



International Association
of Women Judges



Regional Conference on cyberviolence and electronic evidence: Latin America and the Caribbean

organised by
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Council of Europe in the framework of the
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SUMMARY REPORT

Background

Tackling online abuse and violence is becoming increasingly important, particularly following the dramatic increase in such activity during the COVID-19 pandemic. The concept of cyberviolence covers a wide range of different acts, including different types of harassment, violations of privacy, sexual abuse and sexual exploitation, and bias offences against social groups or communities¹. It may also involve direct threats or physical violence, as well as different forms of cybercrime.

To effectively tackle these crimes, it is crucial that judges and prosecutors understand the nature of these offences and are aware of the international instruments and means of cooperation available to handle such cases of cybercrime, as well as for dealing with electronic evidence. These include the [Budapest Convention on Cybercrime](#), the [Lanzarote Convention on Protection of Children against Sexual Exploitation and Sexual Abuse](#) and the [Istanbul Convention on Violence against Women](#), which provide solutions and responses to these challenges and can guide any country seeking to address the phenomenon of cyberviolence.

This online regional conference provided legal and practical information on different forms of cyberviolence and its impact on the day-to-day work of the judges. It enabled participants to:

- Identify and discuss different forms of cyberviolence, namely cyberstalking, sexting, online child sexual exploitation and abuse, related challenges and best practices for handling criminal cases involving these offences.
- Better understand the benefits and challenges of electronic evidence and how to handle electronic evidence in cases of cyberviolence to hold offenders accountable.

¹ As proposed in the [Council of Europe Cybercrime Convention Committee \(T-CY\) Mapping study on cyberviolence](#), "Cyberviolence is the use of computer systems to cause, facilitate, or threaten violence against individuals that results in, or is likely to result in, physical, sexual, psychological or economic harm or suffering and may include the exploitation of the individual's circumstances, characteristics or vulnerabilities"



International Association
of Women Judges



Justice Susan Glazebrook, Justice at the Supreme Court of New Zealand and International Association of Women Judges (IAWJ), Justice Norma Lucía Piña Hernández, Justice at the Mexican Supreme Court of Justice and IAWJ, and Virgil Spiridon, Head of Operations at the Council of Europe Cybercrime Programme Office opened the conference. Around 100 judges, magistrates, prosecutors and other criminal justice officials from across the Latin America and Caribbean regions participated in the conference.

Summary of the sessions

Opening remarks

- Justice Susan Glazebrook highlighted how the growing role of technology in our lives has created new ways to abusers to target, create a climate of fear, and control their victims, and that this has been exacerbated by the COVID-19 pandemic. She underlined the importance of electronic evidence in supporting victims' testimonies and enabling effective prosecutions of cyberviolence cases.
- Justice Norma Lucía Piña Hernández stressed the global nature of cyberviolence, and how technological developments are both resulting in new forms of crime and providing new means to commit existing crimes. Underlining the need for criminal justice professionals to update their knowledge to address these challenges, she highlighted the importance of international cooperation – including through the Budapest and Lanzarote Conventions – and of sharing experiences to effectively combat cyberviolence.
- Virgil Spiridon underscored the importance of raising awareness on the topic of cyberviolence, and of the need to take a multidisciplinary approach, including close cooperation and shared responsibility, to tackle it effectively.

Session 1: Electronic evidence in criminal cases

- Irma Llano Pereira (Paraguay, moderator) stressed the role of the Budapest Convention in facilitating the work of criminal justice authorities conducting cyberviolence investigations, and highlighted the importance of gathering and preserving electronic evidence, and of the chain of custody.
- Melissa Garcia Blagitz de Abreu e Silva from Brazil presented an overview of the procedural powers set out in Section 2 of the Budapest Convention, including provisions related to scope, safeguards, data preservation, production orders, and search and seizure of stored data.
- Carlos Leonardo from the Dominican Republic focused on the collection and preservation of e-evidence as crucial investigative tools in cyberviolence cases, using case studies involving countries that are parties to the Budapest Convention and those that are not. He highlighted the important role of 24/7 points of contact in this process.
- Cristina Giordano from Argentina addressed the admissibility of electronic evidence, highlighting challenges presented by the time required to collect it. She highlighted the importance of capacity building for judges, and a focus on the experiences and needs of victims.

Session 2: Cyberstalking

- Martha Leticia Muro Arellano (moderator) illustrated how cyberviolence affects the rights of victims, and reflected on the importance of improving understanding of the nature of these



International Association
of Women Judges



crimes as a basis to tackle them effectively. She stressed the importance of regional and international cooperation in cyberviolence investigations.

- Paz Lloria García from Spain introduced the phenomenon of cyberstalking, including the threat landscape and challenges to investigation, prosecution and adjudication of these offences. She highlighted inequality as the root cause of gender-based violence, and explained how the Spanish legal framework looks to address cyberstalking.
- Magistrate Ana Lee Glorimon from the Dominican Republic noted that cyberstalking is not yet incorporated in the domestic legal framework in the Dominican Republic and that this is an area where further action is needed. She highlighted the importance of international cooperation in addition to domestic legislation.
- Magistrate Martha Gavilanes from Ecuador focused on how national legislation in Ecuador addresses the issues including trafficking of persons for sexual acts, suggesting a meeting with minors for sexual acts and impersonating others online for the purpose of receiving sexual material.

Session 3: Online Child Sexual Exploitation and Abuse (OCSEA)

- Karina Martínez Jiménez (moderator) noted that new technologies have moved much daily communication online, creating new opportunities for criminals to sexually exploit children. She drew attention to relevant international definitions and standards related to OCSEA.
- Victoria Baines from the United Kingdom introduced the phenomenon of OCSEA, highlighting that it includes a range of inter-connected offences that require a specific law enforcement and criminal justice response, including identification of victims, cooperation and information exchange (supported by the Budapest Convention on Cybercrime) and adequate criminal penalties.
- Magistrate Olga María Guzmán from Argentina noted that there has been some success in law enforcement and judicial action to address OCSEA, but that further work is required to increase awareness of this issue, to identify perpetrators and victims, to understand victims' vulnerabilities, and to put in place timely measures to protect victims and investigate offences when they occur.
- Natalia Marcela Molina from Argentina introduced relevant provisions to address OCSEA in the Argentinian legal framework. Noting that each case is different, she called for increased cooperation to identify victims and perpetrators, to address organised OCSEA-related crime, to develop strategies for reducing threats and to develop effective investigative techniques, including the use of electronic evidence.
- Andrea Arriola from Paraguay highlighted the positive duty on States to protect children by detecting and responding to OCSEA. She reported that in Paraguay a free helpline for children has received a large number of complaints, including regarding OCSEA. Noting the specific vulnerability of children in rural areas, she highlighted the importance of prevention, including by raising the awareness of parents concerning OCSEA.

Session 4: Sexting

- Enriqueta Fernández Hagar (moderator) introduced the concept of sexting, and noted that many countries do not criminalise such content. She called for action to raise awareness of the issue, to



International Association
of Women Judges



criminalise such conduct, to map the current situation regarding sexting and to take steps to ensure criminal justice responses avoid secondary victimisation of affected individuals.

- Paz Lloria García from Spain introduced the phenomenon of sexting, highlighting that it becomes an issue when it involves distribution of sexual material without consent. She highlighted how Spain has criminalised sexting, and how the courts have interpreted the domestic legal framework.
- Judge Belem Bolaños Martínez from Mexico highlighted a number of legal obstacles that impede effective action against sexting, including a lack of knowledge, lack of adequate terminology and difficulties preparing requests for content to be taken down. She underlined that victims require that the perpetrator be blocked from contacting them, that the content be stopped, opportunities for legal recourse and support with the psychological impact of the offence.
- Soraya Bohórquez from Ecuador underlined that sexting can be a normal part of young people exploring their sexuality, but becomes problematic when it gets beyond their control or without their consent. She noted the harmful psychological effects of sexting, which can include humiliation, lack of confidence, regret, guilt and social isolation, and that many victims do not report their experiences.

Conclusions and takeaways

Justice Esther Agelán from the International Association of Women Judges (IAWJ) and Martha Stickings, Programme Manager at the Council of Europe Cybercrime Programme Office closed the conference by summarising the discussions and setting out recommendations for the way ahead:

- Cyberviolence crimes are complex: they are often anonymous and cross-border, and the evidence needed to investigate them is volatile and sometimes difficult to access.
- Women and children are particularly likely to be victims of cyberviolence, which often reflects existing inequalities and power dynamics between individuals and within wider society. The online environment can multiply victims' suffering, as information and images involving them can be disseminated quickly to large numbers of people.
- Cyberviolence and related offences should be understood as violations of human rights. It is crucial that victims are put at the centre of action to tackle these crimes, including by ensuring that they can access justice, including restorative justice.
- The Budapest Convention on Cybercrime provides criminal justice practitioners with a number of tools to combat cyberviolence effectively. These include procedures for international cooperation, including mutual legal assistance and the 24/7 points of contact network. The Second Additional Protocol to the Convention provides important new provisions concerning the use of electronic evidence. It is crucial that practitioners make full use of these tools, and act quickly.
- Effectively combating cyberviolence requires cooperation between countries and across sectors, including between criminal justice authorities and the private sector.
- Further guidance is necessary concerning how to characterise and combat cyberviolence, and to understand the different acts involved, how they are perpetrated and victims' experiences.
- Capacity building is required to ensure that judges and magistrates are aware of electronic evidence and how to use it.