Human rights in the digital context

CHILE
RECOMMENDATIONS

UPR
SESSION
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Derechos Digitales submissions

- "The Right to Privacy", prepared jointly with Privacy International, Ciudadano Inteligente and Fundación Pro Acceso

Did not include any recommendations with explicit references to the Internet or use of technology

- "Human Rights in Digital Context", prepared jointly with Association for Progressive Communications (APC)

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Chilean State engagement with CSO during UPR

Since last UPR cycle

- Consultation coordinated by the undersecretary of human rights of the Ministry of Justice
- Good participation of CSO
- Issues:
  - too short notice
  - methodology: almost exclusively focused on compliance with the previous recommendations, without space to raise other areas of concern in the respect and promotion of human rights

Chile 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"

Online gender-based violence as an extension of violence against women

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.

o Develop specific programs on the agenda of the Ministry of Women and Gender Equality to eradicate violence against women in digital contexts.

o Develop capacity-building of judges, prosecutors and police to address cases of online gender violence.

Using of surveillance technologies against Mapuche indigenous communities

Recommendation

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

o 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.

o 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.

Social network monitoring

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.

o 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.

o Promote the availability and use of technical solutions that enable anonymity and encryption.

Increasing data retention

Recommendation

- Establish regulatory frameworks that do not impose general mandates for retention of communicational data, and order judicial oversight in their individual request and delivery.

Massive collection of data through State surveillance programs and other policies

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.

Private surveillance without human rights impact assessment

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.

Lack of State policies that effectively address the digital divides

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.

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