

## EXERCISE OF HUMAN RIGHTS IN THE CONTEXT OF PEACEFUL PROTESTS

### ARTICLE 19 Office for Mexico and Central America

#### 1. Risks posed by public policy and technological tools deployed by the authorities

- Initiative to reform the Federal Criminal Code by creating a Law on Computing Security: Presented by a Senate legislator on April, such initiative defines cyber-crimes two ways. First, as "activities that undermine the integrity, availability and confidentiality of information systems and telecommunications networks, as well as individuals as individuals as subjects of law."<sup>1</sup> This includes the criminalization of technological interferences under a pacific protest context, based on the prohibition and sanction of behaviors aimed at denial of service or similar. Second, "activities carried out that use as a means or as an end the Information and Communication Technologies", which means that any activity carried out through such technologies is part of a cybercrime.<sup>2</sup> Further, such initiative contemplates the creation of an entity with the capacity to monitor the web and provides the armed forces with the attributes to develop and execute mechanisms for the cyber-defense of the country.
- Initiative to reform the Federal Criminal Code by creating a Law on Cyber-Security: Presented by the same Senate legislator on October, such initiative includes the same flaws that the aforementioned. However, posing a greater risk to freedom of expression and the right to protest, it provides to the police, the National Guard and the Public Ministry the attribute to request, without a judicial order, the "neutralization" of web sites and social media profiles, in the following cases: (i) incitement to terrorism and apology of national hatred; (ii) incitement to discrimination, hostility and/or violence; (iii) child pornography; (iv) impersonation for fraud, and theft of personal data; (v) damage to the public image and reputation of a person or a public institution.
- Surveillance cameras in police cars with facial recognition capacities: On July, the Ministry of Citizen Security (*Secretaría de Seguridad Ciudadana*) of Mexico City announced the implementation of cameras allocated in police cars with capacities to identify and recognize individuals faces and automobiles plates.<sup>3</sup> Such authority failed to provide information on the details of the process of recollection, processing and storage of bio-metric data in the functioning of the facial recognition system.
- Initiative to create a National Law on Cybersecurity and Protective Measures against Acts of Hate and Discrimination on the Internet and Social Media in Honduras: The proposal made by the Congress lacks of clarity and precision, which opens up the possibility of subjective, arbitrary interpretations that are prone to be used harmfully in the functioning of a democracy, with the aim of prosecuting and criminalizing any conduct related to freedom of expression and legitimate actions of online protest<sup>4 5</sup>.

<sup>1</sup> Rodrigo Riquelme, *¿Qué es la Ley de Seguridad Informática propuesta por Morena?*, El Economista, available at: <https://www.economista.com.mx/tecnologia/Que-es-la-Ley-de-Seguridad-Informatica-propuesta-por-Morena-20190402-0053.html>.

<sup>2</sup> *Ibid.*

<sup>3</sup> Secretaría de Seguridad Ciudadana de la Ciudad de México, *1712 SSC presenta las características físicas y técnicas de las nuevas patrullas de la Policía Capitalina*, available at: <https://www.ssc.cdmx.gob.mx/comunicacion/nota/1712-ssc-presenta-las-caracteristicas-fisicas-y-tecnicas-de-las-nuevas-patrullas-de-la-policia-capitalina>.

<sup>4</sup> "Declaratoria conjunta sobre Ley de Ciberseguridad en Honduras". May 17th 2019, Available at: <https://articulo19.org/declaratoria-conjunta-sobre-ley-de-ciberseguridad/>

<sup>5</sup> ARTICLE19. "HRC 41: States must act on free expression violators". June 25, 2019 Available at: <https://www.article19.org/resources/hrc-41-states-must-act-on-free-expression-violators/>

## 2. Effective uses of technologies as enablers of the exercise of human rights in the context of assemblies

- Use of social media: Through Twitter hashtags<sup>6</sup> and Facebook and WhatsApp groups, people have organized in the digital realm for protests that are developed not only online, but also in the physical world. Example of such is the #NoMeCuidanMeViolan ("They do not take care of me, they rape me") protest march, held in August, in which women denounced the structural violence exercised against them, including feminicides and rapes -some of them perpetrated by police members-. However, the use of these technologies in the context of assemblies carry too the attacks that can come from opposition groups. During and after the protest, a wave of digital aggressions that sought to disqualify and silence the voice of the mobilized women was deployed. In this context, it is important that digital platforms - mainly Twitter and Facebook- (i) speed up their report mechanisms regarding the directed harassments, intimidations and threats that women or other vulnerable groups receive in the context of a social protest; (ii) apply their community standards in that regard; (iii) promote actions to overcome digital violence without endangering the exercise of other human rights, and (iv) develop transparency reports that quantify the types and frequency of all aggressions women or other vulnerable groups face in their spaces.
- Anonymity and encryption: Both anonymity and encryption tools have contributed to online security and to ensure that the dissemination of information is without risk of repercussions, surveillance or other acts that may result as a result of the exercise of freedom of expression, linked to the exercise of protest.<sup>7</sup> However, such tools are under threat in Mexico, since initiatives to reform the Federal Criminal Code - like the above mentioned- threaten and stigmatize their use in the context of social protests.
- Internet: In Mexico, as in many other societies, Internet has been a tool for participation in the socio-political life of the country for those who have connection, by serving as an effective platform for the realization of other human rights, such as access to information, freedom of expression, freedom of assembly, education, protest and health. However, the reality is that since this and previous administrations there has been a lack of recognition of the obligations on the part of the State to enable and protect human rights in the digital environment. Consequently, since digital rights are not considered as equally important human rights in the field of our lives and democracy, a failed state strategy remains to deploy technologies to ensure Internet access for Mexicans. Effective uses of technologies as enablers of the exercise of human rights in the context of social protests will amplify when the State complies with its obligation to promote Internet connectivity and digital inclusion from a multidimensional approach, which considers economic, political and socio-cultural aspects to ensure that marginalized groups, particularly rural and indigenous communities and women in those communities, can exercise their human rights in digital environments<sup>8</sup>.

## 4. Human rights challenges posed by the use of new technologies

- Surveillance technology: There are other types of tools that were acquired<sup>9</sup> that also have a high degree of sophistication that allows, for example, the simulation of cell phone towers (IMSI-Catchers) with espionage capabilities by areas or the blocking of mobile service, which could be used in protest situations.

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<sup>6</sup> Amezcua, Melissa. "Caso Lesvy, un ejemplo de la justicia tardía en la CDMX." 13 de octubre de 2019, Available at: <https://www.eluniversal.com.mx/metropoli/cdmx/caso-lesvy-un-ejemplo-de-la-justicia-tardia-en-cdmx>

<sup>7</sup> See A/HRC/29/32.

<sup>8</sup> ARTICLE19. Ante el silencio, ni borron ni cuenta nueva. México 2018, p.24 Available at: [https://articulo19.org/wp-content/uploads/2019/05/Ante-el-Silencio-Ni-Borron-Ni-Cuenta-Nueva\\_ABRv2.pdf](https://articulo19.org/wp-content/uploads/2019/05/Ante-el-Silencio-Ni-Borron-Ni-Cuenta-Nueva_ABRv2.pdf)

<sup>9</sup> Emilio Godoy. "Finlandia: México le compra equipo para espiar en celulares", 29 de julio 2016, Proceso <https://www.proceso.com.mx/449165/finlandia-mexico-le-compra-equipo-espiar-en-celulares>