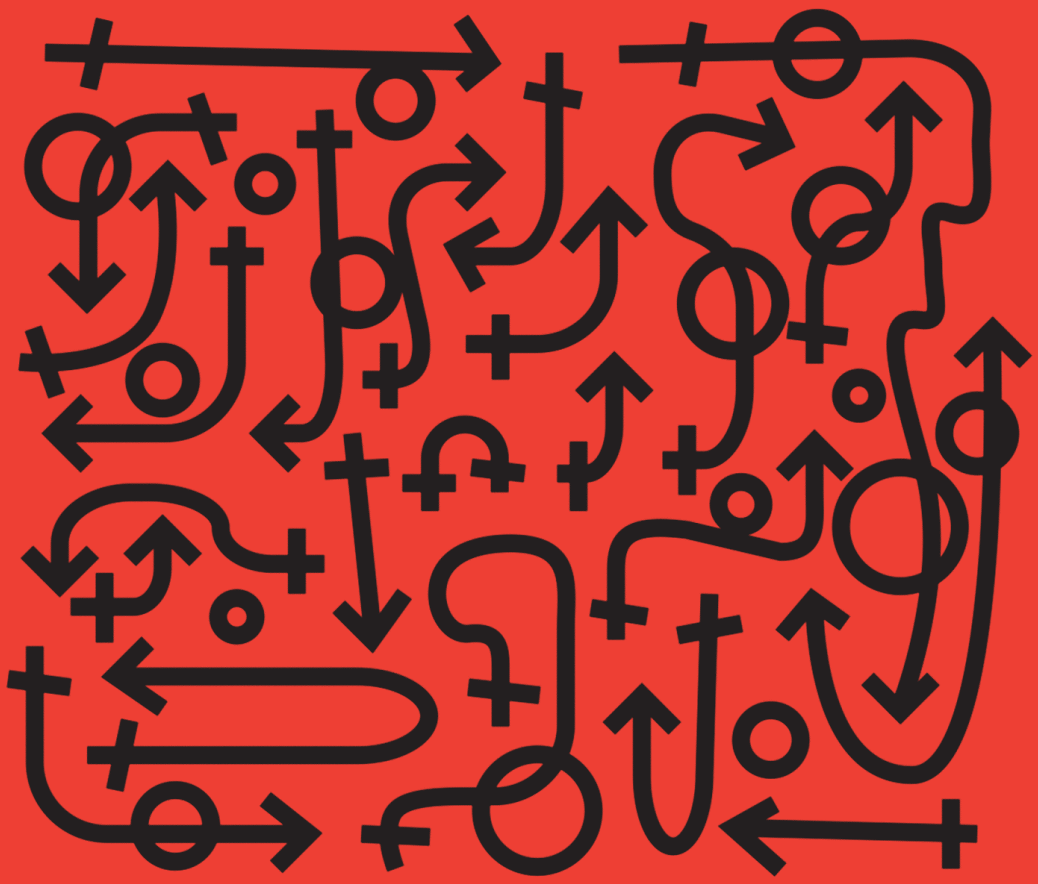
GLOBAL INFORMATION SOCIETY WATCH 2015

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

Steering committee
Anriette Esterhuysen (APC)
Will Janssen (Hivos)

Coordinating committee
Monique Doppert (Hivos)
Valeria Betancourt (APC)
Mallory Knodel (APC)
Jac sm Kee (APC)
Nadine Moawad (APC)

Project coordinator
Roxana Bassi (APC)

Editor
Alan Finlay

Assistant editor, publication production
Lori Nordstrom (APC)

Proofreading
Valerie Dee
Stephanie Wildes

Graphic design
Monocromo
info@monocromo.com.uy
Phone: +598 2400 1685

Cover illustration
Matías Bervejillo

Financial support provided by
Humanist Institute for Cooperation with Developing Countries (Hivos)

Hivos

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

Sida

Published by APC and Hivos
2015

Printed in USA

Creative Commons Attribution 3.0 Licence
‹creativecommons.org/licenses/by-nc-nd/3.0›
Some rights reserved.

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

DEMOCRATIC REPUBLIC OF CONGO

"IT IS NOT AN ISSUE UNTIL IT BECOMES AN ISSUE"

Si Jeunesse Savait (SJS)
Francoise Mukuku
www.mwasi.com

Introduction

In 2014, a well-known artist on the Kinshasa scene, who was also well-known as a gay man, was found murdered in his house. It was evident that he had been with a sexual partner.[1]

The artist's house guard had told the police the name of his employer's last sexual encounter, and how his boss had asked him to give them some time alone to discuss an issue inside the house. This resulted in the community starting to investigate who the artist's young sexual partner could possibly be – a person nobody had heard of before.

It turned out that the man was a married father of three kids, who had been seeing the artist for a number of weeks; he had met him through the internet on the well-known Francophone dating website called PlanetRomeo.[2]

The murderer, who was convicted two weeks after the crime, also happened to be a serial killer who had been tried in the neighbouring Republic of Congo for the killing of two business partners. He had escaped from prison there and sought refuge in his home town of Kinshasa, the capital city of the Democratic Republic of Congo (DRC).[3]

This raised – if not for the first time, then at least very publicly and prominently – the risks that the gay community of the DRC take when hooking up with strangers on the internet. It also highlighted how they need to come up with a strategy to circumvent the risks they face online.

Political and legislative context

The DRC is a post-conflict African country. More than 50 years after its independence, it is plagued by poverty, unemployment, corruption and armed conflicts, as reflected in the most recent Human Development Index, where it is ranked 186th out of 187 countries and territories.[4]

According to the categorisation provided by UNAIDS,[5] the DRC's legislation is said to be "neutral" in general when it comes to lesbian, gay, bisexual and transgender (LGBT) people. This is to say that it is neither protective nor prohibitive, since it does not punish people on the grounds of sexual orientation and gender identity.

Despite this, as in many other African countries, sexual minorities are victims of all kinds of prejudices, discrimination and stigma in the DRC.

In addition, the country's security services (police, army and intelligence services) frequently violate the rights of the most visible LGBT people, as shown in the shadow report on sexual rights in the Democratic Republic of Congo produced by the Sexual Rights Initiative (SRI) and Si Jeunesse Savait and submitted to the United Nations Human Rights Council.[6]

With the upcoming elections looming, President Joseph Kabila, who is meant to step down after 15 years in power, said he would try to change the constitution in order to stay in power for longer. This, together with the elections, led to a clampdown on free speech at the end of 2014, mostly affecting the internet and SMS services. Both were shut down for almost three weeks, while some independent radio stations were taken off the air for allegedly feeding the crisis linked to the electoral process and preparations.

Political candidates have raised concerns about their phones being tapped and pointed out that some internet services were not returned to normal after the three-week shut-down, raising the spectre of government surveillance.

1 maleboforce.blogspot.co.ke/2014/09/un-meurtre-au-sein-de-la-communaute-gay.html?spref=fb

2 https://www.planetromeo.com

3 www.lephareonline.net/deces-du-belge-yves-marique-les-informations-complementaires-lavocat-partie-civile-brady-tosta

4 hdr.undp.org/sites/all/themes/hdr_theme/country-notes/COD.pdf

5 www.unaids.org/globalreport/documents/20101123_GlobalReport_Full_Fr.pdf

6 Sexual Rights Initiative (SRI) and Si Jeunesse Savait (SJS) joint submission shadow report on sexual rights in the Democratic Republic of Congo for the 19th Universal Periodic Review evaluation of the Human Rights Commission. www.sida.se/globalassets/sida/eng/partners/human-rights-based-approach/lgbti/rights-of-lgbt-persons-drc.pdf

The need to be safe online

The DRC is classified by the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA)[7] among the countries that do not criminalise homosexuality. Sexual relations between persons of the same sex are not explicitly criminalised by the Congolese criminal code.[8] However, homosexuality does fall under "indecency" laws, but, as evidence of a lack of clarity in the text on homosexuality, no sanction is imposed.

Since 2010, the DRC has seen several attempts to criminalise same-sex relations. These proposed new legal texts claimed to cover gaps that existed in criminal law. They also contained provisions on the prohibition of organisations promoting the rights of LGBT people.

Despite the absence of a law, homosexuality is evoked implicitly in some legal texts. For instance, it is reflected in the new child protection law[9] which does not allow homosexuals to adopt children.

Legislation in the DRC does not deal with transgender people in any way.

However, socially, same-sex relations are seen as devious, sinful and "imported behaviour" from the West. Although LGBT communities do exist, they live underground and keep a low profile, to avoid attracting unnecessary attention from both the community they find themselves in and the security services.

Disclosing your sexual identity as LGBT risks exclusion from society (work, family life, education, etc.), making it very difficult to be open about your sexual orientation.

Congolese LGBT are also victims of many forms of violations of their rights without having legal recourse. They are regularly tortured by the police, army or intelligence service, who at the same time extort money. They have also been victims of indecency trials, and are portrayed as deviant in the Congolese media, in complete violation of journalistic ethics. A report on sexual rights in the DRC presented at the 19th UN Human Rights Council Universal Periodic Review[10] documented LGBT stories in local communities in the country.

In this context, because of the anonymity it allows and its transnational nature, the internet has become a powerful tool to link up various local and small LGBT communities, as well as individuals who may want same-sex relations but do not consider themselves as gay.

Facebook and WhatsApp are praised for their ease of use and, in the case of WhatsApp, because access to it is free of charge[11] on most of the telecom networks in the country.

Some other social media platforms and mobile applications are also used, one of them, as mentioned, being PlanetRomeo, a French-based dating website for Francophone gays. On PlanetRomeo, one can create an account and have both private and forum chats with people.

Malebo Force,[12] an online Congolese gay community, is another example of how the internet is used by the local community. It first targeted the diaspora gay community wanting to keep in touch with their home country, until local Congelese started to use it. It started off as a mailing list, but then grew in its use of technology. It now offers a variety of features on its website, including a blog on gay issues from both within the DRC and around the world, a closed Facebook group where people can exchange information that is of public interest, as well as a more erotic Facebook page called Mibali Afrika where people can let go of their most private gay fantasies.

Justice Walu, the founder of the website, said: "We were concerned about the rampant stigma related to being gay and we therefore thought the internet was a good way of doing activism and safely hooking up. I personally didn't know there were some gays and lesbians, as well as transgender people, organising in small support groups. Now that I know them and take part in some of their activities, I still think there is a need for an online community, at least for all those people who are gays but will never take part in in-person activities for fear of being labelled and possibly losing everything they care for."[13]

According to Walu, more and more people are using the internet, but are not aware of the security breaches to their privacy or exposure they may face: "Even I had to enrol in an online security class after 10 years of maintaining a blog followed by more than 20,000 people today. I thought adopting a pseudonym was enough, but I learned from my course that it was not enough."

For his part, Foko[14] is a leader of a LGBT youth group that has a public Facebook page. "The page has several administrators. We check the background of the people who follow or befriend us, so

7 old.ilga.org/Statehomophobia/ILGA_WorldMap_2015_ENG.pdf

8 www.leganet.cd/Legislation/JO/2004/JO.30.11.2004.pdf

9 www.leganet.cd/Legislation/JO/2009/L.09.001.10.01.09.htm

10 See footnote 6.

11 It can be used on some networks without a mobile internet package.

12 maleboforce.blogspot.com

13 Interview with Jusice Walu, founder of Malebo Force, Kinshasa, February 2015.

14 Name changed for security reasons.

that everybody is safe," he explained. "If many of the people who take part in our community page browse with their real profile, it is because they trust us, they have seen us in person and know who we are. But we come across some fake profiles added by administrators who were not really careful in their choices of friends. We never disclose this, to avoid panic from our members."

Gays de la République démocratique du Congo, another closed group, is one of the most popular Facebook pages where gays in the DRC diaspora as well as anyone visiting the country can drop by. On the page some people leave their telephone numbers for anyone who might want to meet them. However, this is not advisable for reasons of privacy.

Once, a young gay activist left his home address so that gays and lesbians could visit him on his birthday.

When publicly advised by another group member to take down the address, he seemed to not get the point, saying that everybody knew he was gay already. However, someone pointed out that some of his friends were not openly gay and may not turn up to a publicly advertised gay birthday party for fear of exposure. He then took down the address.

One Facebook profile caused some suspicion amongst the gay community. The profile regularly asked its "friends" questions such as details about specific gay joints, or the most gay-friendly enterprise or university. It even shared an invitation to a gay porn film shoot, offering USD 5,000. Knowing that it is unlikely that an amateur porn star would be paid this amount of money for a day of shooting, many people advised others not to attend, pointing out that the invitation might be the work of the country's security services.

With the electoral process on its way and many breaches of freedom of speech occurring, concerns have been raised by LGBT youth groups in the Congo. According to Foko:

> Our fight is not seen as political or important in the eyes of the security forces, and most of the violations happening to LGBT people are in line with the massive human rights violations Congolese have suffered for decades now. Our community members do not think it's important to use very strict online security strategies, but we are encouraging them by organising specific online security courses with Si Jeunesse Savait, a local organisation with expertise on communication rights, because it is not an issue until it becomes an issue.

Conclusion

With communications rights and, specifically, freedom of speech being at risk in the DRC during times of political trouble, and many internet-based services and platforms not paying attention or advising their users on security breaches, the LGBT community has to carefully navigate the possibilities that the internet offers them.

Unfortunately, many LGBT activists do not understand the extent of their online exposure. Online security trainings organised by local human rights groups do not often focus on their specific needs.

Mobile applications such as WhatsApp are used by the LGBT community as an organising tool, and for personal communications. But WhatsApp is known for being very weak on security, as one can copy and forward or email an entire conversation to a third person or add people to a group without any form of control by the people in the group already.

Although LGBT people who experience the dark side of hooking up on the internet are reluctant to report cases, the story of the well-known artist who met his lover on the web and ended up dead rings alarm bells in the community.

Action steps

The following advocacy steps are suggested for the DRC:

- The LGBT community should collectively discuss an online security strategy that is specific to their online safety needs.
- Local human rights organisations offering training in online security should offer solutions to concerns raised by the LGBT community regarding the risks of online dating.
- The LGBT community should be aware of the vulnerability they face if their real identities are revealed online. In line with the above, they should become skilled in the tools and tricks they can use to keep their identities private on the internet.

GLOBAL INFORMATION SOCIETY WATCH 2015

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 (LBGTQ) 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.

GLOBAL INFORMATION SOCIETY WATCH
2015 Report
www.GISWatch.org

APC Hivos

ISBN 978-92-95102-07-1
9 789295 102071