



VIOLENCIA HACIA LAS MUJERES Y POLÍTICAS PÚBLICAS DE COMUNICACIÓN

Informe Sombra al
Comité de la CEDAW
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GENDER VIOLENCE AND COMMUNICATION PUBLIC POLICIES

1. Introduction

The Foundation for the Development of Sustainable Policies (FUNDEPS)¹ and the Asociación Civil Comunicación para la Igualdad² respectfully present this report to the Committee on the Elimination of Discrimination Against Women (CEDAW), in order to assist the Committee with the evaluation of the report offered by the Republic of Argentina in the year 2014, during this year sessions.

This report focuses on the level of compliance of Argentina of the **article 5 of the Convention**, which obligates the States **“To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women”**. Furthermore, this report is made considering the CEDAW’s general commentaries, as the recommendations provided in Beijing Declaration and Platform for Action, in its the Chapter J about Women and the Media.

The information provided in this “shadow report” is the result of monitoring of current public policies, about communication and gender, in Argentina, achieved by the use of Access to information requests, surveys and interviews to members of relevant organizations, and a review of media carried out by the signatory organizations. This monitoring, was published in the report entitled “Violencia de género y Políticas públicas de comunicación” (Chaher & Pedraza, Violencia de género y políticas públicas de comunicación, 2016), publicly and freely available online.

Symbolic violence and gender violence in the media

Symbolic violence is a way to keep the imbalance of power, in gender relations, that doesn’t require the use of physical violence. It manifests itself through the construction and imposition of stereotypes, beliefs, values, behaviors, and representations, later assimilated by society as a whole and incorporated into its imaginary. This way, the domination situations are covered by a legitimizing and naturalizing narrative, causing the inequalities and violence to deepen.

Symbolic violence is intertwined with violence in the media when it is expressed through it maintaining inequality and discrimination towards women in a diluted, invisible, and naturalized way, gaining its acceptance and reproduction by women themselves. This dynamic makes difficult its recognition and to fight against it.

This matter has previously been addressed by the CEDAW committee, in its Concluding Observations for Argentina in 2010 **“the Committee expresses its concern that gender stereotypes and the influence of the media may have an impact on women opting for traditional social occupations and on their limited comparative advantage in the labor market”**. In conclusion, it recommends that **“Specific strategies should be put in place to counter the prevalent patriarchal culture”** (CEDAW, 2010).

¹ The Foundation for the Development of Sustainable Policies (FUNDEPS) is a nonprofit organization based in Argentina, whose work is aimed towards the development of a fairer, more equitable and inclusive society, for which it promotes the empowerment of community stakeholders in the development process. Its main working areas are Access to Justice, to Information, Defense and Monitoring of Economic, Social and Cultural Rights, and Democratic Governance. From those areas, and through strategic public interest litigation, research and public policy advocacy, it promotes a framework to guarantee the fulfillment of the international Human Rights commitments taken by Argentina, transparency, participation mechanisms, and access to justice safeguards.

² The Asociación Civil Comunicación para la Igualdad is a nonprofit organization with the purpose of promoting gender diversity and equality in the media. Its main working areas are the production and publication of news, capacity building in communication and gender, and monitoring public policies. These actions are carried out with a framework focused on rights and a human rights paradigm..

2. Argentinean regulatory framework

It is noticeable that, in later years, the Argentinean gender and communication regulatory framework, aims to move forward in one of the two strategic objectives of the 1995 Beijing Declaration and Platform for Action (BDPA), Chapter J. It should be pointed that there hasn't been concrete measures to reach the second strategic objective of the BDPA regarding media, which refers to the democratization of the labor structure in mass media.

The advancement in the legislation opened a space for the conceptualization of symbolic violence and violence in the media that include the use of stereotypes and sociocultural patterns as a form of production and reproduction of discrimination against women.

Within the regulatory framework there are the law number 26.485 “Ley de protección integral para prevenir sancionar y erradicar la violencia contra las mujeres en los ámbitos en que desarrollen sus relaciones interpersonales” (Integral protection law for the prevention, sanction and eradication of violence against women in the spaces in which they develop their interpersonal relationships), (hereinafter, Integral protection law), and the law number 26.522 “Ley de Servicios de Comunicación Audiovisual” (Audiovisual Communication Services Law) (hereinafter, LSCA)

Firstly, the integral protection law, in its 5th article, defines symbolic violence as *“the kind that through stereotypical patterns, messages, values, icons or signs transmits and reproduces domination, inequality, and discrimination in the social relations, naturalizing the subordination of women in society”*

Accordingly, it forms a definition of what the Argentinean State understands as discrimination against women in mass media through the concept of “violence in the media”, which is one of the modalities that symbolic and psychological violence can take. Pursuant to the article 6 section f) of the same law, violence in the media is:

“The publication or broadcasting of stereotypical messages and images, through any mass media, that directly or indirectly promotes the exploitation of women or their images, utters slander, defames, discriminates, dishonor, humiliates or infringes upon the dignity of women, as well as the use of women, and female minors, in pornographic messages and images, legitimizing the inequality in treatment or constructing sociocultural patterns that reproduce the inequality or generate violence against women”.

The second of the most relevant laws is the ASCL; it regulates communication as a human right, and promotes the democratization of mass media providers. In regards of the safeguard of women's rights, it establishes in its article 3, as one of its objectives *“to promote the protection and safeguarding of equality between men and women, and a plural, egalitarian and non-stereotypical treatment, avoiding any discrimination based on gender or sexual orientation”*. It also adheres to the Integral Protection Law, creating competent authorities to enforce it.

The LSCA created the Autoridad Federal de Servicios de Comunicación Audiovisual (Audiovisual Communication Services Federal Authority) (hereinafter AFSCA), granting it competence to sanction audiovisual media outlets that infringe upon the rights that protect women, being able to impose fines, mediation and conflict resolution instances, or to forbid the broadcast of content for the most blatant cases of discrimination or violence.

The law also formed the Defensoría del Público de Servicios de Comunicación Audiovisual (Audiovisual Communication Services Audience Ombudsman) (DPSCA), with the main function of protecting the audiences, it receives reports and emits opinions about contents, having competence to begin processes against the media who violate the law, protecting the infringed rights.

Finally, it is fundamental to notice that in the article 70, the LSCA states that *“the programming of the services listed in this law must avoid contents that promote discriminatory*

treatment based on race, color, sex, or sexual orientation (...)”, and in the article 71 it establishes that those “*who produce, distribute, emit, or in any way profit from the broadcast of shows and/or advertisement, will safeguard the observance of the laws (...) 26.485 - Integral protection law for the prevention, sanction and eradication of violence against women in the spaces in which they develop their interpersonal relationships*”.

However, these advances in legislation aren't enough to guarantee a real equality for women, because the sexist cultural grip of the social systems.

In December 2015, a new government, with a different political orientation, sworn in to office. As one of its first measures, it changed via decree of the Executive Power the LSCA and its enforcement authority, one of the main pillars of the current regulatory framework for gender and communication³.

Furthermore, it is developing a new bill to replace the LSCA, and until this date, no official body has pledged to keep or to promote the regulations for gender contemplated in the current law.

It is crucial to remember the necessity to prevent regressive processes for the protection of human rights and the democratic system in Argentina, taking into account that the current legislation for communication and gender. This entails the fulfillment of the international commitments taken upon by our country, mainly in the signing and ratification of the CEDAW.

Although there are legal measures and policies in place to ensure the compliance of the commitments made by the Argentinean nation through the signing and ratification of the CEDAW, it is important to maintain the actions taken and to move forward on their enforcement, to achieve a complete observance of the article 5 of the Convention.

3. Institutional Structure and Public Policies for communication and gender

3.1. Audiences Ombudsman:

The Audiences Ombudsman (DPSCA) is one of the most relevant bodies when it comes to the programming contents in the media, and it stands to be one of the main governmental actors against violence in it. Although positive changes and improvements can be made, it is important to point out the high level of commitment and professionalism when dealing with situations of violence showed by the work teams of the DPSCA.

Among the actions taken by the DPSCA, there are several ways to repair the potentially infringed rights of the audiences. The body informed that it acts according to the specific circumstances of the reported facts, the interdisciplinary analysis made by the organization, and the results of the dialogue it encourages (DPSCA, 2013).

However, in several cases the Ombudsman dismissed denunciations of content in which traditional and stereotypical gender representations were shown, and that should have been considered as infringing expressions of the LSCA and Integral Protection Law (Chaher & Pedraza, 2016).

Several denunciations were dismissed by the DPSCA, in which there were depictions of female compulsive buyers (Galicia Bank); sexual division of labor (Show del Caos); and stereotypically “feminine” characteristics and manipulation and control (Acequia) (Chaher & Pedraza, 2016).

³ Decretos de Necesidad y Urgencia Nº 13/2015, 236/2015 y 267/2015.

Although gender inequality is manifest in the forms of explicit violence and mistreatment, the stereotypical ways to understand gender relations, and invisibilization as the greatest of stereotypes (Alberdi & Matas, 2002), present as many or more challenges than explicit violence to achieve gender equality, as those sociocultural patterns reproduce a naturalized unequal imaginary (Bourdieu, 2000).

The conceptual perspective, from which the origin and actions of this organism are based, sometimes collides with its resolutions. It is understood that it is **necessary that the evaluations that the DPSCA carries out are consistent with its own definitions of discrimination and violence against women**, in such a way that it generates a broader consensus in the public about the definitions symbolic violence and violence in the media. This also happens in the cases in which humor is used to reproduce gender stereotypes that in that manner are installed and continued in the collective imaginary, causing the naturalization of certain stereotypes and discriminatory conducts through parody.

3.2. Audiovisual Communication Services Federal Authority

Two ways were established in which the AFSCA filed cases for violence in the media: on one hand, through the denunciations made by citizens before the same body or the Observatorio de Radio y Television (Radio and Television Monitoring Body), and, on the other hand, through the 24 hours of the media monitoring carried out by the Evaluation and Audit Direction.

The complaint process was loaded with formalities and it was the most complex compared to other organs charged with public policies against violence in the media. As a whole, those elements made **the reclamation process full with hurdles and non-federal, a situation that could discourages the report made by the citizenry residing in the interior.**

Being the AFSCA the only body with sanctioning capacity in matters relative to discrimination against women or based on gender and violence in the media and/or symbolic violence, the impracticality to file claims probably discouraged the citizenry to report situations that required punishment.

An exhaustive analysis of the resolutions of the AFSCA published in its website, for the years 2011 through 2015, shows that in numerous opportunities the decisions, given after denunciations of violence in the media, weren't qualified as infringing of women's rights in the context of the Integral Protection Law, rather they were considered as infringing the rights of children and adolescent, through the figure of "children protection hours" (a schedule that regulates the times of the day in which mature content can be shown on television).

Invoking children protection hours in cases clearly identifiable as violations of women's rights contemplated in the Integral Protection Law, in the first stages of the application of the LSCA, reveals the lack of training and knowledge of the AFSCA staff about the norms that it should enforce, the Integral Protection Law among them, although there were attempts to correct that situation in later stages (Ramos, 2013). However, that lack of knowledge prevented the visibilization, both outwards to the society as inwards to the organization, of the vulnerabilities specific to women's rights, historically subject to processes of invisibilization.

Only one sanction was found based on the violation of the Integral Protection Law, given in the case of the "Duro de Domar" show, fined with 89,601 Argentinean pesos (approximately 6300 USD) (AFSCA, 2015).

It also should be pointed that the **difficulty to know the status of the processes, and the possible resolution of them by the application of fined, is harmful for their transparency and the possibility of citizen control.** The citizenry should have greater access to the activity of these control bodies, and should be able to know in which cases and for what reasons mass media outlets are fined, and therefore it would be able to further contribute to the strengthening of the democratic debate (Fiss, 1997).

3.3. Radio and Television Discrimination Monitoring Body

The Monitoring Body has, as a main function, to observe radio and TV contents that reproduce discriminatory messages, and to generate reports on how the diverse social groups are represented. In addition to act based on complaints before other organisms that coordinate it, the Monitoring Body also is authorized to act by its own initiative when pertinent (Observatorio de la Discriminación en Radio y televisión, 2009).

The Monitoring Body also published several reports about “Sexist Advertisement”, in which such ads are pointed out specifying in detail the reasons to be considered discriminatory based on gender or to cause symbolic violence against women.

In the year 2015, monitoring results were published by the Monitoring Body. In this report, several news, informative, political and opinion, celebrities, children, reality and talk, fiction, and sports shows were reviewed for a whole week during June. In said document the conclusion is stated that:

“[...] as shown by the reviews of the claims made by the public in several opportunities, and as verified by the reports about advertisement that we’ve conducted, violence against women occupies the first place in the screens regarding to negative representation of vulnerable groups” (Observatorio de la Discriminación en Radio y Televisión, 2015)

The information offered by the Monitoring Body, showcases the need for strengthening the public policies on the matter, to further promote a non-sexist communication that avoids the reproduction of discriminatory symbols and patterns against women.

3.4. National Institute against Discrimination, Xenophobia, and Racism (INADI)

The main objective of this institute is to fight against discrimination in all its manifestations. It is a decentralized entity of the Nation, within the orbit of the Ministry of Justice and Human Rights, and it has authority to receive denunciations, perform investigations, promote campaigns against discrimination, and to support the victims of any form of discrimination.

The INADI receives reports for discrimination based on gender in the media cases in its 23 provincial delegations and in the Autonomous City of Buenos Aires. It is important to highlight that the INADI receives denunciations for discrimination in general, so the report process is standardized for any discrimination case, wherever it may have happened (INADI, 2015).

These reports are later sent to the Discrimination in Radio and Television Monitoring Body, where they’re resolved. Denunciations can also be filed directly before the Monitoring Body. The reports about discriminatory, xenophobic or racist conducts are registered by the INADI and categorized according to the motive and ambit of discrimination. In the analyzed cases, the motives were “gender”, “sexual orientation” and “gender identity” and the ambits were “radio” and “television”.

3.5. National Women Council

The National Women Council is charged with developing public policies to prevent, penalize, and eradicate violence against women, as the enforcement authority of the Integral Protection Law. **However, over the past few years, the Council didn’t include in its agenda the response to denunciations of violence in the media.** It only channels them through the Discrimination in Radio and Television Monitoring Body.

In the later weeks, the council announced the National Action Plan for the Prevention, Assistance, and Eradication of Violence against Women 2017-2019, (Consejo Nacional de Mujeres, 2016). In its third section, called “Logic Framework”, out of the 69 measures and 137 actions planned, only 4 are referred to communication in the area of prevention: massive campaigning to raise awareness and citizen action and engagement; spread of the help Line 144;

production and wide circulation of accessible information about women's rights and assistance resources; and strengthening of technical assistance in radio, television and virtual platforms for the broadcast of non-sexist messages, inclusive language usage, and prevention of symbolic violence.

Of these four measures, only the last one mentioned refers to mass media as an object of public policy action. The other three account only for the use of media as means to transmit prevention messages –to promote the Line 144 as for campaigns to promote women's and men's rights- or to serve other goals –as the protection of the human rights of disabled, immigrant, or native women, among others-.

While it is appropriate to consider the multiple variables for action that communication has, it is believed that the **2017-2019 Plan is a missed opportunity to tackle, in depth, the discrimination and inequality in the media, and to modify them according to the two strategic objectives on the Beijing Declaration and Platform for Action:** Increase the participation and access of women, and to promote a balanced and non-stereotyped portrayal of women in the media

3.6. Monitoring Office for Sexual Trade Advertisement

The Monitoring Office (OM) is one of the organizations that join forces to eradicate gender violence with the AFSCA and the Office for the Rescue and Accompaniment to People Harmed by the Crime of Human Trafficking, and the National Women Council. Specifically, the OM is in charge of enforcing the Decree 936/2011 that prohibits the publication of advertisement for sexual trade, in any media, with the aim to prevent human trafficking and to gradually eradicate sociocultural patterns that reproduce gender inequality and generate violence against women.

Although it doesn't specifically works with audiovisual media, and focuses on printed media and eventually acting on online publications, it is important to acknowledge its activity, as it is considered as an advancement in the struggle against sexual and symbolic violence and human trafficking and sexual exploitation (OM, 2015).

Because of its important activity and exemplar results, it is important to give greater competence to this body, enabling to extend its activities to every form of media, including audiovisual and digital.

3.7. Graphic press and internet contents

The LSCA and complementary legislation about communication media, regulate content broadcasted by radio and television, leaving graphic media and the internet without a specific regulatory framework. That legal void leaves a broad space available for the publication of content that violates women's rights. The risk takes especially dire proportions on the internet, where prevention is of utmost importance, considering the permanence and speed of reproduction that any publication can acquire in that medium.

Although there are legal means to access a life free of discrimination and violence (Chaher, Argentina - Implementación, 2014), it is clear that **the lack of specific legislation in this type of media, turns that much harder the control of the publications.** The lack of an authority with enough competence to control, receive complaints and to sanction, implies that, in practice, only few cases are noticed and punished by the authorities.

This legal situation reveals a lack of access to justice, harming the victims of the infringing practices. With all, it is clear the necessity of a specific regulation of the matter, along with the creation of an entity capable of controlling the advertising and other multimedia content in graphic media and the internet

4. Current political circumstances.

In December 2015, in Argentina, a new government, with a different political orientation, took office. As one of its first measures, it modified, by means of an executive

decree, the LSCA and its enforcement authority, one of the pillars of the regulatory framework in matters of communication and gender.

That said, it is important to point that after the new government took office, the LSCA is in a process of political dismantling, as since December 2015, it carried out several measures that show a discouraging perspective regarding the mechanism described above:

- In December 10, 2015, it sanctioned the executive decree 13/2015 that modified the Ministerial Law 22,520 and created the Ministry of Communications that included within its orbit the AFSCA.

- In December 22, through the executive order 236/2015 it ordered the intervention of the AFSCA and the removal of its directory.

- In January 4 2016, it sanctioned the decree 267/2015 that radically changed the LSCA, by ordering the dissolution of the authorities created by it, in charge of making it work in a democratic and plural way. It created a new authority for the enforcement of laws referred to audiovisual communications, dependent of the Presidency, and disbanded the mechanisms of monopoly and oligopoly prevention.

Furthermore, the Executive is working on a new bill to replace the LSCA, and there haven't been any promises to keep any of the regulations regarding gender of the current law. Therefore, communication policies are in an unconcluded process of change.

The new government measures collide with the advancements achieved with the LSCA in regards to the international standards about freedom of expression and media regulation, that emanate from international treaties and the interpretation given by their application bodies, which leaves a feeling of uncertainty in the citizenry about the processes and regulations applicable in situations that deserve reporting for the infringement of the rights given by said law.

4.1. Implications of the reform

In regards to the regulation of telecommunication services, exceptional decision over fundamental topics were taken in disregard of the democratic debate, both in society and in Congress. With the added problem that the way in which the process was undertaken is contrary to the constitutional order, infringing the principles of the republic and the international standards for human rights.

The LSCA was explicitly endorsed by the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights, based on its consistency with the Interamerican standards and because it meant an important advancement, not only in the matter it regulated, but also for the plural and democratic ways its sanction was reached. By creating the administrative authority ENACOM, with an automatic majority of four people appointed by the Executive –and with the ability to remove any of its seven members with “no cause”- the participation and independence, emblematic of the democratization of the communications policies, are considerably reduced.

The result of these measures is a reduction of the rights of the audiences, because they no longer enjoy of fully constitutional anti-monopoly mechanisms to safeguard their interests. Bottom line, it means a setback in matters of diversity, plurality, and representation of multiple voices in the media, and a lessening of the means of protection of national cultural industries.

5. Final Considerations

Enabling complaints ways and the creation of entities with authority to penalize were great advancements in the fight against violence and discrimination in the media. The same goes for the strategies to empower all the parties involved in the matters, such as increasing sensitivity, diffusion and capacity building.

The role of the State is crucial, as it legitimizes and institutionalizes agendas, and it can direct human and economic resources to work on them. For years the civil society claims for the democratization of the mass media, from a gender equality stand point. However, since 2009 and the implementation of the regulatory framework that acknowledged symbolic violence and violence in the media as legal figures, added to the public policies later developed by the government entities to fight the inequality, further consensus was achieved in the citizenry around the stereotyping and discrimination in the media.

Policies about communication and gender are contextualized in a decades-long social and cultural debate process. However, step to action is too recent to consider it strong enough. **Is of great importance to acknowledge the necessity to continue and promote the activities developed, with the goal to create sustainable changes that could endure over time.**

6. Suggestions and Recommendations:

Based on all the above exposed, and with the utmost respect to the Committee on the Elimination of Discrimination against Women, we suggest the following recommendations to be included in the Concluding Observations for Argentina:

1. The Committee manifests its complacency for the implementation of regulations and policies that promote the elimination of sociocultural patterns and stereotypes that reproduce the discrimination of women in the media. However, it requires of Argentina to take the corresponding measures to develop processes of democratic debate for the regulation of the communication services through, respectful of the constitutional order, the principles of the republic, and the international standards for human rights. Furthermore, it urges to maintain the autonomy of the entities in charge of enforcing the laws that regulate communications, and their plural, representative, and participative conformation.
2. The Committee asks of the State party to keep implementing measures towards the strengthening of the sanctioning competence of the relevant bodies in cases of objectification, stigmatization, and stereotyping of women in the media, taking these causes for judging as autonomous and independent from other rights affected.
3. The Committee urges to Argentina to simplify and streamline the complaint processes before every entity, by preparing simple and accessible forms, to avoid imposing investigative duties on the complainant. It also points out the need to guarantee the implementation of public policies across the country and the citizenry, regardless of the geographical distance to the seats of the entities.
4. The Committee recommends the State party to carry the implementation of a protective system for women's rights to non-discrimination and to a life free of violence in graphic media and the internet, similar to that of audiovisual media.

Lastly, in order to eradicate the discrimination and violence against women, it is necessary to a permanent and uninterrupted action, through a coordinated approach by the State, that acknowledges the role of civil society organizations, the academy, and the private media, with a firm objective to achieve equality for all the people and the full enjoyment of human rights, as pillars of our society.

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