

Human rights in the digital context



CHILE
RECOMMENDATIONS

UPR
SESSION

32

The previous UPR of Chile (2014) did not include any recommendations with explicit references to the Internet. Nonetheless, Chile accepted several recommendations on issues related to the focus of our submissions, human rights in digital context, and co-sponsored Human Rights Council resolutions 38/7 “The promotion, protection and enjoyment of human rights on the Internet”, 38/5 “Accelerating efforts to eliminate violence against women and girls: preventing and responding to violence against women and girls in digital contexts”, and 34/7 “The right to privacy in the digital age”.¹

WOMEN RIGHTS:

38% of internet users declared being victims of sexual harassment by electronic means or non-consensual dissemination of intimate content

Microsoft Digital Civility Index (DCI) Chile, 2017

Online gender-based violence is an extension of violence against women (VAW) in offline contexts that can infringe on numerous human rights. There is no specific law or government program dedicated to preventing and combating VAW in digital contexts in Chile.



Recommendation:

Recognize online gender-based violence as part of the continuum of structural, system gender-based discrimination and ensure that all responses are in compliance with Chile’s international human rights obligations. Review and revise laws, policies and regulations to address violence against women in digital contexts, in compliance with international human rights obligations.

- * Develop specific programs on the agenda of the Ministry of Women and Gender Equality to eradicate violence against women in digital contexts.
- * Develop capacity-building of judges, prosecutors and police to address cases of online gender violence.

SOCIAL, ECONOMIC AND CULTURAL RIGHTS:

Almost 60 % of people in rural areas has no access to the internet

CASEN (National Socioeconomic Characterization Survey) 2015

There is a clear digital divide in access to internet between urban and rural areas, with 68.8% in urban areas against 40.9% in rural areas. Along this line, women are less connected than men in Chile, as are indigenous people compared to non-indigenous.



Recommendation

Implement policies to promote the creation of online enabling environments for the use of ICTs to guarantee the enjoyment of human rights, particularly in marginalized groups such as indigenous groups, rural populations, and women.

INSTITUCIONAL VIOLENCE/PRIVACY

Last year, 8 Mapuche leaders were surveilled by intelligence forces and police, who were trying to intercept their communications through WhatsApp and Telegram. False evidence was created to frame them

“Operación Huracán”: testimonies and confessions confirm that it was a hoax (CIPER, 3/13/2018)

The use of surveillance technologies has had as a main consequence the indiscriminate and constant surveillance of specific groups as Mapuche indigenous communities who are repressed through the abusive use of telecommunications interception mechanisms, geolocation tracking, and the use of surveillance drones.



Recommendation

Guarantee, and promote, the right to privacy, both online and offline, in compliance with Chile’s international human rights obligations.

- * Promote, through policies and updated legal frameworks, the accountability of the police and intelligence agencies resorting to the use communications and physical surveillance, and the monitoring of political activities in digital networks.
- * Develop and promote new regulations of surveillance technologies complying with principles of legality, necessity and proportionality, without any form of discrimination against specific groups of population, in particular against Mapuche population.

¹ This summary is coordinated by Derechos Digitales and supported by IFEX, in collaboration with a coalition of organisations working national and internationally that submitted the reports: “Human rights in the digital context “ and “El Derecho a la privacidad”. For more information contact maripaz@derechosdigitales.org. Also available at: <https://www.derechosdigitales.org/UPR32>

FREEDOM OF EXPRESSION:

Police agents has been monitoring Mapuche's media outlets Mapuexpress and Werkén

"Journalists who were the subject of electronic espionage by Carabineros" (CIPER, 3/7/2018)

Journalists from two newspapers were monitored by police agents accused to "spread fake news" about former President and its Justice Minister. Chilean state has been monitoring social networks without judicial oversight by a specialized unit of the police. In 2011, government started to monitor people's debates in social networks including following influencers and location data of targets. Between 2014 and 2017, two technology companies (Analitic and Bandmetric) were hired to monitor social networks and created a list of "influencers". Last year, eight indigenous Mapuche leaders were surveilled by intelligence forces and police, who were trying to intercept their communications through WhatsApp and Telegram.



Recommendation:

Guarantee, and promote, the rights to freedom of expression, freedom of association and peaceful assembly, both online and offline, in compliance with Chile's international human rights obligations.

- * Protect the exercise of human rights by journalists and human rights defenders in the online environment, in order to allow the society to benefit from their work.
- * Promote the availability and use of technical solutions that enable anonymity and encryption.

PRIVACY:

The Chilean Government is trying to increase the data retention obligations, so the police have easier access to communications data

"For a cybercrime law that defends people rights on the internet" (Derechos Digitales, 11/8/2018)

In 2017, Chilean Government tried to increase data retention obligations of telecom companies through administrative Decree N°866, in a manner incompatible with the right to privacy and the legal and constitutional provisions in force. The Decree was declared unconstitutional. Today some of those provisions are part of a new Cybercrime bill introduced by the executive in last November.



Recommendation

Establish regulatory frameworks that have clearly defined and limited mandates for retention of communications data, and order judicial oversight in their individual request and delivery.

BUSINESS AND HUMAN RIGHTS:

A Shopping Mall has implemented a Facial recognition system, even though is not legally able to do so

"Mallplaza Los Dominicos launches a facial recognition system and rises doubts about the privacy of the data" (Fayerwayer, 11/9/2018)

Last November, a shopping center announced facial recognition cameras implementation to monitor its visitors. Biometric data are sensitive data under current Chilean data protection law and requires written consent for processing. The company announced that the processing would be supported by the police, without any further legal authorization for it. In 2015, Hacking Team, a global surveillance software provider, sold to Chilean police malware that allows registering all types of information, including clicks and data, from infected devices.



Recommendation

Promote, through its National Action Plan on Human Rights and Businesses, the responsible use of ICTs by private companies, including by conducting human rights impact evaluations in each stage of their operations.

PRIVACY:

The most vulnerable chilean kids have been forced into a biometric system in order to have lunch

"Biometric ID gets tested for school programs at JUNAEB" (La Nación, 10/23/2017)

State entities have increasingly deployed biometrics technologies as an attempt to solve efficiency problems, as food distribution for vulnerable kids or control public transportation fare evasion, creating data bases of sensitive data of the most vulnerable groups of the society and exposing them to the loss of control of their biometric data that cannot be replaced. Also, during recent years, different authorities have implemented the use of unmanned spacecraft - such as surveillance balloons and drones - equipped with high resolution cameras in massive surveillance programs intended to provide public safety, but massively surveilling the life of innocent citizens.



Recommendation

Limit the collection and use of personal data for the implementation of public policies and the provision of public services to data that is necessary and proportional to the legitimate purpose pursued, by conducting a human rights impact assessment, and transparent participatory processes prior its implementation.



Submitting organisations



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