigilant when it comes to sexual rights online, and are able to report violations to the authorities.
- Create a forum for civil society and the private sector to discuss the issue of internet governance. It is essential for everyone to be able to use the internet in a secure online environment.
- Establish cooperation agreements between local and international service providers so that allegations of violations of sexual rights can be dealt with swiftly.
- Strengthen the capacity to prosecute online violations of sexual rights, and create a division dedicated exclusively to these crimes. Develop the appropriate human resources to deal with online violations, and invest in the necessary technology.
- Work with communities to raise awareness of sexual rights online. The first barrier to prevent a crime of this nature is ourselves. Parents must be aware of how their children access and use the internet, and openly discuss the risks involved with them.
- Draw from the lessons learned in countries with more robust internet laws and use these laws as examples to shape domestic laws in Panama. Bilateral cooperation should also be established with other countries given the transnational nature of many internet crimes.

Sexual rights and the internet

The theme for this edition of Global Information Society Watch (GISWatch) is sexual rights and the online world. The eight thematic reports introduce the theme from different perspectives, including the global policy landscape for sexual rights and the internet, the privatisation of spaces for free expression and engagement, the need to create a feminist internet, how to think about children and their vulnerabilities online, and consent and pornography online.

These thematic reports frame the 57 country reports that follow. The topics of the country reports are diverse, ranging from the challenges and possibilities that the internet offers lesbian, gay, bisexual, transgender and queer (LGBTQ) communities, to the active role of religious, cultural and patriarchal establishments in suppressing sexual rights, such as same-sex marriage and the right to legal abortion, to the rights of sex workers, violence against women online, and sex education in schools. Each country report includes a list of action steps for future advocacy.

The timing of this publication is critical: many across the globe are denied their sexual rights, some facing direct persecution for their sexuality (in several countries, homosexuality is a crime). While these reports seem to indicate that the internet does help in the expression and defence of sexual rights, they also show that in some contexts this potential is under threat – whether through the active use of the internet by conservative and reactionary groups, or through threats of harassment and violence.

The reports suggest that a radical revisiting of policy, legislation and practice is needed in many contexts to protect and promote the possibilities of the internet for ensuring that sexual rights are realised all over the world.

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