

# 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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## Introduction

Online sexual harassment and other forms of sex-related cyber crime create new challenges for governments, and invite researchers and policy makers to rethink many concepts linked to gender-based violence. In this sense, and given the pervasiveness of the internet, the government in Morocco needs to update its legal frameworks to respond to the changes that characterise our life today.

When it comes to online sexual harassment, the key questions here are: How are information and communications technologies (ICTs) – and in particular social media – used in cases of sexual harassment; and how can they be used by the Moroccan government and NGOs to fight against the crime?

This report considers the recent drafting of a new criminal law in Morocco that attempts to deal with sex-related cyber crime.

## Policy and political background

Morocco is a country with an area of 710,850 square km and a population of 31,514,000, more than 50% of which is female.<sup>1</sup> The national religion is Islam, and the national languages are Arabic and Amazigh,<sup>2</sup> as enshrined in the 2011 constitution.<sup>3</sup> Influenced by globalisation through technology, as a developing country, Morocco has 16 million internet users, and in 2012, 92% of the population was equipped with mobile phones.<sup>4</sup> On the one hand, these statistics demonstrate the transition of Moroccan society to a knowledge economy, and on the other, they suggest the context for the rising number of cyber crimes recorded each year.

Despite the increasing number of sexual harassment cases in cyberspace, and Morocco's avowed commitments at the international level – including the ratification of several international conventions such as the Budapest Convention on Cybercrime<sup>5</sup> – the government's legislative agenda does not address sexual harassment in cyberspace sufficiently. NGOs also tend to concentrate their efforts exclusively on sexual harassment offline.

The fight against cyber crime is a major challenge for Morocco's transition to a knowledge economy. Recognising the importance of this challenge, the Moroccan government has identified a national strategy for its information society and digital economy. This strategy treats ICTs as key instruments for human and economic development, and focuses on their impact on productivity and the international competitiveness of the national economy. From this perspective, the main objective of this strategy is to position Morocco among dynamic emerging countries using information technology as a central means for their economic development.

Yet even if this strategy is based on economic and human development, critics argue that it is flawed. The strategy encourages access to and use of the internet and ICTs, but without considering their negative impact on society, especially on women's safety.

## Campaigns to combat online sexual harassment

Morocco's Cybercrime Services, working under the General Directorate of National Security, identified 112 cases of cyber crime in 2011. More than 26 of these cases were of crimes against personhood, including sexual harassment.<sup>6</sup>

This number is typical when considering official statistics on sexual violence in general, including sexual harassment. According to a survey conducted by the High Planning Commission, out of 9.5 million women aged 18 to 64, nearly six million, or 62.8%, had suffered violence during the 12 months preceding the survey. As many as 23% of the women, or 2.1 million, had suffered an act of

1 Haut Commissariat au Plan. (2010). *Le Maroc des régions*. [www.hcp.ma/file/129637](http://www.hcp.ma/file/129637)

2 Ibid.

3 Royaume du Maroc. (2011). *La constitution*. [www.maroc.ma/fr/system/files/documents\\_page/BO\\_5964BIS\\_Fr.pdf](http://www.maroc.ma/fr/system/files/documents_page/BO_5964BIS_Fr.pdf)

4 Rouaud, P.-O. (2013, 24 May). Le Maroc compte 16 millions d'internautes et se prépare à la 4G. *Usine nouvelle*. [www.usinenouvelle.com/article/le-maroc-compte-16-millions-d-internautes-et-se-prepare-a-la-4g.N197487](http://www.usinenouvelle.com/article/le-maroc-compte-16-millions-d-internautes-et-se-prepare-a-la-4g.N197487)

5 [conventions.coe.int/Treaty/EN/Treaties/Html/185.htm](http://conventions.coe.int/Treaty/EN/Treaties/Html/185.htm)

6 Rboub, A. (2012, 28 September). Cybercriminalité : les premiers chiffres passés au crible. *L'économiste*.

sexual violence in their lives.<sup>7</sup> This percentage also includes sexual harassment.

There are no official statistics that break down in detail cases of sexual harassment in cyberspace in Morocco, nor in Arab countries in general. However, the emergence of gender-based cyber crime has prompted some organisations to conduct surveys to try to establish the severity of the problem. For example, the Centre for Media Freedom in the Middle East and North Africa (CMF-MENA) conducted a survey of 106 children in Casablanca and concluded that “more than two thirds of respondents had received travel offers, gifts or marriage proposals from unknown persons via the Internet.”<sup>8</sup> Also noteworthy are such infamous perpetrators as Philippe Servaty, the Belgian journalist who took pictures of young girls from Agadir, and published them on a pornography website.<sup>9</sup>

The emergence of sex crimes online has spurred civil society to fight against them using social media and ICTs. Many NGOs have invested a lot in online tools to do just this. Several awareness campaigns and advocacy initiatives have been launched in recent years, such as the music video titled *Pour l'égalité “Masaktach ana”*<sup>10</sup> (For Equality I'll Not Shut Up). This music video was developed by Space for the Future (EPA), a national NGO dedicated to youth and gender issues. The video addresses sexual harassment in different spaces, including online, in the street, the workplace, homes, and in rural areas. The purpose of this video is to sensitise young people to the importance of talking about cyber sex crimes. Its song lyrics are the following: “I'll not stop speaking about this phenomenon. I'll continue to talk about it and I'll continue to make my voice heard to all, even though it is considered a taboo by my society, my traditions, customs and educational system. I'll continue to fight against it because it's my right as a woman and as a girl to live in safety. In a democratic country women and men should be equal, and I'll not stop fighting for this equality.”<sup>11</sup>

## Moroccan legislation combating sexual harassment in cyberspace

The Moroccan Constitution of 2011 guarantees the protection of the rights and freedoms and the physical and moral integrity of human beings. However, at the moment, sexual harassment in cyberspace is punished by traditional criminal law.

This is set to change with the preliminary draft of a new Criminal Code.<sup>12</sup> The definition of sexual harassment provided in the draft includes online harassment. According to Article 503-1-1 of the draft, sexual harassment refers to “anyone who has bothered another person in public spaces, or in other environments, with acts of a sexual nature, or gestures for sexual purposes, by using written messages or phone or electronic records or pictures of a sexual nature, or in order to obtain sexual advantages.”<sup>13</sup>

This preliminary draft has ignited a heated debate in Moroccan society between all stakeholders: members of the government, and those in higher education, the media and civil society. It is expected to be adopted by the government council and then submitted to parliament. The prescribed penalty is one month to three years in prison with a fine of 1,000 dirhams (USD 90) to 3,000 dirhams (USD 270).

This legal reform has come after years of activism and several advocacy campaigns organised by the women's movement, which created a number of networks linking like-minded associations that pushed for the reform to the Criminal Code. That civil society – and in particular the women's movement – took the lead in this advocacy was expected. All judicial reforms related to gender-based violence have been directly or indirectly initiated by women's associations and NGOs working in the field of human rights, which have over time accumulated experience in advocating for change in policy and legal instruments. Now, with the preliminary draft of the Criminal Code, women's associations are fighting for a special and general law against gender-based violence rather than simply having an article included in the Criminal Code.

The preliminary draft does not meet the minimum demands made by the women's movement, which include, as suggested, a special and general law dealing with violence against women. It does not, for instance, meet the minimum of Morocco's commitments under the international conventions it has ratified, such as the Budapest Convention and the Convention on the Elimination of all Forms

7 Haut Commissariat au Plan. (2011). *Enquête Nationale sur la Prévalence de la Violence à l'Égard des Femmes, Principaux résultats présentés*. [www.hcp.ma/downloads/Violence-a-l-egard-des-femmes\\_t13077.html](http://www.hcp.ma/downloads/Violence-a-l-egard-des-femmes_t13077.html)

8 Rboub, A. (2012, 28 September). Op. cit.

9 Ibid.

10 Espace pour l'avenir (EPA). (2015). *Pour l'égalité « Masaktash Ana »*. [www.febrayer.com/94112.html](http://www.febrayer.com/94112.html)

11 Ibid.

12 Ministère de la justice et des libertés. (2015). *L'avant projet de code pénal*. [www.justice.gov.ma/lg-1/documents/doccat-4.aspx](http://www.justice.gov.ma/lg-1/documents/doccat-4.aspx)

13 Ibid.

of Discrimination against Women (CEDAW).<sup>14</sup> All these instruments require governments to implement public policies and strategies to end sexual violence.

The Moroccan cyber crime legislation is also incomplete compared to international standards set by similar legislation in other countries – some of which is pioneering in terms of the kind of regulations developed and the extent of international cooperation.<sup>15</sup> Part of this is to do with the lack of a participatory approach in developing the legislation in Morocco – including the lack of a gender perspective.

## Conclusions

Given both the country's constitution and the international conventions it has ratified, the Moroccan government is obliged to update its legal framework to bring it in line with international norms and to create specialised institutions. It is also obliged to include all actors in policy development, and to work with civil society to fight against cyber harassment.

To end gender-based violence and sexual harassment, several legal reforms are necessary. Firstly, a special law against gender-based violence, as demanded by the women's movement, is needed. Moroccan cyber crime legislation is also incomplete compared to international standards set by similar legislation in other countries. Secondly, a special institution needs to be set up, which can support the government through studies and in developing policies and legislation. We note here the importance of Article 19 in the new constitution concerning the creation of an authority that works towards equality and non-discrimination.<sup>16</sup> Any such institution must be open to all stakeholders, and provide at least the minimum necessary information on cyber crime in general and online sexual harassment in particular.

The government should also invest in human resources through building capacity amongst all stakeholders on sex-related cyber crime.

Awareness campaigns must be run in educational institutions to educate the youth about the risks of using ICTs, especially social networks. In this regard, it is also important to encourage young people to share information on online sexual

harassment – because they are at the forefront of internet use and most sexual harassment crimes are suffered and perpetrated by youth – and to promote women's rights online.

International cooperation is very important for the exchange of experiences but also in terms of fighting online crime. Since online violations can involve a perpetrator from one country and a victim from another, technical and judicial cooperation is necessary.

Given that the emergence of Morocco as a knowledge economy has been accompanied by a rise in cyber crime, including online sexual harassment, it is imperative that all stakeholders focus on curbing this phenomenon. The state must commit to establishing a digital strategy based on human rights, with a particular focus on gender rights. This involves the coordination of all actors and sectors that contribute to the technological development of Morocco, a multistakeholder approach that is fundamental to ending sexual harassment via the internet.

## Action steps

The women's movement in Morocco continues to advocate for a specific and general law against violence to address all forms of gender-based violence. As part of this mobilisation, women's NGOs are now organising many public events, seminars, round tables and conferences to debate the new draft of the Criminal Code. They are also working with networks such as the *Réseau Femmes Solidaires* (Women's Solidarity Network) and the *Coalition civile pour l'application de l'article 19 de la constitution* (Civil Society Coalition for the Application of Article 19 of the Constitution).

The goal of these initiatives is to present a proposal with comments on the draft legislation as well as recommendations, in order to push the government to establish a specific law against gender-based violence. It is important that these initiatives draw on the principles contained in international commitments, and engage in the strategic use of ICTs – in particular social media – to make their voices heard.

<sup>14</sup> [www.un.org/womenwatch/daw/cedaw](http://www.un.org/womenwatch/daw/cedaw)

<sup>15</sup> For example, France's Law 78-17 on Information Technologies, Data Files and Civil Liberties and EU Regulation 611/2013 of 24 June 2013 on measures concerning the notification of personal data breaches.

<sup>16</sup> Secrétariat générale du gouvernement. (2015). *Projet de loi n° 79-14 relative à l'autorité pour la parité et la lutte contre toutes formes de discrimination (version arabe)*. [www.sgg.gov.ma/Portals/0/lois/Projet\\_loi\\_79.14.pdf](http://www.sgg.gov.ma/Portals/0/lois/Projet_loi_79.14.pdf)

# 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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2015 Report

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