

Digital security: are social media regulated in Mexico?**Seguridad digital: ¿son reguladas las redes sociales en México?**

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Abstract

In Mexico, the advance of ICTS (Information and communication technologies) has led to the generalized population's use of electronic devices and social media transforming the way of communication and social interaction. Nevertheless, this transition to a not regularized digital communication has generated meaningful challenges. The lack of social media regularization has left citizens' legal sphere vulnerable, violating human rights such as dignity, privacy, and sexual intimacy. The Olympia law emerged as a response to penalize crimes against sexual intimacy violation and protect people's human rights. Notwithstanding this progress, Mexico encounters continuous challenges due to the lack of an appropriate regularization of social media. The absence of clear and specific laws to approach crimes in digital environments leaves citizens vulnerable and discourages complaint generating impunity and irresponsibility online. To resolve these issues, the Mexican state must implement efficient measurements including clear laws, digital education, and awareness programs to protect citizens' digital rights and ensure a safe digital environment.

ICTS (Information and communication technologies), Sexual intimacy, Impunity

Resumen

En México, el avance de las Tecnologías de la Información y Comunicación (TIC) ha llevado al uso generalizado de la población a dispositivos electrónicos y redes sociales, transformando la forma de comunicación y la interacción social. Sin embargo, esta transición hacia una comunicación digital no regulada ha planteado desafíos significativos. La falta de regulación en las redes sociales ha dejado vulnerable la esfera jurídica de los ciudadanos, violando derechos humanos como la dignidad, privacidad e intimidad sexual. La ley Olimpia surge como respuesta para castigar los delitos contra la violación a la intimidad sexual y protegiendo los derechos de las personas. A pesar de este avance, México enfrenta desafíos continuos debido a la falta de regulación adecuada en las redes sociales. La ausencia de leyes claras y específicas para abordar delitos en entornos digitales deja a los ciudadanos vulnerables y desalienta la denuncia, generando impunidad e irresponsabilidad en línea. Para resolver estos problemas, es esencial que el Estado mexicano implemente medidas efectivas, incluyendo leyes claras, educación digital y programas de concientización, para proteger los derechos digitales de sus ciudadanos y garantizar un entorno digital seguro. Objetivo: Analizar la regulación de redes sociales y la implementación de la Ley Olimpia en México en la prevención y sanción del acoso en línea respecto de la dignidad e intimidad sexual de las personas en el entorno digital.

TICS (Tecnologías de la información y la comunicación), Intimidad sexual, Impunidad

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Introduction

In Mexico, thanks to scientific advances, Information and Communication Technologies (ICTs) have been implemented in the daily life of citizens, and the widespread use and access to electronic devices such as mobile phones and computers is natural, which has given rise to a new era of social interaction and knowledge dissemination. In this scenario, social networks have emerged as a facilitating tool for everyday activities, revolutionising the way we connect and engage with others.

However, this transition towards unregulated digital communication has raised a number of legal issues, making it challenging to resolve conflicts related to the problems of digital environments. The absence of regulation in social networks has left the legal sphere of citizens vulnerable and human rights have been violated, especially those related to dignity, privacy and sexual intimacy. This absence of regulation has raised profound concerns about the safety and well-being of users in the digital world, creating a complex paradigm in which technology, communication and human rights are immediately intertwined in unexpected and often problematic ways. The increasing use of ICTs for digital social interaction has amplified these legal concerns, creating an environment in which the absence of regulation translates directly into acquiescence to the violation of basic human rights.

In this context, the need to address these contemporary problems and establish effective regulations that protect these fundamental rights of online citizens became evident. The Olympia law is one of the major normative reforms that serves as a regulator in finding solutions in this digital revolution, a priority and crucial law for Mexico in the 21st century, however, not all of the digital environment related to social networks is foreseen in the norms, which represents a lack of protection of human rights by the Mexican state.

Development

Mexico is a country that has implemented public policies aimed at reaching the population with the use of ICTs. Currently, 93% of the population has access to the internet, according to figures obtained by INEGI in 2022 (see Graphic 1), which implies that a little more than half of the national population has access to this service. It was also found that in 2022, 91% of the internet is used to access social networks, see Graph 2. This suggests that when we talk about the internet, it is linked to social networks, or in other words, they depend on each other, and that the majority of users who have internet access make use of social networks. Social networks were created with the aim of bringing users closer to communicate, making linking with another person easy to access, however, over time social networks have adapted to serve as a support tool in carrying out various activities both complex and everyday, now serve to offer services, serve as a tool for trade, to perform remote work, to dispense with moving from home to perform studies of any kind, and most importantly, for the dissemination of information and content.

TORREBLANCA (2023) highlights as a precedent that sets a precedent and is a source of the lack of effective regulation of technological media, the Communications Decency Act, which was passed in the United States Congress in 1996. This ensured that the platforms and their users did not have the need to be forced to have prior authorisation before publication, even though in the 1990s the internet was not the technological medium that we know today due to its scope, but it is necessary to point out that for Senator J. James Exon it was necessary to ensure freedom of expression, this medium that would open the doors to a world that to this day represents one of the greatest advances in the history of mankind. James Exon it was necessary to ensure freedom of expression, this medium that would open the doors to a world that to this day represents one of the greatest advances in the history of mankind, establishes that no provider or user of any technological platform, could be treated as editors or voice of content that provides information, leaving these companies immune, which implies impunity when disseminating content, to be beyond the reach of the courts of justice, basing the decision on allowing innovation and expansion of new technology, without censorship and responding to freedom of expression.

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The dissemination of information and content presents a national problem, in social networks we observe the behaviour of sharing information without verifying its veracity, some examples are the publication of the supposed death of a famous person, the publication where the benefits of some herb or home remedy to cure diseases, the steps to follow to raise your self-esteem or flirt, or any yellow news to discredit a certain fact or person.

In addition to veracity, the effects produced by sharing information, images or any type of content that represents an affectation of human rights affecting the legal sphere and the dignity of Mexicans must be taken into account. This exchange of content is carried out in different ways, for example sexting, a term used to refer to the exchange of messages with sexual content between users of social networks, a common practice among adolescents, about which Nava and Núñez (2020) point out:

Sexting consists of sending images with little or no clothing. It is a fashion that was born among adolescents and which was carried out through mobile phone messages (hence the name that derives from the union of text and sex in English). (p. 710)

Once information or content of a sexual nature had been exchanged between friends, partners or strangers, users shared it, which led to a distribution that affected the dignity, as well as the rights of freedom and sexual intimacy of individuals, a problem that the Mexican state did not seek to prevent or solve. Thanks to the struggle of people like Olimpia Coral Melo, who was an activist, victim and survivor of this conduct, the problem of sharing any type of personal information of a sexual nature without consent was given visibility, and thus the Olimpia Law was created. This law is the set of reforms that have served to typify crimes against the violation of sexual intimacy, resulting in its typification in the Federal Penal Code.

Article 199 Octies. - The crime of violation of sexual intimacy is committed by any person who discloses, shares, distributes or publishes images, videos or audios of intimate sexual content of a person of legal age, without their consent, approval or authorisation.

As well as whoever videotapes, audiotapes, photographs, prints or elaborates images, audios or videos with intimate sexual content of a person without their consent, without their approval, or without their authorisation. These conducts will be punished with a penalty of three to six years in prison and a fine of five hundred to one thousand Units of Measurement and Updating (Código Penal Federal, art 199 octies, 2023).

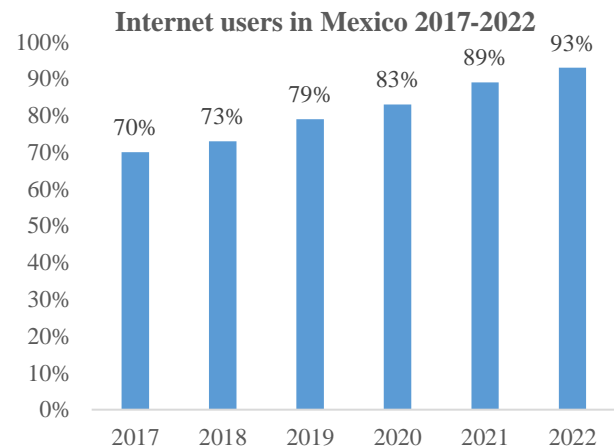
The enactment of the Olimpia law marked a turning point in the protection of human rights in Mexico from a digital point of view. By addressing the problem of non-consensual sharing and dissemination of intimate sexual content, these reforms to local and federal laws aim to eliminate a harmful practice that attacked the dignity and human rights of the individuals involved. Prior to the implementation of this law, images, videos, audios, messages or any kind of content of an intimate nature could circulate without restriction, leaving victims in a vulnerable and irreparable position.

Ultimately, the Olimpia law represents a significant step towards a fairer and more equitable Mexican digital society. By protecting people's dignity and rights to sexual freedom and privacy, this law has not only changed the digital legal landscape in Mexico, but it is also an eye-opener and a wake-up call for social media users to look at the problems that social media use poses, from privacy violations to crimes such as fraud and scams. The Mexican state, which should be in charge of observing the problems posed by the digital world of which Mexico is now a part, should be determined to protect the human rights of citizens, as well as to punish and repair the damage caused.

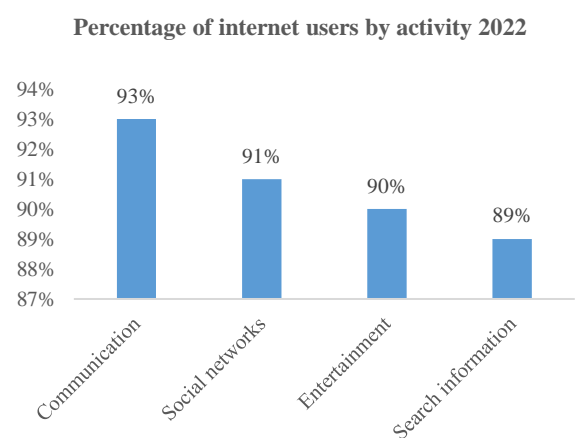
However, despite the progress that a transitional movement such as the Olympia law represents, Mexico still faces great challenges in terms of the lack of regulation of social networks. As technology advances and digital platforms become more complex, given their technical difficulties, fashions or any number of variables, new problems and challenges arise that require immediate attention. The lack of adequate regulation has allowed the spread of hate speech, misinformation or junk information and online harassment.

The absence of an effective response by the Mexican state to the imminent need for regulation aggravates the legal situation in the digital environment. As there are no laws, or those that exist are not clear and specific to digital environments, to address cybercrime and protect vulnerable citizens from the threats posed by the digital environment. In addition, Mexico is a clear example of a failed rule of law, where impunity prevails and prevails over the law, making it difficult for victims of any abuse or undermining of their human rights through the digital environment, discouraging victims from reporting and seeking justice. The lack of adequate measures to find, hold accountable and convict the actors of these crimes creates an environment in which irresponsible online behaviour is left without any solution, which perpetuates the culture of anonymity and irresponsibility on social networks, generating a domino effect, where society, seeing that its behaviour on social networks has no consequences, incites the procreation of cybercriminals. In this respect, the social networks themselves have sought to self-regulate in order to be a safer place, implementing mechanisms for self-control of sexual content, as well as highlighting certain age-related conditions: "The main social networks prohibit their use before the age of 13, so they are not responsible for the content that is shared and the people with whom users interact" (Viedma, F. 20). (Viedma, F. 2022).

In order to resolve these conflicts of law, the Mexican state must be required to take effective measures to regulate social networks and protect the digital rights of its citizens. This implies the creation and enforcement of laws that punish the myriad of rights that can be violated in the real world, such as online harassment, dissemination of illegal content and disinformation. In addition, the government must invest in educational programmes to educate users about the responsible use, dangers and consequences of the digital environment.



Graphic 1 Internet users in Mexico 2017-2022
Note: Source: INEGI (2023)



Graphic 2 Percentage of internet users by activity 2022
Source: INEGI (2023)

Methodology

In the development of this opinion article, a research methodology with a descriptive scope, the historical method and the inductive documentary technique were used. Through the descriptive scope, a thorough analysis of the doctrine and laws regarding the research topic was carried out, breaking down its fundamental aspects and those considered most important in order to provide a complete understanding. By resorting to the historical method, the roots and chronological development of the topic have been investigated, allowing for the identification of patterns and triggers in the transformation or creation of new paradigms that have resulted in the regulation of social networks in Mexico. In addition, the inductive documentary technique was used, highlighting specific cases such as the Olimpia Law, which served as an individual premise to analyse the generality of cases, this analysed information supports and enriches the opinions expressed in the article.

This combination of methodological approaches has provided a solid and well-founded basis for structuring the ideas and arguments presented in the opinion article.

Conclusions

In Mexico, it is imperative to create rules to regulate social networks, as there have been countless problems related to the protection of personal data, as each of the social networks requests permission to collect, analyse, even dispose of or sell personal data to a third party for any type of purpose, economic, social or political. An example is the Netflix documentary "The dilemma of social networks", where Orłowski, J. (2020): exposes the way in which these private data are used to manipulate society to do or not to do a behaviour, this is reflected in clicking on certain advertising, in making a certain purchase and even influencing the vote for the presidential elections. The creation of effective regulations becomes a crucial and necessary task to safeguard the integrity of personal information in a world where technology is advancing by leaps and bounds.

In addition, it is essential to consider the issue of cybersecurity. Personal information stored on social media is an attractive target for cybercriminals. Regulations should include provisions to ensure that digital platforms implement robust security measures to protect users' data against cyber attacks and security breaches.

Another key issue to address is the dissemination of false or manipulated content on social media, also known as fakes, where any kind of information, including sexual content, is created with artificial intelligence. For while there is a right to express opinions and share ideas, these ideas should not fall under disinformation and even defamation, which has become a real threat to Mexico and its information society, Regulating social networks also implies establishing measures to mitigate the spread of fake news and promote valuable information online. A classic example is turning to social networks for remedies or cures when there is an illness. In this regard, "A good example of this is some alternative medicine practitioners, who persuade their clients in a deceptive way in order to sell their products or therapies" (Rodríguez, 2023).

In this sense, it is important to take into account that in Mexico there is a problem of bias or social and cultural gaps, so that for part of the population it is not only complex, but impossible to distinguish truthful information.

The creation of these norms should be the responsibility of states, which should seek to impose the conditions and rules of use on both platforms and users, in addition to promoting digital education, which plays a crucial role in this process of information exchange; it is essential that people are aware of their rights as well as obligations and limits online. This includes understanding how privacy settings work, how to protect themselves from attacks, as well as taking responsibility for their actions on social networks.

Hong (2023) points out that it is crucial to precisely define cyberbullying when creating policies, guidelines or initiatives aimed at combating it. Policymakers should not assume that those working to end bullying, whether in schools or in some other common environment, are fully aware of what it is, because governments do not know how to detect, nor act to counteract its source and consequences.

In summary, the regulation of social networks in Mexico must address not only the protection of personal data, but also misinformation and cybersecurity. Networks must be a safe place where they make a joint effort involving governments, digital platforms, users and anyone involved to create a safe and trustworthy online environment for all.

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