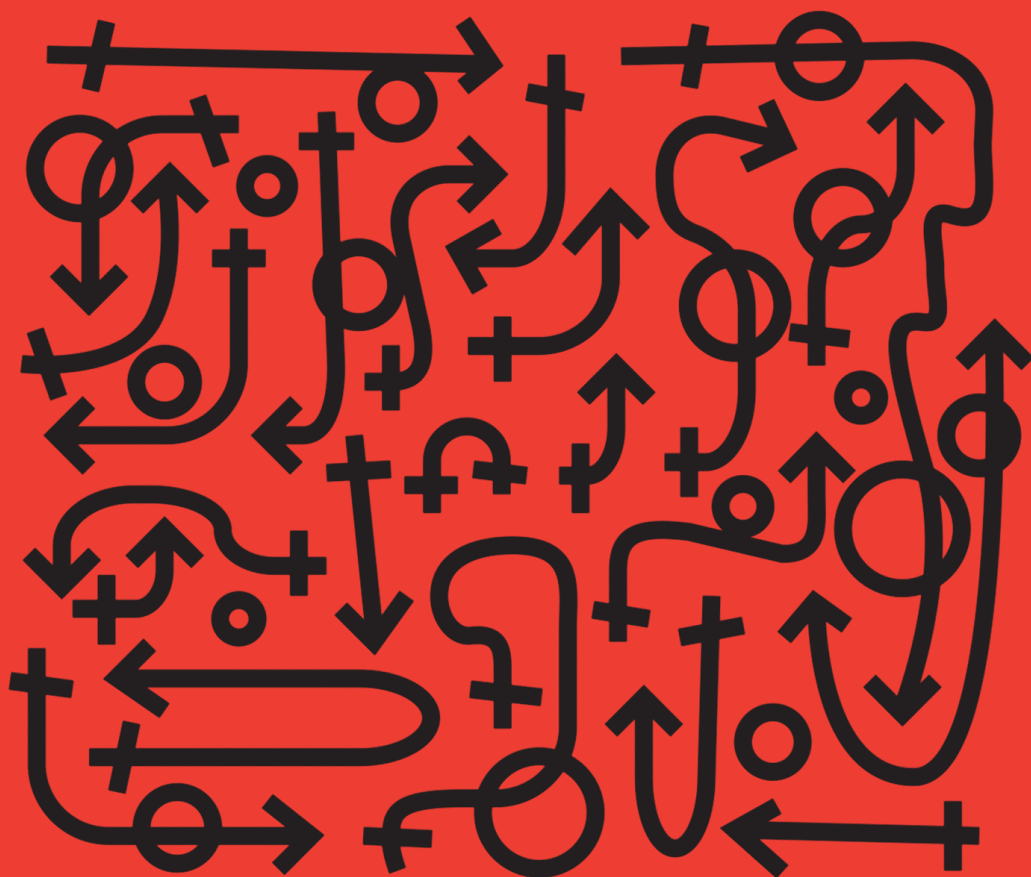


GLOBAL INFORMATION SOCIETY WATCH 2015

Sexual rights and the internet



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

Global Information Society Watch 2015

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Financial support provided by

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APC and Hivos would like to thank the Swedish International Development Cooperation Agency (Sida) for its support for Global Information Society Watch 2015.



Published by APC and Hivos
2015

Printed in USA

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ISBN 978-92-95102-41-5
APC-201510-CIPP-R-EN-P-232



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Introduction

According to the Continuous Household Survey of 2013,¹ there are approximately two million people aged 15 or younger in Paraguay, representing 31% of the total population estimated at 6.7 million people. Close to 1.4 million children are between six and 15 years old. Of these, 705,000 children live in poverty, as measured by family income.

Although our country was one of the least developed in the region in terms of access to new technologies, progress has been boosted with the entrance of mobile telephones. With this rapid take-up of technology, the problems of sexual vulnerability and violence through information and communications technologies (ICTs) have also begun to be felt in the country.

Paraguayan legislation has belatedly started to consider cyber offences. How to deal with sexual harassment and the violation of the rights of children and young people is an issue that has generated much public debate. However, it has yet to result in comprehensive legislation to protect children and adolescents online.

The slow pace of legislative development

The Code on Childhood and Adolescence was passed in 2001, and was one of the first attempts to deal with the safety of the country's youth online.² However, since the application of the law was at the municipal level, and a proper budget did not exist to implement the law effectively, there was little oversight and control of the numerous reports of online violations that were presented to the Secretariat for Childhood and Adolescence.

In 2007, an inter-sectoral process was started by the Inter-Institutional Commission³ that aimed to analyse the scope of the problem. This resulted in the Commission, together with the Ministry of Education, attempting to come up with tools to help children and adolescents to be safe online – including managing their online privacy – through consultations with psychologists Alejandro Brown Mateo and Vanessa Lovera, both members of Safe and Secure Approaches in Field Environments (SSAFE).⁴

In the meantime, Global Infancia researched the online behaviours and use of technology by primary and secondary school learners in the city of Asunción.⁵ The survey was the first of its kind, and was unique in that it captured the point of view of the primary stakeholders: the students themselves.

It was only in 2011 that the Criminal Code broadened the criteria of child pornography and, in Article 144, included a penalty for possessing and sharing child pornography online.⁶ The penalty is two years of prison or a fine – however, judges generally hand down fines when passing sentence.

Being safe online: Three examples that illustrate the context in Paraguay

The following incidents illustrate the situation regarding the safety of children and adolescents online in Paraguay. Generally, when most online violations occur, victims find it very difficult to report the violations to authorities, for two key reasons: the fear of retaliation from the abuser, and unresponsiveness from adults who do not know how to deal with the dilemmas faced by children and adolescents when it comes to new technologies.

1 www.dgeec.gov.py/Publicaciones/Biblioteca/TripticoJuventud/2013/Triptico%20JUVENTUD_2013.pdf
 2 See www.sna.gov.py/archivos/documentos/c%C3%B3digo%20de%20la%20ni%C3%B1ez%20final%202013_0007p6js.pdf, which states in Article 32 that internet protection will be the responsibility of the Municipal Council for the Rights of Children and Adolescents (CODENI).

3 The Inter-Institutional Commission for the Prevention of Violence against Children and Adolescents comprises 45 institutions that include ministries (such as health and education), representatives from municipalities, the national police, organisations for the defence of the rights of children and adolescents, parent and school organisations, and private companies.
 4 www.unssc.org/home/category/themes/peace-and-security/safe-and-secure-approaches-field-environments-ssafe
 5 www.globalinfancia.org.py
 6 www.oas.org/dil/esp/Codigo_Penal_Paraguay.pdf

Fono Ayuda 147: A national help line?

This is a service offered by the Secretariat for Childhood and Adolescence. It offers telephone support and advice for children and adolescents. The service specialises in:

- Psychological, social and legal orientation in cases of mistreatment, sexual abuse, sexual exploitation, labour exploitation, and other forms of rights violations.
- Offering support for the daily experiences of children and adolescents.

During 2014, more than 5,000 calls were received. Between July and December 2014, a total of 100 cases of sexual abuse were registered, 12 of them involving boys, and 88 girls.⁸

In one recent case (11 January 2015) the caller requested anonymity and reported the sexual abuse of two boys, aged 10 and eight, providing their address in the city of Asunción.

According to records, the father was the primary caretaker of the two boys, following a separation from the boy's mother. However, the caller alleged that when the children visited their mother, they were vulnerable to sexual abuse by strangers visiting their mother's home. Besides the address of the father's house, telephone contact numbers of both parents and information on the potential aggressors were also provided by the caller. According to the caller, the children's father apparently knew of the sexual abuse, but had not laid a complaint with authorities. The investigation continues.⁹

Online harassment

In 2014, a case occurred involving the online harassment of a 15-year-old girl living in Peru. She was being harassed by a person from Paraguay on Facebook – he would send the girl messages to her Facebook inbox. The girl appealed to the Secretariat for Childhood and Adolescence for help, and was offered orientation on:

- The use of social networks, blocking and permission, and how to send complaints to an administrator.
- Not eliminating conversations that could be used as evidence against the harasser.
- The importance of communicating the situation to a trusted adult so that he or she can support

the girl, and accompany her to lay a complaint with authorities.

- A letter was also written by the Secretariat for Childhood and Adolescence to the Peruvian Embassy in Paraguay.

At a government workshop on cyber harassment, the idea of creating an online platform where violations of rights can be reported was suggested. A platform¹⁰ was subsequently set up with support from the United Nations Children's Fund (UNICEF). However, authorities who prosecute online offences say that most offences reported are economic offences. When it comes to issues such as cyber harassment, they say that it is difficult to identify the aggressors easily due to internet protocol (IP) addresses being dynamic each time the internet is accessed by a computer.

Tacumbú online

At first glance you might think that the title refers to some digital network in the Guaraní language. Nothing is further from reality. It refers to Tacumbú Prison (which in Guaraní means "hot stone exploding"). In September 2010 the Public Ministry discovered that two adolescent girls had been blackmailed into visiting the prison, and had been raped at Pavilion 6, known as "Pabellón La Esperanza".¹¹ According to evidence from the state prosecutor, the rapes of the two girls were photographed and filmed by the inmates, and then distributed online.

There is an administrative provision that prohibits unlimited access by prisoners to certain communications media, including mobile phones. In the case of Pabellón La Esperanza, a prisoner had unrestricted access to an office computer with an internet connection. The prisoners – working with prison authorities – had used Facebook to contact the girls, and forced them to go to the prison by threatening to harm their families, whose details they had also got off Facebook.

When the adolescent girls refused to return to the prison following the rapes, the suspects in the case phoned their school. Because of this, the incident was reported to the Public Ministry by a teacher. This resulted in a search of Pabellón La Esperanza where the computer used for the crime was seized.

The former director of the Tacumbú Prison, Julio Acevedo, the head of security, Silverio Báez, and three convicts from the prison were arrested for the

7 www.hoy.com.py/radio-unotell_a_friend/147-fono-ayuda-para-denunciar-abuso-de-ninos

8 www.snaa.gov.py/archivos/documentos/informe%20147_0v77t3di.pdf

9 www.snaa.gov.py/articulo/42-fono-ayuda.html

10 www.unicef.org/paraguay/spanish/unicef-20compromisosninez.pdf

11 www.protecciononline.com/%C2%BFque-sucedio-en-el-pabellon-la-esperanza-de-tacumbu

rapes. In the end, two prisoners – Jorge Pereira, 32 years old, and Feliciano López, 57 – were convicted on charges of coercion, sexual abuse and the production of child pornography, receiving the longest sentence yet for these crimes: 20 years imprisonment plus an additional 10 years.¹² Prosecutor Teresa Martínez stated after the sentencing that it is “a historic conviction, since this is the first time that this number of years of imprisonment has been handed down for the production of child pornography and sexual coercion.”¹³

Key issues to consider when it comes to the safety of children and adolescents online

Protection of minors from online sex-related crimes is not a priority

Reviewing the perspectives of government officials, civil society organisations, UNICEF, and internet operators, among others, it is clear that the protection of children and adolescents when it comes to sex-related crimes online is not a priority. Rather, online safety for the country’s youth is an incidental issue when authorities consider legislation and government strategies. Initiatives that do try to address the safety of children and adolescents are not well implemented. For example, the hydroelectric company ITAIPU Binacional¹⁴ set up a regional office on the border shared with Brazil and Argentina. Its specific role is to combat the child sex trade, which includes child trafficking, sex tourism, online child pornography, and paedophilia. Although the initiative is necessary, particularly in the border region, the ITAIPU website is not updated, suggesting that the initiative has not been all that successful.

Legislation on the protection of children and adolescents is weak

Although the government makes very optimistic statements, such as the one by the Minister of Information and Communication Technologies David Ocampos, who said Paraguay “is one of the most updated countries in the region” when it comes to the matter of cyber legislation,¹⁵ the reality is quite different. While the Paraguayan Criminal Code has introduced several new offences relating to cyber crime, such as accessing private information, the

punishments are mild, many only involving fines. The minister also acknowledges that “the great challenge lies in punishing the criminals... who are difficult to track down online.” He also claims that few cases of cyber crime are reported.

While there is a new bill before the National Congress that legislates on cyber crime, it is still waiting approval, a process that has already taken a year. The Tacumbú case is one of the few exceptions where judges and prosecutors were successful in prosecuting a crime that involved the internet.

Campaigns with some impact have little institutional sustainability

It is necessary to stress that there are a number of campaigns and projects, some of them online, which deal with sexual rights in Paraguay.

Recently one was launched by UNICEF and the mobile service provider Tigo. According to Tigo, the initiative developed “a manual with advice to promote the responsible and positive use of information and communications technologies (ICTs) by children and adolescents.” Tigo says the initiative was aligned with the worldwide “Internet Segura” (safe internet) campaign that took place in February 2015.¹⁶

Rosa Elcarte, a representative from UNICEF Paraguay, said she felt satisfied to deliver the manual to Paraguayan families, hand-in-hand with Tigo, and that the initiative would have a great impact on the country’s citizens. “In this manner, we reaffirm our commitment to the youngest, providing them with material that supports the responsible and safe use of the internet and social networks, guaranteeing them the maximum enjoyment of their rights, and helping them to avoid the possible risks,” she stated.

While UNICEF’s intention behind this initiative is good, it is important that the National Secretariat for Childhood and Adolescence take over the leadership of the project in order to be able to coordinate the different stakeholders, and enhance the initiative’s impact. To do this, it is necessary for the government to comply with Commitment No. 1 signed by the Front for Childhood and Adolescence,¹⁷ which calls for an annual increase in

¹⁶ www.tigo.com.py

¹⁷ For more than a decade, institutions such as Global Infancia have put their energy into issues relating to sexuality and the sexual rights of children and adolescents. They have worked with 14 institutions, among them Asociación Trinidad and Radio ViVa, and created the Front for Childhood and Adolescence, which was founded at the beginning of 2013 (see: www.unicef.org/paraguay/spanish/media_24196.htm). The Front persuaded President Horacio Cartes to sign 20 commitments on the safety of children and adolescents, which must be reported on annually (see <http://www.unicef.org/paraguay/spanish/unicef-20compromisosninez.pdf>).

¹² www.protecciononline.com/caso-pabellon-la-esperanza-mayor-condena-por-abuso-sexual-y-pornografia-infantil

¹³ www.abc.com.py/edicion-impresa/policiales/infierno-de-adolescentes-abusadas-por-convictos-161742.html

¹⁴ www.itaipu.gov.py/es/responsabilidad-social/red-de-combate-la-explotacion-sexual-infantojuvenil

¹⁵ www.abc.com.py/nacionales/paraguay-uno-de-los-mas-actualizados-en-ciberlegislacion-1230403.html

the budget dedicated to protection of children and adolescents of at least 0.7%.

However, the National Budget for 2016 decreases the resources allocated to the Secretariat of Childhood and Adolescence by 10% compared to 2015.

The need for sexual education in schools

Paraguay has had 35 years of military dictatorship and 61 years of single-party government. It took until 2008 for the first proposal by the Ministry of Education to emerge that incorporated sexual education in primary and secondary schools. However, this was rejected by the parliament and the Catholic Church, and a good part of conservative society which has hypocrisy as a central part of its daily discourse. When it comes to sexuality amongst teenagers, a lack of public awareness and education, coupled with secrecy and ignorance, has arguably led to a high birth rate amongst girls aged between 12 and 16 years.¹⁸

Action steps

Given the above, we suggest the following action steps for Paraguay:

- Despite efforts by the government and civil society, the degree of vulnerability that children and adolescents face online requires the urgent development of a comprehensive bill addressing online safety and ensuring sexual rights online.
- Civil society should ensure that the government reports on the 20 commitments on the safety of children and adolescents presented to the presidency by the Front for Childhood and Adolescence.
- Several years ago psychologist Marta Benítez stated that “the biggest challenge is not so much the role of the educator, but rather that of the educational system.”¹⁹ Programmes that modernise the educational system and integrate technologies and the safe use of these technologies in the classroom are crucial for educational development.

¹⁸ www.abc.com.py/nacionales/preocupa-estadisticas-de-embarazo-adolescente-580057.html

¹⁹ www.globalinfancia.org.py

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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