ISSN 2993-1908

SPECIAL COLLECTION OF THE CASE LAW ON FREEDOM OF EXPRESSION

How do women experience the exercise of their right to freedom of expression? Some answers from Court rulings

Global Freedom of Expression
COLUMBIA UNIVERSITY

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First Edition March 2026

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Authors*

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Design

Laura Catalina Ortiz, Illustrator and graphic designer

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Special Thanks

The Associate Director, Authors, and Editor of this collection would like to acknowledge and express their gratitude to all those whose efforts and talent have made this collection possible. These publications have only been made possible thanks to the analysis and selection of cases for the Global Case Law Database by a large number of experts and contributors who collaborate with Columbia Global Freedom of Expression. The case summaries presented in this collection reproduce the analysis of the cases published in our database, which has only been possible thanks to their invaluable contribution.

We are also deeply grateful to Katya Vera Morales, Anastasiia Vorozhtsova, José Juan Torres Tlahuizo, Anderson Javiel Dirocie De León and Lautaro Furfaro, who read the entire text and provided comments that strengthened it.

* The views and opinions expressed in this paper reflect only the position of its author(s) and/or editor(s) and do not necessarily reflect the position of Columbia Global Freedom of Expression.

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How do women experience the exercise of their right to freedom of expression? Some answers from Court rulings

Abstract

This paper offers a descriptive study of the state of case law on how courts have addressed restrictions and attacks affecting women's exercise of freedom of expression. The analysis draws on a selected set of judicial decisions from national, regional, and international jurisdictions, chosen for their relevance in identifying recurring patterns, approaches, and persistent gaps. The paper first examines reprisals and forms of persecution directed at women who report abuse, defend rights, or advance feminist positions, including the use of law as a tool of silencing. It then analyzes processes of women's exclusion from the public sphere that structurally affect journalists, politicians, and human rights defenders, as well as the criminalization of protest with gender-differentiated impacts. The study also addresses digital violence as a contemporary form of censorship, the tensions between women's religious expression, personal autonomy, and state regulation, and the judicial and legal mechanisms, including SLAPPs, used to limit public participation. Finally, the article examines the right of access to information as an indispensable condition for autonomy, highlighting how the denial or obstruction of relevant human rights information produces disproportionate effects on women. Taken together, the article offers a critical reading of existing judicial responses and of the challenges that remain in protecting freedom of expression from a gender perspective.

Keywords

Freedom of expression, women, gender-based violence, censorship, comparative jurisprudence.

The free speech of men
silences the free speech of women
Catherine MacKinnon, lawyer and feminist

I. Introduction

Globally, women, regardless of borders or sociocultural factors, are subject to structural discrimination based on gender, rooted in patriarchal stereotypes that permeate all societies around the world and manifest themselves in acts of gender-based violence.

This affects our development and our life projects in all public and private spheres in which we operate and means that our experience in exercising and guaranteeing our human rights, including, of course, the rights to freedom of expression and access to information, is perceived and experienced in a completely different way from that of men.

Mónica Corona expresses very well this structural restriction that women experience in exercising our right to freedom of expression due to the gender-based violence to which we are subjected because we are women:

> Women and girls live under a rights framework designed by the world's prevailing ideological system: patriarchy. These forms of violence, perpetrated by actors in society at large, diminish the capacity for free expression by creating environments that foster the denigra-

> tion, discrimination, marginalization, and even exclusion of women and girls in the private sphere (family, marital, and community) and the public sphere (work, school, institutions, etc.). […] To be free to speak, one must be free to live and move in public [and private] spaces as a subject of rights in all aspects of human life [...]. If one component is missing, it could be said that expression is less free. Therefore, the exercise of freedom of expression requires many freedoms, and expression cannot be dissociated from these components; it is interdependent [...]. Violence and attacks against our freedom of expression are based on social gender constructs that generate inequalities to the detriment of women, from childhood [...]"[1].

Indeed, how can we express ourselves freely if the world, for the most part, thinks, internalizes, and lives from the perspective of patriarchy? How can we express ourselves without fear if women who decide to do so in a way that differs from the traditional norm—or when we decide to take part in the public life of our countries—are singled out, threatened, excluded, abused, and even murdered? How can we be free to express ourselves if we do not participate on equal conditions in public, political, and cultural life? How can we express ourselves on equal terms if gender-based discrimination is normalized and we commonly remain silent in the face of the violence we experience because society and the system do not support us and revictimize us? How can we be free to express ourselves if the gender roles imposed on us are ones of submission and relegate us to the private sphere? How can we express ourselves freely when it is socially and politically penalized to include issues related to our rights in public debate? In short, how can we express ourselves freely if the natural consequence of doing so is to experience gender-based violence?

This has various implications. One of them is that many women and girls live, to a greater or lesser extent, with an almost innate self-censorship to protect ourselves from patriarchy. This self-censorship operates as a serious personal and collective limitation, which is absolutely normalized and forms part of the structural violence and discrimination that undermine the full guarantee of our human rights.

This self-censorship increases when we are discriminated against or abused in both the private and public spheres. For example, when we are forced to remain silent in the face of abuse, violence, and discrimination because we feel subjugated or because the system does not protect us, but does accuse, stereotype, minimize, and revictimize us; or when we are criminalized or subjected to hate speech both when we denounce human rights violations and when we talk about feminism, sexual diversity, sexual and reproductive rights, or issues that have historically been dealt with by men.

Another serious challenge to women's freedom of expression is the structural barriers that prevent us from participating on equal terms in the public and political life of our countries and communities, including, but not limited to, macho culture, gender roles and stereotypes, insecurity, violence, glass ceilings and floors, institutional and political obstacles, the digital divide, and lack of educational opportunities and access to information.

[1]Corona Quiñones, M. (2023) *La libertad de expresión como un derecho crucial para que las mujeres y las niñas den continuidad a su proceso emancipatorio*, Revista Tlatelolco: Democracia Democratizante y Cambio Social, Vol 1, No. 2, Programa Universitario de Estudios sobre Democracia, Justicia y Sociedad, Universidad Nacional Autónoma de México. Available at: https://puedjs.unam.mx/revista_tlatelolco/la-libertad-de-expresion-como-un-derecho-crucial-para-que-las-mujeres-y-las-ninas-den-continuidad-a-su-proceso-emancipatorio/ [Own translation]

This means that women find ourselves marginalized from decision-making processes that directly affect us because of our gender—such as issues related to guaranteeing our rights—and that we do not participate on terms of substantive equality in fundamental issues such as democratic governance, the creation and implementation of public policies, security, the distribution of resources, or the way in which technology is created and applied.

These issues have been brought to light by the feminist movement and by the courage and strength of many women who, from different fronts, have raised their voices. This has led to some of these matters gradually being addressed by international, regional, and national courts and bodies through judicial rulings, regulations, thematic reports, and public policies, among other strategies that, with the support of women's and civil society organizations, have allowed access to justice in certain specific cases, as well as progress in the creation of precedents, doctrine, jurisprudence, and policies for the defense and guarantee of our rights to freedom of expression and access to information.

In light of this context, Columbia University's Global Freedom of Expression initiative has placed special emphasis on including in its database as many international and national resolutions as possible that delve into these issues, as well as opinions issued by Meta's Oversight Board that highlight best practices in guaranteeing women's rights to freedom of expression and access to information.

Likewise, the program has strived to raise awareness through various advocacy strategies such as forums, interviews, networks of experts, among others, both of the challenges women face in exercising freedom of expression and of the recommended practices that have been developed globally to break new ground in these areas.

One such effort is the preparation of this document for inclusion in the Special Collection of The Case Law on Freedom of Expression, which contains various publications whose objective is "to provide a global outlook of some of the most significant legal decisions adopted by national and international tribunals on relevant topics regarding freedom of expression. The collection is based on judgments incorporated into the Global Freedom of Expression Case Law Database and seeks to contribute to the development of an integrated and progressive jurisprudence and to advance understanding of the norms and institutions that best protect the free flow of information and expression"[2].

Taking this into account, this document has two essential purposes. The first is to present a systematization of international and national resolutions on the right to freedom of expression contained in the database and to include contextual information on each of the topics in order to highlight the structural barriers that women face in exercising our right to freedom of expression.

The second is to showcase the experiences and expertise of courageous women who have personally experienced the enormous challenges of being a woman, of raising their voices, and of being an active part of public and political life in their countries. Some of these women participated in interviews for this publication: Marta María Ramírez, a Cuban journalist focused on defending human rights, freedom of expression, and raising awareness of gender issues in the Cuban and Latin American context; María Ressa, a Philippine journalist, co-founder and CEO of Rappler, and Nobel Peace Prize laureate; Ximena Peredo Rodríguez, a Mexican political scientist and feminist communicator; and Katya Vera Morales, a specialist in gender, human rights, and cybersecurity, with extensive experience in public policy, international cooperation, and

[2]See: https://globalfreedomofexpression.columbia.edu/a-special-collection-of-the-case-law-of-freedom-of-expression/

addressing gender-based violence in digital environments. We are deeply grateful for their time and honor their struggle.

To achieve these objectives, the following pages present a systematization and analysis of 51 decisions adopted by national and international courts, international human rights protection bodies, and quasi-judicial mechanisms, incorporated into the Columbia Global Freedom of Expression database. These decisions span 28 countries across multiple regions, including Latin America, North America, Europe, Africa, Asia, and the Middle East and North Africa, and are organized around the main structural patterns affecting women's exercise of freedom of expression. Interviews with journalists and human rights defenders accompany this analysis, contributing their experiences and perspectives to account for the concrete impacts that these restrictions have on women's lives.

This study is structured around seven thematic areas that address different manifestations of violence against women's freedom of expression. First, it examines reprisals and forms of persecution directed against women who report abuse, defend rights, and uphold feminist positions, focusing on the use of the law as a tool for silencing them. Second, it analyzes the processes of expelling women from the public sphere through structural practices that particularly affect journalists, politicians, and human rights defenders. The third section addresses the criminalization of protest, with special attention to gender-differentiated impacts, state repression, and the use of sexual violence as a mechanism of punishment. The study then focuses on digital violence against women, examining how new forms of censorship operate in online environments through harassment, surveillance, and content moderation policies. The fifth section is devoted to women's religious expression and analyzes the persistent tensions between freedom of expression, personal autonomy, and state regulations in light of comparative jurisprudential standards. The sixth section examines the judicial and legal mechanisms used to censor women, including the strategic use of litigation, civil sanctions, and other indirect forms of expression restriction. Finally, the last section analyzes the right of access to information as an indispensable condition for autonomy, highlighting how the denial or obstruction of relevant information on human rights disproportionately affects women.

II. Persecuting voices of dissent: violence and reprisals against women who speak out, defend rights, and advocate for feminism

An alarming pattern persists in different regions of the world: when women raise their voices to denounce gender-based violence, when they demand respect for their rights, or when they express feminist ideas that challenge historical practices and inequalities, the response rarely takes the form of a democratic exchange. Rather, it takes the form of a range of reprisals aimed at disciplining them. Whether by giving media visibility to gender-based violence or LGBTIQ+ issues, denouncing human rights violations, or promoting the women's rights agenda, those who expose themselves publicly find themselves in hostile territory where punitive reactions operate as a mechanism of social control aimed at silencing them. The message is clear: speaking out on certain issues has a cost, and it can be extraordinarily high.

The mechanisms used to silence these voices are multiple, complex, and often overlap. They include smear campaigns aimed at eroding their public credibility, misuse of the judicial system, surveillance practices, direct or indirect threats against them and their families, dismissals, digital harassment, physical and sexual assault, and even death.

There is no doubt that these attacks have an inhibiting and chilling effect on women who raise their voices or speak out on certain issues, contributing to a climate of fear, self-censorship, and withdrawal from public debate and public life.

Indeed, in the case of women journalists who are human rights defenders and feminist activists who document and denounce situations of violence, corruption, or serious human rights violations, reprisals have been carried out by a variety of actors, both state and non-state.

In many contexts, these actions are met with acquiescence, tolerance, or inaction on the part of state agents or judicial bodies, which not only exacerbates the risk situation but also sends a message of impunity. This dynamic highlights structural flaws in protection and justice systems, as well as the persistence of gender stereotypes that undermine the credibility of complainants and minimize the seriousness of the violence they face.

The impact of this violence transcends the individual level. Not only is their physical, psychological, or sexual integrity affected, or their rights to freedom of expression and a life free of violence, but democratic debate is also impoverished. Thus, what ultimately deteriorates is the very possibility of discussing issues of obvious public interest, such as gender-based violence, accountability, and effective access to rights, thereby weakening the fundamental pillars of democratic and inclusive societies.

> ***Women have a greater range of expression, but we are not allowed to communicate. We have developed the ability to not drown. We do express ourselves, but in private spaces.***
>
> ***Communication is the next level, where you move from expression to seeking dialogue, convergence, and response. This is still forbidden for most women.***
>
> ***And we are taught this from childhood. Girls are allowed to cry, but they are not allowed to change the course of practically anything. Boys are not allowed to cry, but they are listened to more. From a very early age, girls' capacity to influence things is taken away from them.***
>
> ***Ximena Peredo***

1. Responses from International Human Rights Law to the silencing of women who report rights violations

International human rights protection systems have begun to recognize more clearly that women who investigate, report, and narrate structural violence face specific risks that seek to punish their "audacity" in speaking out on these issues. Recent case law on the cases of Jineth Bedoya Lima, Anna Politkovskaya, and Lydia Cacho allows us to observe how violence against women journalists operates as a form of censorship, how that violence is differentiated on the basis of gender, and how courts and international bodies have attempted to respond to this phenomenon.

At the regional level, the Inter-American Court of Human Rights issued a ruling in the case of ***Bedoya Lima v. Colombia***, which represents one of the most brutal attacks against a journalist in the region. In May 2000, while journalist Jineth Bedoya was investigating collusion between paramilitary groups and

other armed actors in Bogotá's "La Modelo" prison, she was kidnapped, tortured, and subjected to multiple sexual assaults in retaliation for her journalistic work and, in particular, for her investigation into human rights violations committed by armed groups inside that detention facility with the complicity of state agents.

In light of this situation, the Court held Colombia internationally responsible for violating, among other things, her right to personal integrity, personal liberty, honor, and dignity, as well as freedom of thought and expression. It emphasized that, in the case of women journalists, states must adopt prevention, protection, and investigation measures with a differentiated approach that recognizes gender-based violence and the factors that aggravate the risk.

The regional court noted that, due to the context of violence against journalists at the time of the events and Bedoya Lima's double vulnerability as a journalist and a woman, the duty of prevention and protection required enhanced due diligence on the part of the state. In this regard, "in connection with the particular risk faced by women journalists (...) when adopting measures to protect journalists, states must apply a strongly differentiated approach that takes into account gender considerations; conduct a risk analysis; and implement protection measures that consider the aforementioned risk faced by women journalists as a result of gender-based violence"[3].

The Court also highlighted the chilling effect of such attacks, which can lead other journalists to self-censor in order to avoid similar reprisals. The Court goes a step further by recognizing that, when the victim is a female journalist, the impact extends to media pluralism, as it silences "women's voices and points of view (...) which, in turn, leads to a widening of the gender gap in the journalism profession and attacks pluralism as an essential element of freedom of expression and democracy"[4]. "[B]y silencing women journalists, the stories are silenced that are usually only told by women"[5].

The case of ***Mazepa and Others v. Russia***, decided by the European Court of Human Rights, shares this same pattern of silencing voices that denounce human rights violations and bring issues of public interest to the fore. Anna Politkovskaya, a journalist for the independent Russian newspaper *Novaya Gazeta*, was a key figure in Russian investigative journalism, known for documenting human rights violations and alleged crimes committed by federal forces and armed actors in Chechnya. Her reports on bombings, torture centers, disappearances, and corruption made her an uncomfortable reference point for the authorities. Before she was murdered in 2006, she had been the target of multiple attacks: threats, arbitrary detentions, forced exile, and even an attempted poisoning.

After her murder, Russian authorities opened an investigation that, over the course of nearly a decade, led to the conviction of several perpetrators. However, Politkovskaya's relatives, who brought the case before the European Court, argued that the investigation had been biased and incomplete because the masterminds had never been identified or prosecuted, and the possible responsibilities of senior government officials or security services who had participated in the surveillance of the victim, and helped the perpetrators carry out the murder, had not been seriously explored.

The Court concluded that Russia had violated the journalist's right to life, in its procedural dimension, by failing to conduct an effective investigation into her murder. It found that Russian authorities focused

[3]Inter-American Court of Human Rights, Case of Bedoya Lima et al. v. Colombia (Merits, reparations and costs), Judgment of 26 August 2018, Serie C No. 431, para. 91.
[4]*Ibid*., para. 113.
[5]*Ibid*.

their efforts on a single line of investigation, without exploring the applicants' allegations that officials from the Federal Security Service or Chechen officials were involved in the murder.

Although the decision does not introduce a gender analysis, it is of great importance in the area of violence against journalists because it broadens the positive obligation of states to investigate murders of journalists, emphasizing that, in cases of contract killings, it is of utmost importance to examine any link between the murder and the journalist's professional work. In the words of the Court, "the conclusions of an investigation must be based on a thorough, objective and impartial analysis of all the relevant elements, including the establishment of whether there is a connection between the threats and violence against journalists and other media actors and the exercise of journalistic activities or contributing in similar ways to public debate"[6]. Given Anna Politkovskaya's journalistic work and her critical coverage of the conflict in Chechnya, it was essential for the authorities to explore any link between the crime and her professional work.

After Politkovskaya's murder, many colleagues left the profession or stopped covering conflict zones for fear of reprisals. In fact, two other female journalists from *Novaya Gazet*a were murdered years later, in 2009: Anastasia Baburova, who was investigating cases of abuse committed by the Russian army in Chechnya and the rise of neo-Nazi extremism in Russia[7]; and Natalia Estemirova, a renowned human rights defender who documented human rights violations in Chechnya[8].

However, for other journalists, her legacy was an inspiration, and today "there are now more independent female than male reporters covering the post-Soviet conflict zones, from the North Caucasus to eastern Ukraine, and many more women investigating authorities' abuses and corruption"[9]. The case of Anna Politkovskaya is a clear example of the gender-based risk faced by journalists who investigate power structures and report on human rights violations and corruption in Russia and many other countries around the world.

Another case resolved by the European Court of Human Rights is ***Tölle v. Croatia***, which shows how even the leaders of organizations that accompany victims of domestic violence can be subject to punitive mechanisms aimed at silencing them when they contradict narratives that reverse the roles of victim and aggressor. In this case, Neva Tölle, president of the Autonomous Women's House in Zagreb, an organization that provides shelter to women victims of violence, responded in a radio interview to accusations by a man who blamed her for the abduction of his daughter. In explaining the support provided by the association to this man's wife and the couple's minor daughter, Tölle pointed out that the woman had suffered domestic violence and warned that the man was seeking to present himself as the victim and the abused woman as the aggressor. As a result of these statements, the man filed a criminal complaint against her for defamation. The national courts found Tölle guilty of defamation for having damaged the plaintiff's honor and reputation. Both the appeals filed by Tölle before a court of second instance and before the Constitutional Court were dismissed.

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[6]European Court of Human Rights, Mazepa and others v. Russia, Application No. 15086/07, Judgment of 17 July 2018, para. 73.

[7]See: The Coalition For Women In Journalism (January 19, 2025) Russia: 15 Years ago Today, Russian Neo-Nazis Killed Anastasia Baburova. Available at: https://www.womeninjournalism.org/profiles/russia-15-years-ago-today-russian-neo-nazis-killed-anastasia-baburova

[8]See: Kildiyarova, N. (July 15, 2024) 'She Was An Inconvenience': Remembering Rights Activist Natalya Estemirova 15 Years After Her Killing, Radio Free Europe/Radio Liberty. Available at: https://www.rferl.org/a/estemirova-chechnya-kadyrov-atrocities-abuses-killing/33037273.html

[9]Borogan, I. (October 6, 2016) The women risking everything to report from Russia's frontlines, *The Guardian.* Available at: https://www.theguardian.com/world/2016/oct/06/the-women-risking-everything-report-russias-frontlines-politkovskaya

In analyzing the case, the European Court emphasized that the radio interview dealt with violence against women and domestic violence, issues of "important public interest and the subject of a social debate, both at the material time and today[10]". Given that the man had made serious accusations against the association in a national newspaper, Tölle's response constituted a legitimate exercise of the right of reply, protected by freedom of expression.

The court concluded that Tölle's conviction violated Article 10 of the European Convention on Human Rights because the domestic courts did not weigh the public interest involved–violence against women–nor did they assess whether Tölle had reasonable grounds to believe in the veracity of his statements, despite the available testimony, police interventions, and the institutional experience of the association that had provided shelter to the victim for months. Furthermore, it emphasized that requiring a criminal conviction for domestic violence as the sole standard of truthfulness is incompatible with the structural reality of the phenomenon, characterized by few reports due to a myriad of factors—fear, the normalization of violence, institutional obstacles, etc. In the few cases where domestic violence is prosecuted, it is even rarer for the perpetrator to be convicted or punished.

The sanction imposed "consisted in a criminal conviction, and consequently an entry on the applicant's criminal record"[11], which, according to the court, had an intimidating effect that constituted "a sort of censorship which might have discouraged her from promoting the Association's statutory aims in the future"[12].

The Court also noted that criminally punishing a defender who publicly refutes a discourse that blames victims of domestic violence contributes to silencing voices that seek to raise awareness of the issue. The protracted nature of the proceedings, which lasted 17 years, accentuated this inhibiting effect on the association and on public debate. Thus, the case reveals how judicial proceedings can operate as mechanisms of indirect censorship and how the lack of a gender-sensitive judicial response perpetuates the invisibility of such violence.

Finally, the ruling sends a clear message to those who accompany victims of domestic violence: the importance of not remaining silent in order to raise awareness of the problem and react to the victim-blaming, and the need to guarantee conditions that allow those who support survivors to speak without fear of reprisals.

Finally, at the United Nations, the case of ***Cacho v. Mexico***, resolved by the Human Rights Committee, places the discussion at the intersection of gender-based violence and the use of criminal law to repress and silence investigative journalism. Lydia Cacho is a journalist, human rights defender, and founder of a center for victims of sexual violence in Cancún, Mexico. In 2005, she published Los Demonios del Edén (The Demons of Eden), a book that exposed a child pornography and exploitation ring made up of influential businessmen and public officials. A few months after the book's release, one of the businessmen mentioned in the book filed a complaint against the journalist for defamation and slander, and the authorities used that process to arbitrarily detain her. During her transfer and once detained, she was subjected to threats, beatings, and sexual assault.

The Committee found that Mexico did not refute the facts alleged by Cacho, nor did it justify why the arrest, transfer, and treatment could be considered necessary and proportionate to protect the honor of a pri-

[10]European Court of Human Rights, Tölle v. Croatia, Application No. 41987/13, Judgment of 10 December 2020, para. 40.
[11]*Ibid.*, para. 47.
[12]*Ibid.*

vate individual. It recalled that restrictions on freedom of expression must be exceptional and strictly comply with the test of legality, necessity, and proportionality, and that "States parties should put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression"[13].

Furthermore, the Committee emphasized that the treatment to which the victim was subjected "had a discriminatory purpose based on her sex, in the light of the nature of the sexual comments made and of the sexualized treatment and gender-based violence inflicted on her"[14] and that this is particularly relevant given that in the respondent state there is a "pattern of sexual violence against women detained (...) and the prevailing impunity for such violations"[15].

2. Domestic jurisprudence in response to the reporting and visibility of gender-based violence

Decisions by national courts have also become a key arena for disputes over the scope of freedom of expression for women who report gender-based violence and engage in feminist journalism. In some cases, courts have explicitly recognized the democratic value of these expressions and protected those who dare to speak out; in others, they have prioritized protecting the honor of alleged perpetrators over the public interest in raising awareness of gender-based violence. The cases detailed below –*Guerra v. Ruiz-Navarro*, *Akbar v. Ramani*, *Ayiro v. Namu*, and *Price v. New York*– illustrate this tension.

In Colombia, the Constitutional Court had the opportunity to rule on these tensions in the case of ***Guerra v. Ruiz-Navarro***, based on the publication, on the Volcánicas website, of the report "Eight accusations against film director Ciro Guerra for sexual harassment and abuse," signed by journalists Catalina Ruiz-Navarro and Matilde de los Milagros Londoño and published in English, Spanish, and French. The article collected the testimonies of eight women who reported sexual harassment and abuse by the renowned film director, included screenshots of WhatsApp conversations and Uber rides, and also contained journalistic assessments of how Guerra had allegedly taken advantage of his position to intimidate and abuse the complainants. The authors changed the victims' names to protect their identities and avoid reprisals, and sought Guerra's testimony before publishing, in which he denied the allegations.

The director's reaction was to launch multiple legal and extrajudicial actions, including criminal complaints, civil lawsuits for substantial damages, and a writ of protection in which he alleged the violation of his rights to a good name, honor, and the presumption of innocence, requesting the removal of the report, a retraction, and a ban on further mention of it. While the court of first instance rejected the petition, basing its decision on the journalists' freedom of expression, the Criminal Chamber of the Superior Court of Bogotá overturned this decision and ordered a correction, considering that the journalists had violated the principles of truthfulness and impartiality by not giving Guerra the opportunity to contribute his point of view, as he was not adequately informed about the specific facts and accusations against him. It also held that some parts of the article led the audience to believe that Guerra had been convicted of a crime. It therefore ordered the defendants to rectify the information in their report.

In response, the Constitutional Court selected the case for review and issued a landmark ruling. It found that the journalists had not violated Guerra's rights to honor, good name, and presumption of innocence,

[13]Human Rights Committee, Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 2767/2016, 29 August 2018, CCPR/C/123/D/2767/2016, para. 10.7.
[14]*Ibid*., para. 10.3.
[15]*Ibid*.

either in the report or in subsequent statements. It recognized that feminist journalism, public shaming as a form of protest to denounce aggressors, and expressions related to gender-based violence are specially protected by the Constitution. "Discourse that develops feminist and gender claims is especially protected. In particular, discourse that involves allegations of harassment, abuse, and sexual violence. This is not only in the public interest, but also essential for understanding structural discrimination because, as international human rights law has clarified, acts of violence against women are also phenomena of discrimination"[16].

It emphasized that complaints of sexual harassment, abuse, and violence constitute discourse of special public interest and that public protests, including practices known as *escraches*[17] (a form of feminist public denunciation aimed at exposing and preventing gender-based violence), particularly when they arise in contexts of institutional ineffectiveness, are a legitimate form of "social protest that enjoys constitutional protection" for the purpose of "staging events that involve questioning public authorities and whose objective is to demand an investigation or punishment of those responsible for human rights violations"[18].

The Court further emphasized that *escraches* "allow women, in a kind of mass word-of-mouth campaign, to prevent new acts of violence by informing other women about dangers they have encountered in their personal experience"[19]. This form of denouncing gender-based violence amplifies the voices of women victims "who may choose to remain anonymous to avoid facing their aggressors face to face, and finds allies in feminist journalism with social and political capital that help their stories reach a wide audience, which generates debate while also having a preventive effect on society as a whole"[20].

In this case, the Constitutional Court of Colombia issued a key decision that strengthens freedom of expression by recognizing special protections for feminist journalism, reporting on gender-based violence, and public shaming as pressing social issues of public interest. It also expanded the protection of investigative journalism from censorship, especially in cases of allegations of sexual violence.

In India, the case of ***Akbar v. Ramani*** falls within the context of the #MeToo movement. In 2017, journalist Priya Ramani published an open letter in Vogue India addressed to the *Harvey Weinsteins of the world*, recounting an episode of harassment she suffered in 1993 at the hands of her boss during a job interview in a hotel room. Although she did not identify him in the article, in 2018, in the wake of the momentum gained by the #MeToo movement worldwide and in India in particular, Ramani tweeted the link to the article and revealed that she was referring to MJ Akbar, a high-profile journalist and Minister of State for External Affairs in India. In further tweets, she described him as the "media's biggest sexual predator" and noted that "[l]ots of women have worse stories about this predator." Akbar responded by filing a criminal defamation complaint under Section 499 of the Indian Penal Code, alleging that the publication and dissemination of the article and tweets on digital platforms tarnished his reputation through false, derogatory, and malicious

[16]Constitutional Court of Colombia, Judgment T-452/22, Judgment of December 12, 2022, para. 35 [Own translation]
[17]In its reasoning, the Court distinguished *escraches* as a form of social expression from the exercise of journalistic activity and traced their historical origins. It noted that the term began to be used in Argentina following the 1995 presidential pardons granted to military officers convicted of crimes committed during the last dictatorship, as a form of social protest aimed at generating historical memory, expressing public indignation, and pursuing a form of social justice in contexts of impunity. The Court also observed that the term was later reappropriated by feminist collectives in Latin America as a tool to publicly denounce sexual harassment and abuse, particularly through digital platforms, thereby contributing to prevention, public debate, and collective awareness. See: Constitutional Court of Colombia, Judgment T-452/22, Judgment of December 12, 2022, para. 78.
[18]*Ibid*., para. 261 [Own translation]
[19]*Ibid.,* para. 280 [Own translation]
[20]*Ibid.,* para. 289 [Own translation]

accusations. This set in motion a process that became one of the landmark cases of the #MeToo movement in the country.

The New Delhi trial court acquitted Ramani, concluding that the case against him had not been proven. It recognized the public interest in reporting sexual harassment, held that the right to reputation of an alleged sexual abuser cannot prevail over the right to dignity of the victim, and emphasized that a woman who has suffered sexual abuse cannot be criminally punished for speaking out. To support this position, the court relied on international human rights treaties ratified by India, as well as the Vishaka Guidelines of the Supreme Court of India, which were pioneering in recognizing sexual harassment as a violation of fundamental rights in the workplace.

The decision emphasized the devastating impact of sexual harassment on women's lives, noting that "[t]he time has come for our society to understand the sexual abuse and sexual harassment and its implications on victims"[21]. The Court recalled that these acts often occur in private settings and in contexts of significant power asymmetry, and that many survivors carry the stigma and shame for years. From this perspective, the Court understood that Ramani's public statements constituted a legitimate form of self-defense "after the mental trauma suffered by the victim regarding the shame attached with the crime committed against her"[22], and that a woman who is a victim of sexual violence has "a right to put her grievance at any platform of her choice and even after decades"[23].

Finally, it held that punishing Ramani would have sent a message contrary to the protection of women who report sexual violence: "The woman cannot be punished for raising voice against the sex abuse on the pretext of criminal complaint of defamation as the right of reputation cannot be protected at the cost of the right of life and dignity of woman (...) and right of equality before law and equal protection of law"[24].

In Kenya, the case of ***Ayiro v. Namu*** addresses the tension between protecting individual reputation and defending expressions that bring cases of child sexual abuse to light. A teacher accused of sexual misconduct initially obtained an injunction from the Kenya Magistrates Court in Nairobi to prevent the publication of a journalistic investigation by *Africa Uncensored* journalist Christine Mungai. The investigation documented multiple accounts of harassment and abuse at a girls' school in Nairobi by teacher Ayiro. The journalist also identified how the teacher's close relationship with former principals had contributed to an institutional climate of silence that left students unprotected.

After hearing *Africa Uncensored*'s arguments, the Court revoked the injunction. It emphasized that imposing a prior prohibition "in such cases would have a chilling effect on victims, discourage whistleblowing, and embolden impunity"[25] and that the girls' interest in being heard, protected, and living in a safe educational environment "outweighs the temporary discomfort of adverse media coverage, especially where it has been responsibly pursued."[26] The Court further noted that the investigation had offered a right of reply and that the matter was undoubtedly in the public interest, especially given the structural tendency for sexual abuse

[21]Court of Shri Ravindra Kumar Pandey, Rouse Avenue District Courts, New Delhi, Complaint Case No. 05/2019, Judgment of February, 17, 2021, p. 89.
[22]*Ibid.,* para. 90.
[23]*Ibid.*
[24]*Ibid.*
[25]Magistrate Court of Kenya at Nairobi City, Tribunal de Magistrados de Kenia en la ciudad de Nairobi, Peter Albert Ayiro v. John-Allan Namu and Christine Mungai and others, MCCC/E2967/2025, Judgment of July 4, 2025, p. 4.
[26]*Ibid.*

in schools to remain hidden due to power dynamics and institutional silencing that place girls in a position of extreme vulnerability and lack of protection.

The Court's reversal of its initial decision to grant the teacher a preliminary injunction after hearing from the media outlet and learning about the scope of the journalistic investigation sets an important precedent, affirming that freedom of expression and of the press plays a fundamental role in preventing and exposing child sexual abuse, and acts as a check on attempts at judicial censorship aimed at silencing investigations into sexual violence.

A significant contrast arises in ***Price v. New York***, where a victim of domestic violence, Kelly Price, was blocked from the New York City's official Twitter accounts after publicly criticizing the actions of the police and municipal offices in her own case, for denying her police services by not taking her report and providing her with protection from her abusive partner. To complain about this treatment, Price directed her complaints to the Mayor's Office to Combat Domestic Violence account and the New York Police Department account. She was subsequently blocked from both accounts, preventing her from viewing their posts, responding to them, or participating in the public debate generated around these issues. In response, she filed a First Amendment lawsuit against the officials responsible for the Twitter accounts and the city of New York, alleging that they had blocked her in retaliation for her criticism.

The Court recognized that blocking her for her opinions constituted viewpoint discrimination, a conduct prohibited by the First Amendment. However, it granted qualified immunity to the officials involved, finding that there was no binding authority or a strong consensus of cases from a compelling authority addressing the context of First Amendment claims relating to government use of social media, nor suggesting that their conduct was unlawful.

This decision weakens the protection of those who seek to denounce institutional failures in addressing domestic violence. Furthermore, the ruling did not incorporate a gender perspective that would allow for an understanding that, in contexts of gender-based violence, digital spaces often become channels for demanding protection and raising awareness of violence when institutional mechanisms fail. In practice, the decision s up enabling subtle mechanisms of silencing by state actors in digital environments, particularly affecting women who speak out against violence.

> ***I come from a country that is extremely polarized, where feminism is completely criminalized. In other words, right now, most of the activists who remain there are on the front lines, supporting other women and survivors of all types of gender-based violence, including state violence, and they are doing so underground.***
>
> ***I know many colleagues, men and women and transgender people in Cuba who say no, they don't feel afraid. I have felt afraid. I have been interrogated by the political police even while pregnant with a daughter in my arms.***
>
> ***And yes, I am still afraid in Spain, but I decided that I had to face it because what I couldn't live with was the fact of laying my head on my pillow every night having closed the door on a woman or a person who came asking me for help.***
>
> *Marta María Ramírez*

3. Content moderation and gender-based violence on digital platforms

In addition to international rights protection systems and national courts, digital platforms are a crucial arena where the freedom of expression of women who denounce human rights violations and gender-based violence is contested. The ***case of violence against women*** decided by the Oversight Board shows how moderation on social media can silence or protect feminist expressions that are essential for raising awareness of such violence.

The case originated in Sweden when an Instagram user posted a video recounting her experience in an abusive relationship, criticizing victim blaming in cases of gender-based violence, and sharing information about organizations that support victims of such violence and a helpline, with a caption that read, "men murder, rape and abuse women mentally and physically – all the time, every day." The post, which had been viewed 10,000 times, was removed by two reviewers after being flagged by Meta's automated classifier, and the user was penalized. Although the user's appeal was sent to the High Impact False Positive Override (HIPO) channel, the content was returned to the same reviewers, who reviewed the content a total of seven times and confirmed its removal. Only after the Board selected the case, Meta determined that the removal was a mistake, restoring the content and removing the user's penalty.

A second post–a video in which a woman said she hated men because she feared violence, compared abusers to poisonous snakes, and called on male allies to support women–met a similar fate. It was viewed 150,000 times before being removed for violating the hate speech policy and resulting in a new sanction. The user appealed to the Board.

The Board concluded that neither of the two posts violated Meta's policies. It recalled that since 2017, activists have complained that "Facebook's hate speech policies result in the removal of phrases associated with calling attention to gender-based violence and harassment" and are removed "on the grounds of being anti-men hate speech."[27]

With regard to the first publication, the Board understood that the caption did not generalize about all men; instead it should be read as a qualified statement in the context of the International Day for the Elimination of Violence against Women. Some Board members based their analysis on the global context of gender-based violence to argue that the content in question sought to raise awareness of this social phenomenon, while others preferred not to use this criterion because it could give rise to controversial interpretations of what constitutes hate speech. The majority of the Council did not take into account the social phenomenon of violence against women or the debates on its causes in reaching the conclusion that the statement was qualified.

Regarding the second post, the Board determined that, viewed in its entirety, it was not an expression of contempt for men, but rather a condemnation of gender-based violence and those who commit it. Although some members disagreed because they understood it to be an expression of contempt, the majority decided that it should be restored.

The Board highlighted that "many gender-based violence survivors that speak up and generate awareness see their discourse censored online"[28] and "that content raising awareness of gender-based violence is

[27]Oversight Board, Violence against women, Standard decision, July 12, 2023.
[28]*Ibid.*

often mistakenly removed while misogynistic content remains online"[29] due to hate speech policies that are "sex and gender-neutral." This hinders awareness-raising about gender-based violence, "leading to women changing their online behavior by limiting their interactions and self-censoring."[30]

In addition, among other things, the Oversight Board recommended that Meta "include the exception for allowing content that condemns or raises awareness of gender-based violence in the public language of the Hate Speech policy."[31]

In the ***case of India sexual harassment video***, the Board examined a video shared by an account that disseminates perspectives from the Dalit community in India[32], which showed a group of men touching and sexually harassing an Adivasi woman[33]. Both Dalit and Adivasi women are frequent victims of sexual violence. The account had approximately 30,000 followers at the time, mainly in India, and the video had already gone viral before it was posted.

The victim in the video was not identifiable, there was no nudity, and the purpose of the content was to denounce systematic sexual violence against Dalit and Adivasi women. Following a user report, the content was reviewed by moderators and removed for violating Meta's adult sexual exploitation policy, which prohibits depictions of sexual violence. As a result, the account received a standard penalty, a severe penalty for flagrant violations, and a 30-day restriction on recording live videos.

The case was then escalated for review by policy and safety experts. Upon review, the post received a newsworthiness waiver and was restored with a warning screen marking it as violent or graphic content and restricting access to minors under 18.

The Board held that "keeping the content on the platform is consistent with Meta's human rights responsibilities," recognizing "that the content had high value in terms of public interest" by highlighting sexual violence against a marginalized group. But it also highlighted some risks: content depicting sexual assault could cause serious harm, especially when the victim is identifiable. In this regard, it stressed that content of this type should not remain online unless published with the victim's consent, as it can be re-victimizing and generate social stigma.

In this vein, the Board emphasized that raising awareness of sexual violence against marginalized groups requires clear policies that distinguish between content intended to raise awareness and content that could perpetuate violence or discrimination. It also recognized the context of structural violence in India against "people from the Dalit and Adivasi communities (...) especially women who combine caste and gender," and stressed that, given that the government "persecutes independent news organizations and public records do not accurately represent crimes" against these groups, social media has become an essential channel for documenting discrimination and violence.

To effectively protect freedom of expression and allow for the visibility of sexual harassment of marginalized groups, without compromising the rights of victims, the Board recommended that Meta create a specific exception within its adult sexual exploitation policy for content intended to raise awareness about

[29] *Ibid.*
[30] *Ibid.*
[31] *Ibid.*
[32] The lowest caste in the Indian caste system.
[33] The term *adivasi* is used to refer to a diverse group of indigenous peoples in India.

sexual violence against marginalized groups. This exception would allow reviewers to refer relevant cases to specialists, who would decide whether to apply the public interest exception.

4. Conclusion

The cases analyzed in this section reveal how various power structures, whether judicial, institutional, media, or digital, influence who can speak out on issues as sensitive and essential to the public interest as rights violations and, in particular, gender-based violence. As the United Nations Special Rapporteur on freedom of expression, Irene Khan, has warned, "[i]n a perverse twist in the #MeToo age, women who publicly denounce alleged perpetrators of sexual violence online [especially in digital environments] (...) are increasingly subject to defamation suits or charged with criminal libel or the false reporting of crimes (...) [w]eaponizing the justice system to silence women"[34].

The cases of journalists Jineth Bedoya Lima, Anna Politkovskaya, and Lydia Cacho show that, in contexts hostile to critical journalism, women who investigate human rights violations face extreme risks: kidnapping, torture, attempted murder, surveillance, or abusive legal proceedings. And while women journalists "face the same risks as their male peers when they investigate and report on corruption, organized crime and human rights violations, they also face specific gender-based risks owing to the fact of being women."[35]

National courts reproduce or reinforce these patterns of silencing. In *Guerra v. Ruiz-Navarro* (Colombia) and *Akbar v. Ramani* (India), the courts recognized that feminist journalism, accounts of sexual violence, and expressions denouncing structural discrimination are especially protected forms of speech, essential for preventing further violence and ensuring democratic public debate. Along the same lines, *Ayiro v. Namu* (Kenya) reaffirmed that freedom of the press is crucial for raising awareness of sexual abuse against girls and that prior censorship has a devastating effect on victims and on the possibility of reporting institutional irregularities.

In *Tölle v. Croatia*, the European Court confirmed that criminally punishing defenders who work to protect victims of gender-based violence and raise awareness of the issue violates freedom of expression and has an intimidating effect that encourages impunity.

Conversely, *Price v. New York* (United States) shows how the absence of a gender perspective in the interpretation of freedom of expression can enable subtle mechanisms of state silencing of victims of gender-based violence. This decision is a setback for women's freedom of expression.

Adding to this picture is a new and increasingly decisive front for freedom of expression: content moderation on digital platforms. The cases of the Oversight Board show that the erroneous removal of posts denouncing gender-based violence constitutes a contemporary form of silencing. In both cases, the Board warned that "neutral" hate speech or sexual exploitation policies can erase expressions that are crucial for making structural violence visible.

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[34]Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Irene Khan, Report on Gender Justice and the Right to Freedom of Opinion and Expression, A/76/258, 30 July 2021, para. 22. Available at: https://docs.un.org/en/A/76/258

[35]Special Rapporteur on violence against women, its causes and consequences, Dubravka Šimonović, Report on Combating violence against women journalists, A/HRC/44/52, 6 May 2020, para. 53. Available at: https://docs.un.org/en/A/HRC/44/52

Taken together, this selection of cases reflects that, in different parts of the world, women who make violence visible and express themselves in favor of women's rights face not only aggressors, but also systems and structures that, to this day, generate incentives for silence, whether through physical violence, abusive lawsuits, lack of effective investigations, or systematic errors in algorithmic moderation.

> ***We cannot report it because the system is hyper-misogynistic; we cannot go to our institutions; we do not have a state that protects us.All we have is our interpretation of reality and our ability to organize and remember (...) Making it public is about connecting my thin thread to counterhistory, that counter-hegemonic history that we are writing and creating as women from a place of oppression, violence, and victimization.***
>
> ***Ximena Peredo***

III. Expelling them from public spaces: structural violence against the freedom of expression of women journalists, politicians, and human rights defenders

Freedom of expression occupies a central place in contemporary democratic systems. This has been recognized by the Inter-American Court of Human Rights: it is not only an individual right, but also represents a collective right and a structural guarantee that enables public deliberation, and has therefore been considered a cornerstone for the existence of a democratic society.

However, its exercise is neither neutral nor uniform, as it is deeply conditioned by historical power relations that determine who can speak, from where, and at what cost. In this sense, women who actively participate in public life, such as human rights defenders, journalists, or political leaders, face specific and disproportionate obstacles that directly and indirectly restrict their right to freedom of expression.

Through threats, physical and sexual assault, criminalization of dissent, judicial harassment, sexual violence, smear campaigns, and harassment in digital environments, attempts are made to discipline women for their participation in public debate.

From this perspective, it is essential to analyze freedom of expression from a gender and intersectional perspective, recognizing that experiences of violence and silencing are intensified when gender intersects with other factors of vulnerability, such as ethnicity or race, community role, political orientation, and the context of armed conflict, among others.

Far from being exceptional scenarios, the cases examined in this section reveal the existence of repeated patterns of aggression against women who exercise public functions of denunciation or leadership and highlight the structural failures of states and private actors to guarantee real and effective conditions for the exercise of freedom of expression.

The section is structured around the analysis of a series of judicial decisions that allow us to identify how violence against women operates as a mechanism of restriction or censorship on their right to freedom of expression.

In particular, it highlights the progressive consolidation of reinforced state obligations to prevent, protect, and guarantee against known and foreseeable risks affecting women who exercise their right to express themselves in contexts of structural violence. At the same time, it emphasizes the responsibility of private actors, such as the media and digital platforms, in creating safe environments that do not reproduce or deepen gender inequalities.

> ***Women's experiences are not represented in the public sphere, and as a result, a single male view of the world dominates. Masculine energy alone is problematic and poorly resolved. This is creating a crisis of civilization, because half of the population is missing, with their views, their feelings, and their thoughts about what life in common is. Because of the destabilizing power of our voice and our way of seeing the world, we are also subjugated and censored, because it destabilizes this male domination over the state of things, the future of things, the reason for things, and so on. It is not allowed to be public.***
>
> *Ximena Peredo*

1. Women human rights defenders: structural violence, forced displacement, and indirect impact on expression

The case of ***Yarce v. Colombia*** highlights how violence against women human rights defenders not only affects individual rights—such as life, personal integrity, and personal freedom–but also, in certain contexts, acts as a mechanism of social disruption that directly impacts the collective exercise of freedom of expression and association.

The case is set against the backdrop of Colombia's internal armed conflict and, in particular, the extreme violence experienced in Comuna 13 in Medellín in the early 2000s. During that period, the Colombian Government declared a state of emergency and deployed large-scale military operations with the aim of regaining territorial control from armed groups. These operations took place in a context marked by a strong paramilitary presence, high levels of poverty, and a population exposed to serious human rights violations.

The victims in the case were five women human rights defenders and community leaders: Myriam Eugenia Rúa, Luz Dary Ospina, María del Socorro Mosquera, Mery del Socorro Naranjo, and Ana Teresa Yarce. All of them were involved in community outreach, reporting abuses, and defending rights in Comuna 13, which made them visible and particularly exposed figures. In analyzing the case, the Inter American Court highlighted that, during that period, violence against women defenders was "widespread" and that they were subjected to threats, displacement, disappearances, sexual violence, torture, and exile precisely because of their public role and their work in human rights[36].

Myriam Eugenia Rúa and Luz Dary Ospina were forced to flee after receiving direct threats and learning that their names were on lists of people marked for assassination by paramilitary groups. Their homes were subsequently raided and destroyed, without the state guaranteeing effective protection or conducting thorough investigations. María del Socorro Mosquera, Mery del Socorro Naranjo, and Ana Teresa Yarce, for their part, were arbitrarily detained by joint Army and Police forces, based on unfounded accusations by neighbors.

[36]Inter-American Court of Human Rights, Case Yarce and others v. Colombia (Preliminary objection, merits, reparations and costs), Judgment of 22 November 2016, Serie C No. 325, pars. 87 and 93.

Although they were released days later and the criminal cases were closed, upon returning to the commune they were subjected to further threats and acts of intimidation by armed groups in retaliation for having denounced human rights violations. Ana Teresa Yarce filed complaints of forced displacement and threats, after which she began to receive more serious intimidation. Although protective measures were ordered, they proved insufficient.

On October 6, 2004, Yarce was murdered. Although the perpetrator was convicted, the Court considered that the state had failed in its duty to guarantee and prevent a risk that was known and foreseeable.

From the perspective of the right to freedom of association, the Inter-American Court developed relevant arguments on the matter. It recalled that Article 16 of the American Convention not only protects the formal possibility of association, but also imposes on states a positive obligation to "create legal and factual conditions for its exercise, which includes, where relevant, the duties to prevent attacks on free association, protect those who exercise it, and investigate violations of that freedom."[37] It also held that freedom of association entails the possibility of meeting with other people "for the purpose of seeking the common realization of a lawful end, without pressure or interference that could alter or distort that end."[38]

The Court considered it proven that all the victims were "community leaders and human rights defenders, at the time of the events they were reporting human rights violations in their neighborhoods,"[39] and that the acts of violence, threats, and displacement were directly linked to their community and reporting work. It emphasized that the forced displacement had a serious effect on their right of association, since their work necessarily required a territorial presence in Comuna 13. Being forced to leave, the women "were unable to continue freely exercising their work as human rights defenders."[40]

It also highlighted the inhibiting effect of Yarce's murder, noting that "after that event, Ms. Mosquera and Ms. Naranjo were forced to leave and stop carrying out their duties due to the insecurity and fear they felt because of what had happened"[41]. Consequently, the Court considered that the state violated the right to free association of the victims who were displaced, since it did not guarantee them the necessary means to freely carry out their activities as human rights defenders as members of organizations.

The Court also noted that the displacement had "differentiated or disproportionate effects on women because of their gender," who not only constituted the largest displaced population group but also faced exacerbated difficulties inherent to this situation. The Court recognized the existence of "unusually high exposure and vulnerability" for displaced women, especially those who exercised community leadership, and assumed that the displacement of Rúa, Ospina, Mosquera, and Naranjo "had a particular impact on them linked to their gender," deepening pre-existing patterns of discrimination and violence[42].

From a freedom of expression perspective, this case consolidates a fundamental standard by affirming that, in contexts of widespread and differentiated violence against women human rights defenders, the state has a reinforced obligation to prevent, protect, and guarantee the exercise of their rights. The Court held

[37] *Ibid.,* para. 271 [Own translation]
[38] *Ibid.*
[39] *Ibid.*, para. 272 [Own translation]
[40] *Ibid.*, para. 275 [Own translation]
[41] *Ibid.*
[42] *Ibid.*, para. 243 [Own translation]

that the failure to adopt effective measures in the face of foreseeable risks prevented the victims from continuing their community work and reporting, directly affecting the exercise of freedom of association. Thus, the women defenders were expelled from the public sphere, as their organizations were dismantled and an inhibiting effect was generated on community work and the reporting of human rights violations.

2. Women journalists and the cost of reporting: gender-based violence, state reprisals, and chilling effects

In the Inter-American human rights system, the case of ***Yoani Sánchez v. Cuba*** allows for an analysis of gender-based violence and state reprisals against women journalists from a structural and sustained perspective. This case reveals a pattern of systematic state harassment as retaliation for the exercise of freedom of expression by a critical journalist—including arbitrary detentions, surveillance of her residence, telephone tapping, ill-treatment, prohibition from entering public places, and denial of authorization to travel abroad.

In analyzing the case, the Inter-American Commission on Human Rights characterized these practices as part of a structural pattern of persecution against opposition journalists in Cuba, aimed at discouraging the exercise of independent journalism and political dissent. In particular, it emphasized that the arrests suffered by the petitioner "were aimed at punishing Yoani Sánchez for her critical stance against the Cuban government, her political opinions and expressions, and her civic activism", and that these deprivations of liberty were based on "a restriction of the exercise of her rights to freedom of thought and expression."[43]

Applying a gender perspective, the Commission highlighted that the violence against the journalist included specific and gender-differentiated forms, such as physical assault during detention and attempted forced nudity, acts that it described as gender-based violence perpetrated with the intention of "humiliate her and punish her for her work as a journalist and blogger."[44] In this regard, citing its report "Women Journalists and Freedom of Expression," the Commission recalled that "documented attacks on female journalists present, in a differentiated form, sexual violence in captivity or in detention", and that these practices seek not only to silence journalists, but also to send a deterrent message to other women journalists about the consequences for those who think like them.[45]

The Commission also gave special relevance to the collective inhibitory effect generated by state reprisals. It noted that the smear campaigns promoted by state authorities and the media, as well as constant surveillance and restrictions on movement, not only affected Yoani Sánchez's private life and security, but also served as a public warning about the consequences of expressing dissenting opinions. In this regard, it held that these state practices consisted of "reprisals for her journalistic activity and for the opinions and expressions of criticism and opposition to the Cuban government," and that their purpose was to "silence her dissident voice to keep others from having access to essential information of public interest that the state would prefer to conceal."[46]

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[43]Inter-American Commission on Human Rights, Report No. 297/21 - Case 13.639: Yoani María Sánchez Cordero, Cuba, Admissibility and Merits, OEA/Ser.L/V/II Doc. 307, 30 October 2021, para. 132.
[44]*Ibid.,* para. 135.
[45]Inter-American Commission on Human Rights, Women Journalists and Freedom of Expression, OEA/Ser. L/V/II. CIDH/RELE/INF.20/18, 31 October 2018, para. 50 and 76.
[46]Inter-American Commission on Human Rights, Report No. 297/21 - Case 13.639: Yoani María Sánchez Cordero, *Op. cit.*, para. 205.

In the universal sphere of human rights protection, the United Nations Human Rights Committee addressed the intersection between gender-based violence, the use of criminal law, and freedom of expression in ***Cacho v. Mexico***.[47] In this case, the Committee concluded that the detention, harassment, and sexual violence suffered by the journalist after the publication of a book exposing a child exploitation network was an attempt to silence her journalistic work, in violation of Article 19 of the International Covenant on Civil and Political Rights.

The Committee recalled that restrictions on freedom of expression must be exceptional and meet strict tests of legality, necessity, and proportionality. It was also categorical in stating that "no detention based on charges of defamation may ever be considered either necessary or proportionate" and that the criminalization of expression, particularly when it results in custodial sentences, is incompatible with international standards. The Cacho case shows how the use of the criminal justice system, combined with sexual violence and torture, operates as a particularly serious form of censorship against women journalists who investigate power structures and denounce serious rights violations.

In the European system, the European Court of Human Rights also addressed the use of criminal law to silence critical journalistic voices in ***Parıldak v. Turkey***. The case took place in the context following the attempted coup of July 15, 2016, after which the Turkish government declared a state of emergency and deployed a policy of mass repression against journalists, academics, and public figures accused of having links to the FETÖ/PDY organization, which was accused of planning the coup. In this context, Ayşenur Parıldak, a journalist and legal columnist, was arrested, remanded in custody, and subsequently sentenced to seven years and six months in prison for the crime of belonging to a terrorist organization. After domestic appeals and confirmation of her conviction in three instances, the journalist brought her case before the European Court.

The conviction was based on a set of elements that included her journalistic activity—in particular, publications critical of the government on social media and newspaper articles, as part of her work for the newspaper *Zaman*, considered close to the FETÖ/PDY movement. Parıldak denied all charges and argued that the trial was politically motivated, aimed at punishing and silencing her criticism of the government.

In analyzing the case under Article 10 of the European Convention on Human Rights, the regional human rights court emphasized that critical expressions against a government are protected in a democratic society, especially considering the role of journalism in a democracy.

The regional court acknowledged that, while the protection of national security may constitute a legitimate aim, Turkish authorities did not demonstrate that the journalist's statements posed a real threat, since, although they criticized the government, they did not incite violent acts or promote terrorism. It also questioned whether the measures taken were necessary and proportionate in a democratic society. On this point, it emphasized that the use of criminal law and preventive detention measures against critical expressions generates "a chilling effect on freedom of expression, as such a decision intimidates members of civil society and silences dissenting voices."[48]

Although the ruling does not include an explicit analysis from a gender perspective, its relevance to the freedom of expression of women journalists is undeniable. This case illustrates how, in contexts of exception and securitization of public discourse, critical journalists can be particularly vulnerable to criminalization

[47]A detailed analysis of the case *Cacho v. Mexico* is provided in section II.1.
[48]European Court of Human Rights, Parıldak v. Turquía, Application No. 66375/17, Judgment of 19 March 2024, para. 128 [Own translation]

processes that seek to discredit their professional work, expel them from the public sphere, and send a deterrent message to other women who participate in public debate. In this sense, the use of broad and vague criminal charges, combined with preventive detention and severe sentences, acts as a gag on women journalists.

In a similar vein, although at the national level, the Constitutional Court of Colombia has developed particularly relevant case law on the protection of women journalists' freedom of expression—progressively recognizing how different forms of gender-based violence seek to silence their work, directly affecting the practice of journalism. Through decisions handed down in various contexts, this court has identified patterns of gender discrimination, inhibiting effects on public debate, and regulatory and institutional deficits that hinder the free exercise of journalism by women.

In ***Restrepo Barrientos v. El Colombiano Newspaper***, the Constitutional Court of Colombia explicitly addressed the intersection between gender-based violence in the workplace, structural inequality, and freedom of expression, recognizing that sexual harassment against a journalist not only violates individual rights but also creates conditions incompatible with the free exercise of journalism. The aforementioned case originated from a complaint filed by Claudia Vanesa Restrepo, a journalist for the newspaper *El Colombiano*, who was the victim of a sexual assault allegedly committed by a co-worker. She endured a lack of adequate institutional responses from the media outlet to prevent, investigate, and punish the reported violence.

The Court contextualized the events within a broader pattern of violence against women journalists, emphasizing that such violence cannot be analyzed in isolation or from a position of supposed institutional neutrality. In particular, the Court emphasized that the lack of internal protocols with a gender focus, coupled with the implicit requirement that the victim continue to share the workplace with her alleged attacker, reproduced a situation of power asymmetry and revictimization. In this regard, it held that "workplaces cannot become scenarios of neutrality or tolerance for behaviors related to gender-based violence" and that employers have an obligation to adopt "concrete measures to support victims of this type of violence."[49]

The Court rejected the company's argument that sexual violence occurring outside working hours would exempt the employer from liability. On the contrary, it affirmed that the obligation of non-discrimination and prevention of gender-based violence "is not only in the hands of state authorities,"[50] but also extends to private actors who, in the workplace, are in a position of power and can decisively affect women's rights. This statement is particularly relevant in the field of journalism, where hierarchical relationships, public exposure, and job insecurity can exacerbate conditions of vulnerability.

One of the most significant contributions of the ruling is the explicit recognition of self-censorship as a direct consequence of gender-based violence. The Court held that sexual harassment and the lack of adequate institutional responses create hostile environments that push women journalists to silence themselves, restrict their participation, or even abandon the profession. In the words of the Court, the "harassment of women journalists on the basis of their gender means that they cannot find safe spaces and therefore opt for self-censorship, silencing their voices, their messages, and their critical judgment, or withdrawing from their profession."[51]

[49]Constitutional Court of Colombia, Judgment T-140/21, Judgment of May 14, 2021, para. 3.5.13 [Own translation]
[50]*Ibid*., para. 3.4.17 [Own translation]
[51]*Ibid.,* para. 3.8.27 [Own translation]

The Constitutional Court also clearly articulated the relationship between gender equality and freedom of expression, stating that "freedom of expression without gender equality would be reduced in its scope and significance for democracy, as it would leave out the voices and understanding of more than half of the world's population."[52] Although the case referred to a labor dispute, the Court's gender-based approach and its emphasis on discrimination and the risks faced by women journalists set an important precedent for future cases related to other types of violence against women.

Along the same lines, but shifting the focus from the workplace to the use of the judicial system, the Constitutional Court of Colombia deepened the protection of women journalists' freedom of expression in the case of ***Guerra v. Ruiz-Navarro***[53], by examining the differentiated impact that the abusive use of the judicial system can have on the practice of feminist journalism. Without reiterating the facts of the case here, it is important to note that the Court approached the conflict from an explicitly gender-based perspective, recognizing that journalism "practiced by women is fundamental to the construction of a more inclusive and diverse democracy."[54]

Drawing on its arguments set out in the judgment in *Restrepo Barrientos v. Diario El Colombiano*, the Court emphasized that freedom of expression loses its meaning for democracy in the absence of gender equality, as it excludes women's voices and experiences.[55] The Court also addressed the "particular phenomena of violence–differential risk–faced by women who engage in this activity"[56] and in this context, it underscored "the need to guarantee women's exercise of the right to freedom of expression,"[57] as this will bring about "the legal, political, social, economic, and cultural transformations that are essential to eradicating discrimination and/or violence against them,"[58] while also advancing "the reporting of abuses and the search for solutions that will result in greater respect for all their fundamental rights."[59]

The most recent development in this line of jurisprudence can be found in the decision of the Constitutional Court of Colombia in ***Dávila v. Consejo Nacional Electoral***, where the court addressed online misogynistic violence from a perspective specifically focused on women journalists. Without elaborating here on the phenomenon of digital violence, which is analyzed in the corresponding section on that topic, it is relevant to note that the Court recognized the existence of a structural pattern of attacks directed against women journalists as a result of their reporting on matters of public interest, characterized by sexist, sexualized, and degrading insults aimed at discrediting their professional work and expelling them from public debate.

The Court emphasized that these attacks are not isolated expressions, but manifestations of historical gender discrimination, reproduced in digital environments, which disproportionately affect women journalists and ultimately lead to self-censorship. In this regard, it affirmed that digital violence against women journalists represents a serious obstacle to the exercise of freedom of expression and to informational pluralism, as it generates "a direct attack on the visibility of women and their participation in public life"[60].

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[52] *Ibid*., para. 3.8.3 [Own translation]
[53] A detailed analysis of the Guerra v. Ruiz-Navarro case is provided in section II.2.
[54] Constitutional Court of Colombia, Judgment T-452/22, *Op. cit.,* para. 264 [Own translation]
[55] *Ibid.*
[56] *Ibid.*
[57] *Ibid.*
[58] *Ibid.*
[59] *Ibid.*
[60] Constitutional Court of Colombia, Judgment T-087/23, Judgment of March 28, 2023, para. 59 [Own translation]

These jurisprudential developments reveal how violence against women journalists operates as a mechanism of exclusion from the public sphere that transcends individual cases and extends to other women who participate in debates with political and social impact. Furthermore, "[a]ttacks on female journalists violate not only their freedom of expression, but also society's right to information from diverse media."[61]

3. Women politicians and female leadership in the face of harassment campaigns

The case of ***Dumpson v. Ade*** sets an important precedent for analyzing how violence directed against women in political leadership positions–even in non-state contexts–can operate as a specific form of restriction on freedom of expression and participation in public life. The decision is part of a broader pattern of gender-based political violence, in which attacks are directed not only against ideas or public actions, but also against the mere presence of women in historically male-dominated spaces of power.

The case originated after Taylor Dumpson was elected as the first African American woman to preside over the student government at American University. Immediately after her election, Dumpson was subjected to intimidating acts with strong symbolic, racial, and sexist overtones, followed by a campaign of harassment–including coordinated attacks in digital environments[62]–whose explicit goal was to delegitimize her leadership and dissuade her from exercising the office to which she had been democratically elected. These attacks were not directed at specific decisions she made in her role, but rather at her identity as a woman and as a racialized woman occupying a visible position of authority in the public sphere.

The United States District Court for the District of Columbia emphasized that the attacks suffered by the plaintiff could not be understood as isolated incidents or mere insults, but rather as a deliberate strategy of intimidation aimed at generating fear, socially isolating her, and limiting her ability to act in public spaces. As a result of this violence, Dumpson found her ability to move freely around the university campus, participate in academic activities, and fully perform her leadership role severely restricted.

From this perspective, the decision is particularly relevant to the freedom of expression of women politicians and public leaders, as it recognizes that coordinated harassment campaigns can have profound inhibitory effects, capable of removing them not only from the political sphere, but also from other essential spaces of training, deliberation, and public participation. By protecting the plaintiff's right to participate on equal terms in public life, the ruling affirms that gender-based violence–even when manifested through speech and actions in digital environments–cannot be protected by freedom of expression when its purpose is to exclude women from public debate and the exercise of power.

4. Content moderation, gender, and cultural identity: the expression of indigenous women on digital platforms

In a series of four consolidated decisions[63], the Oversight Board examined ***cases of images of partially nude indigenous women*** posted on Instagram and Facebook, evaluating Meta's decisions to both remove

[61]Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Irene Khan, Report on Gender Justice and the Right to Freedom of Opinion and Expression, *Op. cit.*, para. 46.
[62]A detailed analysis of coordinated digital harassment and the dynamics of online harassment campaigns is provided in Section V, which is specifically dedicated to digital violence against women.
[63]Oversight Board, Images of Partially Nude Indigenous Women, Standard decision, June 3, 2025.

and retain such content. The cases involved images of Himba women (Namibia)[64], Yanomami women (Brazil)[65], and a woman mistakenly presented as part of a Maya community, although she belonged to the Karo people (Ethiopia)[66]. In three of the four cases, the Board concluded that the application of the nudity and adult sexual activity policy disproportionately restricted freedom of expression, with a particularly significant impact on indigenous women.

In analyzing the cases, the Board determined that Meta's ban on images of indigenous women with bare torsos in non-sexual contexts, combined with the granting of *ad hoc* exceptions "does not result in necessary and proportionate restrictions on expression." While acknowledging that "some depictions of indigenous nudity may impact rights to privacy," it held that a total ban "disproportionately limits expression," particularly when nudity is part of socially accepted cultural practices.

With regard to the publication involving the Yanomami people, the Board agreed with Meta's decision to retain the content, recognizing its public interest and low risk of harm. For this Indigenous people, female nudity is a non-sexualized social and cultural practice, and sufficient indicators of consent were identified in the image. On the other hand, with regard to the publications related to the Himba people, the Council considered that Meta should have applied the concession based on the spirit of the policy, given that in both cases there were indicators of implicit consent and that female toplessness is part of the historical and socially accepted customs of that community. Finally, in the case of the publication referring to the Maya/Karo people, the Board concluded that the fact that the image had been disseminated by a media outlet was not decisive in proving the existence of consent. In that case, it noted a clear disparity between the subject of the newspaper article–the Maya people–and the person depicted in the image –a woman from the Karo people– as well as the absence of a link between the content of the publication and a cultural tradition associated with nudity, which made its preservation inconsistent with Meta's policies.

Based on these cases, the Board held that "in some indigenous cultural contexts, such as those in these cases, nudity is understood as not inherently sexual but rather an integral part of cultural identity." Consequently, it affirmed that Meta's total ban on publishing images of indigenous women with bare torsos in non-sexual contexts, together with the granting of discretionary exceptions, disproportionately restricts expression and differentially affects the right of indigenous women to express themselves and "share their stories accurately on their own terms and to pass down cultural traditions." It also noted that, had Meta taken a different approach, it "would better respect users' expression while protecting indigenous women's rights to privacy."

[64]In the case of the Himba women, there were two Instagram posts from 2024 showing women from this indigenous community in Namibia with their torsos uncovered, wearing traditional attire, in non-sexual contexts. The first consisted of an image of two Himba women accompanied by a quote and a description in English referring to their people, while the second was a short video showing a Himba man dancing and Himba women in the background, bare-chested and wearing the community's traditional attire, with a description that included references to the Himba people and culture.

[65]In this case, the official Instagram account of a Brazilian political party posted an image in 2023 of a Yanomami woman with her torso exposed, accompanied by text highlighting government initiatives against illegal mining in indigenous territories. Although the content was initially removed after a manual review, Meta reversed that decision after an appeal by the user and restored the post, applying a concession of journalistic interest and adding a label identifying the content as such.

[66]In this case, a German newspaper published an image on its Facebook page in 2023 of an indigenous woman with her torso exposed holding a child, alongside an article on parenting practices in Mayan communities. The image, however, was of a woman from the Karo people of Ethiopia. After being reported, the post was deemed to violate the nudity policy by human reviewers. However, because the account was included in the cross-check system, Meta ultimately decided to keep the content on the platform as consistent with the policy's guidelines, despite acknowledging that it violated the formal rules on nudity.

Finally, the Board recommended that Meta explicitly incorporate into its policy on nudity and adult sexual activity an exception allowing the dissemination of content showing indigenous women with bare breasts when it reflects accepted cultural practices and beliefs, does not pose security risks, and does not distort or decontextualize the indigenous cultures represented.

These cases illustrate how seemingly neutral moderation policies can have disproportionate effects on indigenous women, restricting their freedom of expression, their participation in digital public debate, and the exercise of their cultural rights. This highlights the need to incorporate an intersectional approach to content governance on digital platforms, so as not to silence the cultural and gender expressions of historically marginalized groups, such as indigenous women.

These shortcomings have also been noted by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Irene Khan, who has pointed out that "the contextual knowledge, local languages and gender awareness required to identify the gender narratives that drive it are lacking among platform content moderators."[67] In this vein, she warned that it is worrying that "[a]utomated content moderation is capable of image recognition but struggles to detect sentiment, capture nuance or consider relevant linguistic and cultural traits," emphasizing that, given that social and cultural norms vary depending on the context, the absence of a situated understanding "can jeopardize women's safety."[68]

5. Conclusion

The cases analyzed in this section show that violence against women's freedom of expression is not an isolated or contingent phenomenon, but rather a structural pattern that operates differently on those who occupy visible positions of denunciation, political leadership, information production, or cultural representation. Through threats, forced displacement, judicial harassment, campaigns of intimidation, and seemingly neutral restrictions, these acts of violence seek to discourage women's participation in public debate, erode their credibility, and expel them from spaces historically reserved for the male exercise of power and speech.

From a freedom of expression perspective, international courts and bodies have begun to recognize that these practices have inhibiting effects that transcend the direct victims and extend to other women, leading to self-censorship, withdrawal, and a loss of pluralism. Violence against women journalists, politicians, human rights defenders, and indigenous women not only affects individual rights but also compromises the very quality of democratic deliberation by depriving the public sphere of voices, experiences, and knowledge that are indispensable for an inclusive society.

In this regard, recent jurisprudential developments confirm that these attacks are neither exceptional nor marginal. As the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression has warned, "[f]emale journalists, human rights defenders, politicians and feminist activists are particularly targeted for physical and psychological violence and threats, including death and rape threats, for speaking out or simply for being a woman in a leadership role."[69] Similarly, the Special Rapporteur on

[67]Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Irene Khan, Report on Gendered disinformation and its implications for the right to freedom of expression, A/78/288, 7 August 2023, para. 97. Available at: https://docs.un.org/en/A/78/288

[68]Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Irene Khan, Report on Gender Justice and the Right to Freedom of Opinion and Expression, *Op. cit.*, para. 81.

[69]*Ibid*., para. 17.

violence against women, its causes and consequences, has noted that "[w]omen human rights defenders, journalists and politicians are directly targeted, threatened, harassed or even killed for their work."[70]

The case law examined thus allows us to identify the consolidation of a fundamental standard: the effective protection of freedom of expression requires the incorporation of a gender and intersectional perspective that makes visible the ways in which attacks based on gender, race, cultural identity, or public role operate as indirect, but deeply effective, mechanisms of censorship and exclusion from the public sphere.

IV. Criminalizing protest: gender-differentiated approaches

The right to peaceful assembly is enshrined in all international human rights instruments, as well as in most national constitution. Considering that, historically, demonstrations and protests in public spaces have been a fundamental tool for raising awareness of demands and calling for and consolidating social, economic, cultural, and political change.

In turn, they are vital for the defense of democracy, the inclusion of diverse voices in public debate, the visibilization of authoritarian or discriminatory contexts, and the demand for the guarantee and defense of our human rights. Let us remember, for example, the achievements of the civil rights movement in the United States, student movements worldwide, the peace movement, the hippie movement, the sexual revolution around the world, suffragism, Stonewall and its legacy, the anti-apartheid movement, the Arab Spring, labor movements, the environmental movement, and the historic struggle of women through the feminist movement.

Despite the fundamental importance of the right to protest and the achievements consolidated through it, it has traditionally been subject to illegitimate restrictions: disproportionate use of force by states to repress it, human rights violations, and criminalization. According to data from the CIVICUS Monitor, of all violations of civic space recorded worldwide in 2025, 44,8% were related to freedom of expression. Violations of freedom of peaceful assembly accounted for 29% of the total, and violations of freedom of association accounted for 26,6%. In 82 of the 198 countries and territories analyzed, the arrest of protesters as a tactic to prevent or disperse protests was documented.[71]

The exercise of this right by women, as we will see in the cases outlined below, has different consequences than it does for men. Indeed, by challenging the traditional stereotype that places us in the private sphere rather than the public sphere, our presence in the streets is often perceived as a transgression by authorities, societies, armed groups, and others. Historically, this has meant that women who participate in protests, or certain social movements, experience gender-based violence at the hands of authorities and other actors, which often takes the form of human rights violations such as torture and sexual violence. These practices are used as a political weapon against women, with the intention of punishing, controlling, causing fear, repressing, disciplining bodies, stigmatizing victims, and generating an inhibitory effect on all women who want to express themselves freely.

[70]Special Rapporteur on violence against women, its causes and consequences, Dubravka Šimonović, Report on Violence against women, its causes and consequences on online violence against women and girls from a human rights perspective, A/HRC/38/47, 18 June 2018, para. 29. Available at: https://docs.un.org/en/A/HRC/38/47
[71]CIVICUS Monitor (2025), *People Power Under Attack 2025*, p. 9. Available at: https://civicusmonitor.contentfiles.net/media/documents/GlobalFindings2025.EN.pdf

Finally, it is worth noting that in recent years, voices critical of feminist demonstrations have diverted attention from their causes and focused solely on the ways in which they are carried out, emphasizing material damage–such as vandalizing public monuments or graffiting slogans–and labeling women protesters as vandals, without taking into account that, given the structural violence we experience and the extremely high level of impunity for gender-based crimes, these are legitimate expressions

> ***I burn everything, I break everything***
> ***If one day some guy puts out your eyes***
> ***Nothing can silence me anymore***
> ***I don't need anything anymore***
> ***If they touch one of us, we all respond***
>
> ***Vivir Quintana***[72]

> ***Patriarchy is a judge that judges us for being born, and our punishment is the violence you don't see. Patriarchy is a judge that judges us for being born, and our punishment is the violence you do see. It is femicide. Impunity for the murderer.***
>
> ***It is disappearance. It is rape. And it wasn't my fault, or where I was, or how I dressed***
>
> ***Colectivo LasTesis***[73]

1. Sexual violence and stigmatization as a form of repressing protests

As mentioned above, women who participate in protests are at greater risk of sexual violence, especially when they are detained or harassed by state agents. This is evidenced by the ***Case of Women Victims of Sexual Torture in Atenco*** (2018), in which the Inter-American Court of Human Rights in 2018 found Mexico responsible for violating the human rights of eleven women–Mariana Selvas, Georgina Rosales, María Patricia Romero, Norma Jiménez, Claudia Hernández, Bárbara Méndez, Ana María Velasco, Yolanda Muñoz, Cristina Sánchez, Patricia Torres, and Suhelen Cuevas–who were detained during a public demonstration in the municipalities of Texcoco and San Salvador Atenco, Mexico. During their detention, they were subjected to physical and sexual abuse, beatings, and torture, both during their transfer to the detention center and within its facilities. Part of the sexual violence they experienced was carried out in public, as a "macabre

[72]See: Dirocie De León, A. (2024) Interview with Vivir Quintana. Columbia Global Freedom of Expression. Available at:https://globalfreedomofexpression.columbia.edu/publications/interview-with-vivir-quintana/

[73]An artistic, interdisciplinary, and feminist group from Chile dedicated to spreading feminist ideas and demands through performances that combine performing arts, sound, graphics, and visual arts with history, philosophy, and social sciences. "*Un violador en tu camino*" (A rapist in your path) is a song by the group that has become an anthem of the feminist struggle and is sung at feminist protests around the world.

and intimidating spectacle in which the other detainees were forced to listen and, in some cases, to witness what was being done to the women's' bodies."[74]

The Inter-American Court stated that "the rape of a women who is detained or in the custody of a state agent is an especially egregious and reprehensible act, taking into account the vulnerability of the victim and the abuse of power deployed by the agent,"[75] and that sexual violence was used as "a tactic or strategy of control, domination, and imposition authority"[76] that seeks to send a message of disapproval of these demonstrations to society and of the punitive lesson that women who participate in a protest will receive.

It also noted that the instrumentalization of women's bodies and their objectification through sexual violence is "one more weapon in the repression of the protest, as if, together with the tear gas and the anti-riot gear, it was merely an additional tactic to achieve the purpose of dispersing the protest and ensuring that the State's authority was not challenged again."[77]

According to the Inter-American Court, in this case, the police officers who assaulted the detained women used "coarse and sexist" language to address the victims, "alluding to their imagined sexual life and supposed failure to comply with their household roles, as well as the supposed need for domestication." This reflects the gender stereotypes typical of a sexist conception of women's role in society, which seek to "reduce the women to a sexual or domestic function, where, stepping out of those roles to demonstrate, protest, study or document what was happening in Texcoco and San Salvador de Atenco–in other words, their mere presence and action in the public sphere–was sufficient to punish them with diverse forms of abuse"[78].

Despite such acts, the violence intensified when the women filed the corresponding complaints, as the authorities denied the events that had taken place, discredited the victims' statements, and stereotyped them. The governor of the state even declared that "it is a well-known fact that, in the manual for insurgent groups, radical groups, the first thing the manual advises is that women should denounce that they have been raped."[79]

Regarding the stereotypical and stigmatizing public statements made by the governor and other high-level officials of the state of Mexico, the Court stated that it "recognizes and rejects the gender-based stereotypes present in the response by the authorities, owing to which they denied the existence of rape due to the absence of physical evidence; blamed the victims for the failure to file complaints and for the absence of medical examinations, and undermined their credibility based on an inexistent supposed membership in an insurgent group."[80]

In this regard, the Court also stated that the fact that public officials mentioned that "women 'for reasons of modesty, had not let doctors examine them,' (...) was particularly vexatious because most of the women were denied a gynecological examination, even though some of them had expressly requested this, even having to resort to a hunger strike." Likewise, the women were discredited by denying the ocurrence of sexual violence on the basis of the claim that no complaints had been filed, which is not only irrelevant,

[74]Inter-American Court of Human Rights, Case of Women Victims of Sexual Torture in Atenco v. Mexico (Preliminary objection, merits, reparations and costs), Judgment of 28 November 2018, Serie C No. 371, para. 202.
[75]*Ibid*., para. 183.
[76]*Ibid*., para. 202.
[77]*Ibid*., para. 204.
[78]*Ibid*., para. 216.
[79]*Ibid*., para. 74.
[80]*Ibid*., para. 219.

because the obligation to investigate arises when evidence exists, irrespective of the existence of a complaint, but was also false, since several of the women had tried to file complaints about the facts and the authorities had not allowed this. The Court also noted the use of expressions aimed at relieving the perpetrators of responsibility or justifying their acts; for example, by reducing the police abuse to a stress response, as well as the perpetration of stereotypes relating to the lack of credibility of women, by attributing the complaints to tactics of "insurgent groups" or "radicals." In short, the Court held that statements of this type are not only discriminatory and re-victimizing, but also create an adverse climate for the effective investigation of the facts and encourage impunity."[81]

With regard to the actions of the agents in charge of the investigation, it is worth emphasizing the testimony of Bárbara Italia Méndez Moreno. She stated that throughout the process she felt she was being questioned about her own behavior and about what she had done to "deserve" what had happened to her and to Claudia Hernández. She also referred to the conduct of one of the doctors—whose duty was to treat the women and document the reported acts—who told her that he did not believe her and referred to her as a "radical" and "filth."[82]

In the case of ***Egyptian Initiative for Personal Rights v. Egypt*** (2013), the African Commission on Human and Peoples' Rights held Egypt responsible for the human rights violations against four women journalists–Nawal 'Ali Mohamed Ahmed, 'Abir Al -'Askari, Shaimaa Abou Al-Kheir, and Iman Taha Kamel–who were sexually assaulted, beaten, and insulted by non-state agents and government officials while the police stood by and did not intervene, during protests in Cairo in 2005 that focused on a referendum to amend the Egyptian Constitution. In this case, the women were targeted because of their gender, their profession as journalists, and for seeking to disseminate their opinions on the constitutional amendments that caused the demonstrations. Domestically, these women were not properly heard by the judicial authorities and the complaints were dismissed.

The women victims alleged before the African Commission that "there was differential treatment between men and women during the riot and that the main reason why the Victims were assaulted by the authorities is basically because they are women and journalists."[83] The Commission echoed this in order to analyze the case with the appropriate gender perspective, based on the premise that the characteristics of violence commonly committed against women and men differ.[84]

First, with regard to the sexist verbal abuse used against the female victims by the attackers, such as "slut" and "whore," the African Commission considered that such expressions are not usually used against males and are intended to degrade and undermine the integrity of women who refuse to comply with the norms.[85] Secondly, the physical assaults suffered by these victims are gender-specific, as they were subjected to sexual harassment and physical violence that can only be directed at women, such as groping and touching of intimate and sensitive parts.[86] Thirdly, the threats against some of the victims, who were accused ofprostitution when they refused to withdraw their complaints, were also gender-specific. All of these human rights violations "were perpetrated on the Victims because of their gender"[87].

[81] *Ibid*., para. 313.
[82] *Ibid*., para. 314.
[83] African Commission on Human and Peoples› Rights›, Communication 323/06: Egyptian Initiative for Personal Rights and INTERIGHTS v. Egypt, 12 December 2011, para. 124.
[84] *Ibid*., para. 142.
[85] *Ibid*., para. 143.
[86] *Ibid*., para. 144.
[87] *Ibid*., para. 137.

Particularly with regard to sexual violence, the African Commission understood that these acts took place in the form of "systematic sexual violence targeted at the women participating or present in the scene of the demonstration." The Commission considered that the perpetrators of the violence "seemed to be aware of the context of Egyptian society; an Arab Muslim society where a woman's virtue is measured by keeping herself physically and sexually unexposed except to her husband. The perpetrators were aware of the consequences of such acts on the Victims, both to themselves and their families, but still perpetrated the acts as a means of punishing and silencing them from expressing their political opinions"[88] and "deter their activism in the political affairs of the (...) State."[89]

A few years before this decision by the African Commission in relation to Egypt, in 2011 the Cairo Administrative Court had ruled on a similar pattern of sexual violence against women protesters in the case of ***Multiple Plaintiffs v. Head of SCAF*** (2011), declaring it illegal to conduct compulsory virginity tests on women detained by military forces during public protests. In March of that year, the two plaintiffs, Samira Mahmoud and Maha Abdullah, were participating in a peaceful demonstration in Al-Tahrir Square when one of them was detained and subjected to a forced virginity test. Both brought the case before the Administrative Court against the head of the Supreme Council of the Armed Forces, the Minister of Defense, the military prosecutor general, and the head of the Central Military Zone, requesting the urgent suspension of the army's decision to impose these mandatory virginity tests on detained women.

The Court concluded that this administrative decision violated the Egyptian Constitution and international human rights treaties ratified by Egypt, as it constituted a violation of the inviolability of the body and a direct attack on the human dignity of the detainees. Given that Islam is the state religion and Sharia principles are the main source of legislation, the Sharia principle of protection and sanctity of the human body was the main justification used to determine that virginity tests were illegitimate.

Although the ruling did not use a gender-based approach or analyze these practices as a form of sexual gender-based violence aimed at humiliating, punishing, and disciplining female detainees, it set an important precedent for women's freedom of expression by condemning and preventing the practice of detaining and subjecting them to virginity tests for participating in a protest.

The decision is also significant because, for the first time, an Egyptian court accepted a report from an international NGO as evidence to demonstrate the existence of the administrative decision supporting these practices. In that report, Amnesty International noted that General Abdel Fatah El Sisi had explained to the organization's Secretary General that the motivation behind the virginity tests carried out in March–at the time of the protesters' arrest–was to "protect the army from any potential rape allegation." The Court described this argument as "perverse" and emphasized that "legitimate aims shall only be pursued through legitimate means," stressing that such tests were contrary to the law and the Constitution.

2. The criminalization of women human rights defenders

In 2021, the African Commission revisited a case involving violations of the rights of protesting women. In ***Williams v. Zimbabwe***, the victims were two members of the Women of Zimbabwe Arise (WOZA) movement –an organization that seeks to influence and advocate for

[88] *Ibid*., para. 152.
[89] *Ibid*., párr. 166.

issues affecting women and their families in Zimbabwe– who had been arrested and prosecuted multiple times on charges of disturbing the peace for rticipating in peaceful protests that included processions, marches, mass demonstrations, sit-ins, verbal expressions, and the display of banners.

In one of these demonstrations, Jennifer Williams and Magodonga Mahlangu, founders of WOZA, were arrested and imprisoned for three weeks. Despite having reported the incidents internally and obtaining a favorable ruling from the Zimbabwean Supreme Court, which recognized their constitutional right to protest and the violation of their personal liberty, the women continued to be harassed, intimidated, threatened, arbitrarily arrested, and prevented from participating in public demonstrations and peaceful protests.

The case was brought before the African Commission, which held that the state of Zimbabwe was responsible for violating the applicants' rights to freedom of expression, freedom of assembly, freedom of association, among others. The Commission determined that there were systematic patterns of disruption of peaceful protests organized by WOZA, accompanied by persecution, threats, and harassment against its members.

Emphasizing the close link between freedom of expression, freedom of assembly, and freedom of association, the Commission affirmed that States have an obligation to ensure that associations can act independently without state interference. It is the state, it noted, that has an obligation to create an environment conducive to the exercise of these rights "without fear and encumbrances,"[90] Reiterating its previous jurisprudence, the Commission was emphatic in stating that "preventing human rights defenders from gathering with others to discuss human rights is a violation of the right to freedom of association."[91]

The African Commission also emphasized that the state did not demonstrate that the restrictions imposed on freedom of expression pursued legitimate aims such as the protection of morals, public order, or national security, nor that they were necessary in a democratic society. Therefore, the measures taken to disperse the demonstrations, including the use of force and arrests, were considered unjustified and illegal. Added to this was the issue of the differential treatment: while critical demonstrations were suppressed, those favorable to the government were allowed to proceed unhindered.[92]

The African Commission's decision significantly strengthened the protection of the right to freedom of expression and peaceful protest, ordering the state to compensate the victims; to implement domestic laws, policies, and practices, as well as international and regional standards, for the protection and facilitation of the right to participate in peaceful protests and public demonstrations; and to provide human rights training to the police and public officials. However, the ruling did not incorporate a gender perspective that recognizes that the victims were women defenders and women's rights activists and that their persecution was linked to that role.

3. Conclusion

Women's protests face persistent stigmatization that, in the eyes of many states, makes them a threat that must be contained rather than a legitimate form of demanding justice. This biased view translates into disproportionate state responses such as excessive and unnecessary use of force, arbitrary detentions,

[90]African Commission on Human & Peoples' Rights', Communication 446/13: Jennifer Williams and Others (represented by Zimbabwe Lawyers for Human Rights) v Republic of Zimbabwe, 25 February 2021, para. 124.
[91]*Ibid*., para. 125.
[92]*Ibid*., para. 222.

harassment, sexual violence, and the stigmatization of protesters. Women who protest are punished for challenging gender stereotypes, for leaving the private sphere to occupy the public sphere, and for acting as active subjects of rights rather than remaining passive figures in social life.

The case law examined shows that this repression is not accidental: it constitutes a systematic way of silencing the voices of women who denounce injustices. From forced virginity tests in Egypt to sexual violence in Atenco or the criminalization of women defenders in Zimbabwe, the patterns repeat themselves with disturbing similarity: women's bodies are instrumentalized as a mechanism of punishment and deterrence, and their activism is treated as an intolerable challenge to the social order.

Added to this is a worrying trend toward criminalizing expressions associated with feminist protests. Women who cover their faces, wear hoods, or dress in black are suspected of having committed a crime, despite international standards –such as General Comment No. 37 of the UN Human Rights Committee[93]– that recognize that these practices may constitute legitimate acts of expression or measures of self-protection against possible reprisals.

Given this situation, it is essential to reframe feminist protest in the social imagination. Far from being an act of irrational rebellion, it is a historical and crucial tool for transforming society, demanding rights, and challenging deeply rooted discriminatory practices. Movements such as *Ni Una Menos* (Not One Less), *Marea Verde* (Green Wave), *Nosotras Paramos* (We Strike), and *#MeToo* have shown that when women take to the streets to demand justice, equality, and a life free of violence, they strengthen democratic life and achieve fundamental gains for substantive equality.

Protesting is a right. And for women, it is also a way to defend their dignity, their freedom, and their full presence in public life. Recognizing this right, protecting it without exception, and guaranteeing a safe environment for its exercise is not only a legal obligation but also an indispensable condition for building more just, egalitarian, inclusive, and truly democratic societies.

V. Online violence against women: new forms of censorship

> ***Technology-facilitated attacks against women's freedom of expression have evolved with such speed and scale that institutional responses have been systematically inadequate. Worse still, their effects are not limited to those who are directly targeted: they produce a chilling and transgenerational effect. Millions of girls learn, by witnessing digital mob attacks, misogynistic speech, or sexualized deepfakes, that speaking out carries a disproportionate cost. The result is the anticipatory silencing of future journalists, activists, and women leaders. The lack of regulation and accountability for both perpetrators and platforms has consolidated an ecosystem of impunity that de facto restricts the right to freedom of expression of all women.***
>
> ***Katya Vera Morales***

The rapid development of information and communication technologies has radically transformed the conditions under which freedom of expression is exercised. Digital spaces are no longer a separate sphere of

[93]United Nations Human Rights Committee, General comment No. 37 (2020) on the right of peaceful assembly (article 21), UN Document, CCPR/C/GC/37, 17 September 2020. Available at: https://docs.un.org/en/ccpr/c/gc/37

social life, but are deeply intertwined with the political, professional, cultural, and personal spheres. In this context, online violence[94] has emerged as one of the main contemporary threats to the effective exercise of human rights, particularly for women, who face specific, differentiated, and aggravated forms of aggression in digital environments.

Digital violence against women is neither a new nor an exceptional phenomenon. On the contrary, it constitutes an extension and reconfiguration of the structural inequalities and patterns of gender-based violence that already exist in the offline world, which are reproduced and amplified in the digital space. In this sense, digital technologies operate as a double-edged sword: they expand opportunities for expression, participation, and access to information, but at the same time intensify risks, threats, and forms of repression, especially against women who actively participate in public debate.[95]

Unlike other forms of violence, digital violence has characteristics that intensify its impact and its capacity to silence. Acts of aggression can be perpetrated at any time and from anywhere, they achieve massive and viral dissemination, are reproduced at great speed, and acquire a temporal persistence that prolongs the damage over time. The anonymity of the aggressors, combined with the algorithmic logic of content amplification, increases the fear, insecurity, and distress of the victims. As a result, online violence does not end in the digital space, but has tangible consequences in offline life, including threats to physical integrity, mental health impacts, economic damage, and exclusion from professional and political spaces.

These dynamics make digital violence a particularly effective form of indirect censorship. Through practices such as cyberbullying,[96] doxing,[97] sextortion,[98] trolling,[99] the non-consensual dissemination of intimate images,[100] and hate speech,[101] the aim is to discipline women's presence in the public sphere, erode their credibility, and discourage their participation in debates of general interest. The result is an inhibiting effect that not only affects the direct victims, but also spreads to other women, generating self-censorship, withdrawal, and abandonment of digital platforms.

[94]The Special Rapporteur on violence against women, its causes and consequences, Dubravka Šimonović, maintains that "online violence against women therefore extends to any act of gender-based violence against women that is committed, assisted or aggravated in part or fully by the use of ICT, such as mobile phones and smartphones, the Internet, social media platforms or email, against a woman because she is a woman, or affects women disproportionately". See: Special Rapporteur on violence against women, its causes and consequences, Dubravka Šimonović, Report on Violence against women, its causes and consequences on online violence against women and girls from a human rights perspective, *Op. cit.*, para. 23.

[95]Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Irene Khan, Report on Gendered disinformation and its implications for the right to freedom of expression, *Op. cit*., para. 1.

[96]Cyberbullying consists of posting hateful messages on social media and other platforms that reproduce oppression against women, limiting their freedom and affecting their intimacy and privacy. Insistence and repetition are characteristic features of this practice.

[97]Doxing consists of publishing private information (contact details, address, family details, etc.) as a form of intimidation and harassment, with the aim of encouraging others to replicate and disseminate it, thereby promoting situations of gender-based violence in the offline world.

[98]Sextorsion consists of extorting the victim by threatening to disseminate images with intimate and/or sexual content in exchange for money, more material, or some other demand.

[99]Trolling consists of posting messages, images, or videos and creating hashtags with the aim of harassing, provoking, or inciting violence against women. Many trolls are anonymous and use fake accounts to generate hate speech.

[100]Non-consensual dissemination of intimate images consists of sharing intimate material without consent, with the intention of causing harm, embarrassing, or publicly exposing a person.

[101]Hate speech consists of any type of expression that attacks or uses discriminatory or pejorative language to refer to a woman or group of women, precisely because of their status as women.

The impact of this violence is particularly severe in the case of women with a public voice, who become prime targets for coordinated and systematic attacks. A joint study by UNESCO and the International Center for Journalists found, for example, that an alarmingly high proportion of women journalists have experienced online violence, that a significant portion of these attacks translate into offline assaults, and that the consequences include self-censorship, withdrawal from public debate, and abandonment of digital participation spaces[102]. These data confirm that digital violence not only violates individual rights, but also causes collective harm by impoverishing democratic debate and reducing informational pluralism, expelling critical voices and indispensable perspectives from the public sphere.

International human rights law has increasingly recognized that "the right to be safe from threats and violence applies equally online and offline"[103] and that states have positive obligations to prevent, investigate, punish, and provide redress for these forms of violence. At the same time, the role of digital platforms as central intermediaries of public discourse has raised new regulatory challenges, particularly in relation to content moderation, automated decision-making, and accountability for online gender-based violence.

This section analyzes digital violence against women as a new form of censorship that directly affects the exercise of freedom of expression. Based on an examination of decisions by the European human rights system, national courts, and Meta's Oversight Board, it explores emerging standards for understanding, naming, and addressing these practices, as well as the limits of state and private responses to a phenomenon that threatens women's full participation in public and democratic life.

1. European human rights system against digital violence

The jurisprudence of the European Court of Human Rights has played a central role in conceptualizing digital violence as a specific form of aggression that directly affects women's private lives, psychological integrity, and exercise of freedom of expression. Through a progressive line of decisions, the Court has recognized that assaults committed using digital technologies cannot be analyzed as isolated incidents or merely private conflicts, but rather as practices that are part of broader contexts of gender-based violence, with direct impacts on women's personal autonomy, private life, and exercise of fundamental rights.

The case of ***Khadija Ismayilova v. Azerbaijan*** sets an important precedent for the European Court in relation to digital violence against women journalists and the positive obligations of the state to ensure a safe environment for the exercise of freedom of expression.

[102]UNESCO and the International Center for Journalists (ICFJ) conducted the most comprehensive study to date on online gender-based violence against women journalists, documenting the experiences of more than 850 journalists worldwide. The study found that 73% of respondents reported having experienced online gender-based violence, and that 20% had been attacked or abused offline as a result of incidents that originated in the digital environment. The main topics triggering these attacks were gender (47%), politics and electoral processes (44%), and human rights (31%). With regard to perpetrators, 57% were anonymous users and 37% were political actors and State agents. Among the main consequences of this violence, 30% of women journalists reported self-censoring, while 20% withdrew from online engagement. See: UNESCO (2021), The Chilling: Global Trends in Online Violence against Women Journalists, Research Discussion Paper. Available at: https://unesdoc.unesco.org/ark:/48223/pf0000377223

[103]Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Irene Khan, Report on Gender Justice and the Right to Freedom of Opinion and Expression, *Op. cit.*, para. 63.

The plaintiff, Khadija Ismayilova, is a renowned Azerbaijani investigative journalist specializing in corruption and human rights violations. Since 2005, she has worked for the Azerbaijani service of Radio Free Europe/Radio Liberty, first as a reporter and then as a director, and has actively collaborated with the Organized Crime and Corruption Reporting Project. Her investigations exposed alleged links between the President of Azerbaijan, members of his family, and commercial enterprises hidden behind offshore companies, which earned her international recognition but also persistent threats and intimidation.

In 2012, Ismayilova was the target of a campaign of blackmail and harassment directly linked to her work as a journalist. She received an anonymous threatening letter, accompanied by intimate photographs and videos secretly recorded using hidden cameras installed in her bedroom. This material was subsequently disseminated online and sent to opposition media outlets. In response to these events, the journalist made the intimidation attempt public and stated that she would not stop investigating or reporting as a result of these threats.

Despite formally reporting the incidents, state authorities failed to take effective measures to protect her or conduct a thorough investigation. On the contrary, the Prosecutor's Office disclosed sensitive personal information about Ismayilova's friends and family members that she had provided in the course of the investigation, under the expectation of confidentiality. The journalist reported that this disclosure was part of a smear campaign and constituted an illegal interference with her right to privacy and freedom of expression, in violation of Article 8 of the European Convention.

Ismayilova's attempts to obtain effective domestic judicial protection were systematically rejected. The courts declared themselves incompetent or dismissed her claims, and the Prosecutor's Office refused to reclassify the facts as a crime of obstruction of journalistic activity. Subsequently, the journalist was arrested and criminally prosecuted in separate cases, which reinforced the context of state persecution, although those facts were examined in a separate proceeding before the European Court.

In resolving the case, the European Court unanimously declared that Azerbaijan violated the journalist's right to privacy and freedom of expression due to the repeated intrusions into her private life for the purpose of intimidation and the lack of an effective investigation by the authorities. The Court held that the facts could not be analyzed in isolation, but rather in the context of the critical journalistic work carried out by the applicant.

In this context, the Court was emphatic about the positive obligations of the state. It recalled that States must create an "effective system of protection of journalists" while ensuring "a favourable environment for participation in public debate by all the persons concerned, enabling them to express their opinions and ideas without fear, even if they run counter to those defended by the official authorities or by a significant part of public opinion, or even irritating or shocking to the latter."[104] This includes the obligation to effectively investigate attacks against journalists, especially when they are intended to intimidate and generate self-censorship. It also emphasized that interference with freedom of expression, such as that suffered by Ismayilova, was likely to have an intimidating effect not only on her, but also on others who might be deterred from investigating matters of public interest.

[104]European Court of Human Rights, Khadija Ismayilova v. Azerbaijan, Application Nos. 65286/13 and 57270/14, Judgment of 17 January 2019, para. 158.

In its reasoning, the Court explicitly incorporated a gender-sensitive perspective. Citing Recommendation CM/Rec(2016)4 of the Committee of Ministers of the Council of Europe, it highlighted that women journalists face specific gender-related dangers, including "sexist, misogynist and degrading abuse; threats; intimidation; harassment and sexual aggression and violence," and stressed that these violations are "increasingly taking place online," requiring "urgent, resolute and systemic responses."[105] It also warned that the lack of effective investigations into such attacks fuels a culture of impunity that is incompatible with a democratic society. It noted that when state authorities do not do enough to bring perpetrators to justice, public confidence in the rule of law is weakened and the chilling effect on freedom of expression and open public debate is intensified.[106]

In the case of ***Buturugă v. Romania***, the European Court explicitly addressed the intersection between domestic violence and digital violence. The case involved repeated episodes of physical violence, death threats, and harassment by the applicant's then-husband, as well as unauthorized access to her electronic communications, the storage of private conversations, personal documents, and photographs, and digital surveillance of her social media accounts.

Despite the victim's internal complaints, Romanian authorities treated these events as isolated incidents of interpersonal violence, rather than recognizing them as part of a broader pattern of domestic abuse, and refused to investigate the digital component, considering it irrelevant, time-barred, or disconnected from the physical violence. This fragmented and formalistic approach prevented a comprehensive understanding of the pattern of abuse and left the complainant without effective protection.

The European Court held that domestic violence is not limited to physical assaults, but also includes psychological and digital forms of control and harassment. In this regard, it stated that acts such as "breaches of cyberprivacy, intrusion into the victim's computer and the capture, sharing and manipulation of data and images, including private data,"[107] may constitute a manifestation of gender-based violence. It also criticized the "excessive formalism" of the Romanian authorities in refusing to investigate allegations of illegal access to the victim's electronic correspondence as part of a broader pattern of abuse.

The Court concluded that this lack of investigative diligence and the formalistic dismissal of the facts constituted a breach of the state's positive obligations under articles 3 and 8 of the European Convention, by failing to ensure effective protection against domestic violence in all its forms.

This line of jurisprudence was further developed in ***Volodina v. Russia (No. 2)***, where the European Court examined a series of acts of digital violence perpetrated by the applicant's ex-partner, including the non-consensual dissemination of intimate photographs, the creation of fake social media profiles using her identity, persistent online harassment, and death threats made via digital platforms.

Although the applicant reported these events and provided relevant evidence, the Russian authorities unjustifiably delayed the investigation, failed to take protective measures, and allowed the criminal proceedings to expire due to the statute of limitations. The Court held that this state inaction created a climate of impunity incompatible with the state's positive obligations.

[105] *Ibid*., para. 69.
[106] *Ibid.*
[107] European Court of Human Rights, Buturugă v. Romania, Application No. 56867/15, Judgment of 11 February 2020, para. 74.

In its reasoning, the Court expressly stated that online violence is "closely linked with offline violence, or 'real life' violence" and should be considered "another facet of the complex phenomenon of domestic violence."[108] It emphasized that the non-consensual dissemination of intimate images conveys "a message of humiliation and disrespect"[109] and constitutes a serious form of interference in private life.

The Court reiterated that states have a positive obligation to have an adequate regulatory framework in place to protect against all forms of domestic violence, to take reasonable measures to prevent real and immediate risks, and to conduct effective and diligent investigations. The failure to effectively implement these obligations, it concluded, not only violates the privacy of victims, but also "was enough to shed doubt on the ability of the State machinery to produce a sufficiently deterrent effect to protect women from cyberviolence."[110]

The case of ***M.Ș.D. v. Romania*** represents a consolidation of this line of jurisprudence. The Court examined the state's response to the non-consensual dissemination of intimate images, identity theft on social media, and persistent online harassment by the ex-partner of an 18-year-old woman. After the breakup of a brief relationship, the perpetrator posted intimate images on websites and social media, created fake profiles using the victim's identity, and disseminated her personal data, resulting in multiple unwanted contacts and a profound psychological impact on the victim.

National authorities downplayed the events, arguing that the images had initially been shared voluntarily, and closed the criminal investigation after lengthy delays, invoking statutes of limitations or criteria of expediency. The European Court found that this approach reflected a lack of understanding of the specific gravity of digital violence and its differentiated effects on young women.

In analyzing the merits of the case, the Court reiterated the standards developed in its previous jurisprudence and reiterated that online violence is not a minor or isolated phenomenon, but rather another manifestation of the *continuum* of domestic violence. In this regard, it emphasized that both international instruments and its own established case law have highlighted the particular vulnerability of victims of domestic violence and the need for active state intervention to protect them, stressing that these victims are entitled to enhanced protection.

On that basis, the Court reaffirmed that "States have a positive obligation to establish and apply effectively a system that punishes all forms of domestic violence, whether occurring offline or online,"[111] and to provide sufficient safeguards and adequate protection measures for victims, capable of generating a real deterrent effect against serious harm to their physical and psychological integrity.

A central aspect of the Court's reasoning was its criticism of the approach taken by the Romanian authorities, who trivialized the events by describing them as a form of "childish" revenge, shifted responsibility onto the victim for initially sharing the images, and dismissed the criminal relevance of the events. The Court held that this reasoning was not only incompatible with the state's positive obligations, but also reinforced harmful gender stereotypes and had a chilling effect on reporting digital violence.

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[108] European Court of Human Rights, Volodina v. Russia (No. 2), Application No. 40419/19, Judgment of 14 September 2024, para. 49.
[109] *Ibid.,* para. 50.
[110] *Ibid.,* para. 67.
[111] European Court of Human Rights, M.Ș.D. v. Romania, Application No. 28935/21, Judgment of 4 December 2024, para. 120.

From the perspective of freedom of expression, the Court was clear in stating that the non-consensual dissemination of intimate images and other forms of cyberviolence are not protected by Article 10 of the European Convention on Human Rights. By framing so-called "revenge pornography" as a form of violence and not as protected expression, the Court reinforced that freedom of expression cannot be used to justify abuses that violate privacy, dignity, and personal integrity. In this way, the decision harmonizes–rather than confronts–the protection of freedom of expression with other fundamental rights, ensuring that its exercise does not become a form of violence against women.

From a gender perspective, the Court relied, among other things, on provisions from the Istanbul Convention and the Recommendations of the Group of Experts on Action against Violence against Women and Domestic Violence monitoring the Istanbul Convention on the digital dimension of violence against women, which recognize the non-consensual dissemination of intimate images, identity theft, and digital harassment as forms of gender-based violence that must be expressly criminalized by states. In this context, the Court was categorical in stating that the domestic legal framework did not provide effective protection to the applicant and that the lack of a prompt and thorough criminal investigation constituted a breach of the state's positive obligations under Article 8 of the European Convention.

Read chronologically and systematically, the cases of *Buturugă v. Romania* (2020), *Volodina v. Russia (No. 2)* (2024), and *M.Ș.D. v. Romania* (2024) reveal a progressive evolution in the way the European Court of Human Rights approaches digital violence against women. From an initial recognition of cyberviolence as a relevant but still analytically fragmented issue, to a more robust understanding of these practices as specific manifestations of gender-based violence that trigger reinforced positive obligations for states.

2. National courts confronting digital violence

The jurisprudence of national courts in different regions of the world has begun to play a key role in establishing standards for digital violence against women, particularly by defining the limits of freedom of expression when it is used to cause harm, humiliation, or exclusion. Through decisions handed down in diverse regulatory contexts, courts have agreed to reject a formalistic interpretation of online expression and to recognize that practices such as the non-consensual dissemination of intimate images, coordinated digital harassment, and misogynistic violence on social media cause legally relevant harm that triggers reinforced duties of protection.

A first important aspect relates to the recognition of digital violence as an autonomous form of harm, even in the absence of direct physical effects. In the case of ***State of West Bengal v. Boxi***, the Third Court of First Class Magistrate of Tamluk, Purba Medinipur district (West Bengal State, India), handed down a landmark ruling by condemning, for the first time in the country, the non-consensual dissemination of intimate images, in what the press and legal scholars began to identify as a paradigmatic case of the misnamed "revenge porn,"[112] a stigmatizing and revictimizing concept.

The case originated from a romantic relationship lasting approximately three years between the victim–whose identity was protected–and Animesh Boxi, an engineering student. During the relationship,

[112]Defined in the ruling as "[s]exually explicit images of a person posted online without that person's consent especially as a form of revenge or harassment. Revenge porn or revenge pornography is the sexually explicit portrayal of one or more people that is distributed without their consent via any medium. The sexually explicit images or video may be made by a partner of an intimate relationship with the knowledge and consent of the subject, or it may be made without his or her knowledge. The possession of the material may be used by the perpetrators to blackmail the subjects into performing other sex acts, to coerce them into continuing the relationship, or to punish them for ending the relations-

the defendant demanded intimate images from the victim and, according to the Court, accessed her phone without authorization to obtain sexual photographs and videos. After the breakup, Boxi began blackmailing her, threatening to publish the material if she refused to continue seeing him. When the victim refused, the defendant uploaded the videos to pornographic websites, accompanying them with identifying information that included her name and her father's name, with the explicit aim of ensuring her public recognition.

The facts came to light when the victim's brother found the videos online. According to reports written about the case, the impact on the victim was devastating. The young woman went through a deep emotional crisis and it was only thanks to her family's support that she was able to report the incident and see the legal process through.

From a legal standpoint, the defendant was prosecuted and convicted under multiple provisions of the Criminal Code, in particular for invasion of privacy, identity theft, and transmission of obscene material. The prosecution was able to prove the defendant's guilt through a robust set of electronic evidence, including the linking of the uploaded material to accounts, IP addresses, and records directly associated with the defendant.

One of the most significant contributions of the ruling lies in the conceptualization of the damage caused by digital violence. In response to the defense argument that there was no injury due to the absence of physical violence on the victim's body, the Court was categorical in stating that psychological and reputational damage also constitutes injury, and in this case, "by uploading the nude pictures and video [of the victim] in the virtual world it definitely caused injury in her mind and reputation."[113] This statement made it possible to dispel any reductionist interpretation of violence, recognizing that the forced exposure of intimacy in digital environments causes profound and lasting effects.

The Court also characterized the defendant's conduct as an aggravated form of gender-based violence facilitated by digital technologies. It noted that "[c]rimes against women are increasing day by day even in the virtual world and this is high time when stringent measures are to be adopted to suppress this menace."[114] In this vein, when assessing the blackmail, the publication of intimate material, and the subsequent harassment together, the Court went so far as to describe the events as a kind of "virtual rape" since the victim's nude videos are available worldwide and "everyday virtual rape is committed against the victim (...) when someone sees the video in the virtual world."[115]

From the perspective of freedom of expression, the ruling is significant. The Court implicitly rejected any claim that the dissemination of intimate images was protected by the right to freedom of expression. The publication of the material was not considered a form of protected communication, but rather an abuse of digital technologies for the purposes of intimidation, control, and destruction of the victim's dignity. In this way, the decision aligns with a substantive understanding of freedom of expression, according to which it cannot be used as a shield for practices that seriously violate women's privacy and personal integrity.

The Court ultimately sentenced Boxi to five years in prison and a fine, in addition to ordering financial compensation to the victim under the state reparation scheme. The severity of the sentence was justified by the deliberate nature of the conduct, the use of digital platforms to maximize the damage, and the prolonged

hip". See: Court of The Judicial Magistrate, 1st Class, 3rd Court Tamluk, Purba Medinipur, Case no:- GR: 1587/17, TR no:- 1202/17, State of West Bengal Prosecution v. Animesh Boxi, 7 March 2018, p. 105.

[113] *Ibid.,* p. 118.

[114] *Ibid.,* p. 126.

[115] *Ibid.,* p. 127.

impact of online dissemination, where the harm or damage to the woman victim of violence is constantly reproduced.

Sharma v. Squint Neon is another relevant case from India regarding digital violence, resolved by the High Court of Delhi, which analyzes online harassment, the exposure of personal data, and coordinated campaigns of harassment on social media, in a context marked by polarizing discourse and attacks directed at women who express political opinions in the digital space.

The case originated from a post made on January 17, 2024, by Shaviya Sharma, an Indian woman living abroad, from her personal account on X (formerly Twitter). In her message, Sharma critically commented on an interview given by the Chief Minister of Uttar Pradesh, Yogi Adityanath, although she clarified that her intervention was mainly intended to refute a previous tweet by Squint Neon, an anonymous account known for spreading Islamophobic content. Sharma's tweet quickly went viral and sparked a wave of hostile reactions that went beyond the political debate to focus on her personal and professional identity.

After the post went viral, multiple users–including the Squint Neon account itself–began reposting the content accompanied by offensive comments. In the process, photographs of Sharma, details about her professional identity, and personal information were disseminated without her consent. The harassment escalated when some users tagged her employer in the posts, demanding disciplinary action against her. Two days later, a formal email was even sent to her workplace questioning her conduct on social media. This series of actions constituted a digital harassment campaign with clear repercussions outside the virtual environment, aimed at intimidating her and generating employment consequences for exercising her freedom of expression.

Faced with this situation, Sharma took legal action against X and Google LLC, requesting, among other measures, the immediate removal of the offensive tweets, the disclosure of the Basic Subscriber Information (BSI) of the anonymous users involved, and the blocking of a Gmail account allegedly used to contact her employer. In her filing, the plaintiff characterized the events as a case of doxing, arguing that her identity had been maliciously exposed without her consent, with the aim of harassing and humiliating her.

The decision was delivered by Judge Prathiba M. Singh, who structured her analysis around two main axes: the conceptual definition of doxing in Indian law and the assessment of whether the expressions reported constituted a legally reprehensible form of digital violence. First, the Court expressly acknowledged that Indian law lacks a legal definition of doxing, which made it necessary to turn to doctrinal and journalistic sources to clarify its scope. To this end, the Court described doxing as the act of "uncovering and revealing the identity of people who fostered anonymity," recalling that the term originates from the practice of "dropping documents" or "dropping dox"—that is, disclosing compromising documents or information about someone. The Court also noted that "even if doxing is not used as a tool for sexual harassment, these factors also contribute to the harms of having personal information revealed on the Internet as there is disclosure/ public release of an individual's private, sensitive, personal information." It also emphasized that doxing "is different from other forms of cyber-bullying and cyber- harassment, as the risk of putting the subject in physical danger increases exponentially."[116]

Applying these criteria to the specific case, the Court concluded that the facts did not technically constitute doxing, given that Sharma's account was not completely anonymous: it included her photograph and initials, which made it possible to identify her beforehand. However, the Court held that this conclusion did

[116]High Court of Delhi, Justice Prathiba M. Singh, Shaviya Sharma v. Squint Neon & ors, Judgment of 22 February 2021, para. 11.

not exhaust the legal analysis. Even ruling out doxing in the strict sense, the reported content constituted "offensive, defamatory, and derogatory" expressions, and as such deserved a judicial response. Consequently, it ordered X to remove five of the six reported links and required the platform to disclose the basic information of anonymous users for legal purposes. It also ordered Google LLC to provide the data associated with the email account used to contact Sharma's employer.

This decision offers a significant contribution to the conceptualization of digital violence as a disciplinary practice, even when there is no disclosure of strictly private data. The ruling clarifies that, while the disclosure of public information for legitimate purposes does not constitute doxing, the malicious disclosure of private data without consent may violate a person's right to privacy. This decision emphasizes that freedom of expression should not be abused to harm or harass individuals, and highlights the need for accountability when such disclosures result in actual harm.

Moving to the US context, in the aforementioned ***Dumpson v. Ade***, the US District Court for the District of Columbia examined a coordinated campaign of digital harassment directed at Taylor Dumpson, the first African American woman elected president of the American University student government. Following her election, the plaintiff was the target of racial intimidation on campus[117] and, subsequently, an online harassment campaign driven by the neo-Nazi website The Daily Stormer, whose editor explicitly urged his followers to participate in a "troll storm" against her.

In response to these events, Dumpson filed a lawsuit against the individuals who orchestrated the acts of violence, alleging that they had interfered with her right to the full and equal enjoyment of public places and had caused her serious suffering, including post-traumatic stress disorder, an eating disorder, depression, and anxiety.

The Court emphasized that everyone has the right to "opportunity to participate in all aspects of life, including, but not limited to (...) in places of public accommodation" and that it is illegal "directly or indirectly deny any person the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodations on the basis of a variety of factors including race and gender."[118] In this regard, it held that the defendants' actions "were racially motivated and intentionally resulted in a campaign of racial and gender harassment"[119] by attacking the plaintiff because of her race and gender through threatening messages and encouraging others to do the same "because she is an African-American woman."[120]

The Court ruled in favor of the plaintiff, concluding that the "intentional campaign of discrimination based on Ms. Dumpson's race and gender (...) went far beyond the bounds of decency and were intolerable to the average or reasonable person in a civilized society, much less a university."[121] It also held that online harassment had effects both inside and outside the digital environment, interfering not only with her online presence and freedom of expression, but also with her right to the full and equal enjoyment of a public access space.

[117]The first incident took place on the university campus, where a masked man hung nooses with bananas inscribed with phrases such as "AKA Free"–referring to the African American sorority Alpha Kappa Alpha, of which Dumpson was a member– and "Harambe bait" –referring to a gorilla–.
[118]United States District Court for the District of Columbia, Taylor Dumpson (Plaintiff) v. Brian Andrew Ade, Andrew Anglin, and Moonbase Holdings, LLC; Civil Action No. 18-1011 (RMC), p. 8.
[119]*Ibid.*, p. 12.
[120]*Ibid.*
[121]*Ibid.,* p. 13.

The ruling is particularly significant because it recognizes that coordinated digital harassment can lead to exclusion, self-censorship, and the displacement of women–especially black women–from public spaces. Consequently, the Court found the defendants liable, issued a restraining order to prevent further acts of harassment, and awarded significant compensatory and punitive damages. Furthermore, the decision set an important precedent by conceptualizing trolling as "the coordinated trolling of a person by multiple individuals via messages sent over social media platforms, postal mail, and phone"[122] for the purpose of "mocking, insulting, harassing, threatening, humiliating, defaming, and/or intimidating" and by affirming that freedom of expression does not protect this type of expression.

Also in the US context, the case of ***Indiana v. Katz*** is relevant in terms of constitutional limits on freedom of expression. In this case, the Indiana Supreme Court examined the constitutionality of a law criminalizing the non-consensual dissemination of intimate images. The case originated after Conner Katz secretly recorded an intimate video of his then-girlfriend without her consent and subsequently sent it to his ex-partner on the social network Snapchat.

Following the victim's police report, the state of Indiana charged Katz with the crime of non-consensual distribution of an intimate image. The defendant filed a motion to dismiss, arguing that the Indiana law under which he was charged was contrary to the First Amendment of the United States Constitution because it was overly broad and did not meet the standard of strict scrutiny. The trial court ruled in favor of Katz. In response, the state of Indiana appealed directly to the Indiana Supreme Court.

In assessing whether the expression describing private sexual conduct fell within the scope of freedom of expression, the Court determined that Indiana law imposed no limitation. Therefore, Katz's video depicting sexual activity was protected. The Court then examined whether Katz's expression constituted an abuse of rights, emphasizing the serious and widespread harm caused by the distribution of sexually explicit images of individuals without their consent. It stated that this is "a unique crime fueled by technology,"[123] noting the ease with which these images can be disseminated on the internet, often with identifying information, resulting in severe harm "including serious psychological, emotional, economic, and physical harm."[124] Given that intimate sexual images of victims are often distributed alongside information that allows them to be identified, "victims are frequently harassed, stalked, extorted, solicited for sex, and even threatened with sexual assault."[125]

The Court emphasized that the state has a compelling interest in preventing these infringements on privacy and dignity, and "it's at its highest when the invasion of privacy takes the form of nonconsensual pornography."[126] Therefore, it concluded that the state had properly charged Katz, overturned the lower court's ruling, and remanded the case for further proceedings. In this way, the decision reaffirmed that freedom of expression, even in its broadest conception, does not protect expressions that constitute the nonconsensual dissemination of private sexual images.

In Latin America, the Constitutional Court of Colombia addressed the issue of digital violence and its intersection with freedom of expression in its decision in ***Dávila v. National Electoral Council***. Without

[122] *Ibid.,* p. 2.
[123] Indiana Supreme Court, Supreme Court Case No. 20S-CR-632, State of Indiana (Appellant) v. Conner Katz (Appellee), Judgment of 18 January 2022, p. 17.
[124] *Ibid.,* p. 31.
[125] *Ibid.,* p. 19.
[126] *Ibid.,* p. 21.

reiterating here the specific developments related to journalism,[127] it is essential to highlight that the Court recognized the existence of a structural pattern of misogynistic online violence directed against women journalists by political actors and groups as a result of their reporting on matters of public interest.

The case originated from a writ of protection filed by a group of journalists who reported being victims of harassment campaigns on social network X (formerly Twitter), characterized by sexist insults, degrading expressions, and threats aimed at discrediting their professional work and expelling them from public debate. The petitioners argued that the National Electoral Council, as well as political parties and movements, failed to take measures to prevent, investigate, or punish these attacks, despite the fact that many of them came from political activists or supporters. In this context, they requested, among other measures, recognition of the lack of an institutional mechanism for handling complaints of digital gender-based violence, the creation of a specific response protocol, and a public statement reaffirming the duty of political parties to respect press freedom and the role of women journalists.

In the first instance, the Administrative Court of Cundinamarca rejected the action. While it recognized the existence of a clear pattern of online violence against women journalists, it considered that the National Electoral Council did not have the authority to directly sanction members or affiliates of political parties, and argued that it had not been proven that the entity had been formally notified of the alleged facts. This decision was subsequently reviewed by the Constitutional Court at the request of various civil society organizations–including the Foundation for Press Freedom, the Karisma Foundation, and the International Women's Media Foundation–which warned of a regulatory gap in Colombia regarding digital violence perpetrated or tolerated by political actors.

In examining the merits of the case, the Constitutional Court conducted a comprehensive analysis of the phenomenon of online violence against women, emphasizing that it is a multidimensional form of aggression that "manifests itself in psychological damage and emotional suffering, physical harm, social isolation, economic damage, reduced mobility both online and in non-digital spaces, and self-censorship."[128] From this perspective, the Court emphasized that the state has an obligation to "educate the public about the seriousness of this form of violence; implement internal prevention measures; design appropriate and effective judicial mechanisms; provide legal assistance; ensure coordinated investigation of violations; identify and punish those responsible; establish reparative measures (...) and create investigation and action protocols as guarantees of non-repetition."[129]

With regard to the differentiated impact of these attacks, the Court was particularly emphatic in pointing out that violence against women journalists is not an isolated phenomenon, but rather expresses a specific dimension of structural violence against women. It thus affirmed that silencing women journalists is part of a strategy of silencing that seeks to prevent the disclosure of certain facts of public interest, particularly in "democracies that are deficient or tend to manage their problems through channels other than rational dialogue."[130]

The Court also emphasized that gender-based digital violence disproportionately affects women and has been exacerbated by the use of technologies that amplify the harm and may even incite other forms of violence or threats. In the case of women journalists, these discriminatory practices, directly linked to the exercise of their profession, generate "a serious impact on freedom of expression and [lead to] self-cen-

[127] Addressed in section III.2.
[128] Constitutional Court of Colombia, Judgment T-087/23, *Op. cit.*, para. 45 [Own translation]
[129] *Ibid.*
[130] *Ibid.,* para. 60 [Own translation]

sorship."[131] Consequently, the Court held that the Colombian state is obliged to take concrete action to eradicate this phenomenon through a comprehensive legal framework, in line with the recommendations of international human rights bodies, since "freedom of expression offline is the same as online, and therefore the presumption in favor of this right is fully valid in the digital environment."[132]

Despite this forceful diagnosis, the Court introduced careful reasoning regarding the institutional limits on state intervention. It recognized that countless pieces of content are published daily on social media and that requiring the National Electoral Council or political parties to constantly monitor the digital activities of their members would not only be impractical, but could also lead to prior censorship, which is expressly prohibited by the Constitution, emphasizing that any control mechanism must avoid undue interference with freedom of expression.

On this basis, the Court concluded that, in order for the National Electoral Council or political parties to exercise their powers of control or sanction in response to online violence, victims must report the acts they consider to be violations to the competent authorities. Since no such notification had been proven in this specific case, the Court agreed with the lower court's decision that it was not appropriate to attribute direct responsibility to the National Electoral Council or the political parties for the alleged omissions, and concluded that there had been no individual violation of the petitioners' fundamental rights.

However–and this is one of the most significant contributions of the ruling–the Court clarified that the case required an analysis "from a gender perspective and a multilevel approach that would reveal the existence of a specific pattern of discrimination against women journalists through digital or online violence."[133] In this regard, it recognized that online violence against women journalists is a growing reality and that the petitioners had been subjected to insults, threats, and expressions intended to discredit their professional work and generate viral hatred against them, based on "patterns of discrimination that women have historically endured in different areas."[134]

Based on this structural diagnosis, the Court held that the state cannot tolerate these patterns of violence and ordered a series of transformative measures aimed at preventing, investigating, and punishing digital gender-based violence. Among these, it urged political parties and movements to incorporate guidelines into their codes of ethics to punish acts of violence or incitement to violence online, and to implement access routes for women victims of any form of violence. It also ordered the ministries of Justice and Information and Communications Technologies to promote a bill to regulate digital violence in accordance with international standards, and required various state entities to develop informative content and reporting mechanisms accessible to victims.

This case set a historic precedent in the judicial approach to digital violence in Latin America. The Colombian Constitutional Court laid fundamental normative and conceptual groundwork by recognizing digital violence as a structural form of discrimination against women, linking it to inhibitory effects on freedom of expression, and ordering institutional measures aimed at transforming the conditions that allow it to continue. These measures seek not only to protect women journalists, but also to preserve a space for pluralistic public deliberation, free from violence and discrimination, which is an indispensable condition for substantive democracy.

[131] *Ibid.,* para. 66 [Own translation]
[132] *Ibid.,* para. 70 [Own translation]
[133] *Ibid.,* para. 115 [Own translation]
[134] *Ibid.,* para. 124.

3. Content moderation in the context of digital violence

The decisions of Meta's Oversight Board offer relevant insight into how digital platforms address–or reproduce–gender-based violence online.

The ***case of dehumanizing speech against a woman***, which was resolved through a summary decision, clearly illustrates the structural limitations of automated moderation and the need to incorporate approaches that are sensitive to gender, context, and the actual impact of the content.

The case originated from a Facebook post in December 2022, in which a user shared a photograph of a clearly identifiable woman accompanied by text comparing her to a used truck in poor condition, advertised throughout the city, which needed paint to hide the damage, gave off strange odors, and was rarely washed.

The author then edited the image to partially cover the woman's face with a vomiting emoji and added that he was doing so out of embarrassment for having said "that I owned this pile of junk" reinforcing the degrading nature of the message. The language used not only dehumanized the woman portrayed, but also included explicit insinuations about her alleged sexual activity and references to her presence on dating sites.

The post went viral, exceeding two million views, and was reported more than 500 times by users of the platform, who pointed out its misogynistic and offensive nature. However, Meta initially decided to keep the content online, considering that it did not violate its internal policies. This decision was appealed to the Oversight Board, and only after being notified of the case did Meta acknowledge its error, reverse its original decision, and remove the post for violating its policy on bullying and harassment—as it included degrading physical descriptions and statements about a person's sex life.

Although the removal of the content rendered the specific controversy abstract, the Board decided to issue a summary decision, pursuant to the amendments made to its Statutes in 2023, with the aim of highlighting recurring failures in moderation and offering public policy guidance. In its analysis, the Board emphasized that the case highlighted a persistent problem of Meta's under-enforcement of policies against harassing content targeting women and other historically marginalized groups, even when such content reaches high levels of dissemination and generates multiple complaints.

The Board emphasized that the content in question constituted a form of dehumanizing language, reducing women to defective objects, associating their value with their sexual "use," and presenting them as deserving public contempt. The Board implicitly argued that such expressions not only violate individual dignity, but also contribute to the creation of hostile digital environments in which gender stereotypes are reinforced and the public humiliation of women is normalized. In this sense, the case highlighted that symbolic and verbal violence online can serve as a precursor to other forms of violence, including offline assaults, and have an inhibiting effect on women's participation in digital spaces.

A key aspect of the statement was the Board's criticism of the ambiguity of Meta's harassment and intimidation policy, which, it warned, contributed to widespread moderation errors which "likely ha[d] disproportionate impacts on women and members of other vulnerable groups."[135] The Board recalled that it had already made similar recommendations in previous cases and expressed concern about the company's failure to fully implement those recommendations. In this context, it urged Meta to reduce its error rate in moderating harassment content.

[135]Oversight Board, Dehumanizing speech against a woman, Summary decision, June 27, 2023.

This decision, despite being brief in its reasoning due to the fact that it is a summary decision, reaffirms that the removal of discriminatory and dehumanizing content does not constitute an illegitimate restriction on freedom of expression, but rather a necessary measure to protect dignity and equality, in line with international standards prohibiting gender discrimination.

Similarly, the ***case of image of gender-based violence*** constitutes a strong statement by the Oversight Board regarding the normalization of violence against women in digital environments and the legitimate limits of freedom of expression when content trivializes, justifies, or encourages public assaults and domestic abuse.

The case originated from a Facebook post in May 2021 by a user in Iraq, which showed a photograph of a woman with visible injuries resulting from physical assault. The image was accompanied by a text in

Arabic that recounted, in a mocking tone, that the woman had been beaten by her husband after an alleged linguistic confusion –having asked for a "donkey" instead of a "veil" (in Arabic, these words are spelled similarly)–and explicitly suggested that the woman "got what she deserved as a result of the mistake." The text used laughing and smiling emojis, reinforcing the mocking and trivializing nature of the violence.

Various sources indicated that the woman portrayed was a well-known Syrian activist who had previously been detained by Bashar Al-Assad's regime and subsequently beaten by individuals allegedly affiliated with the regime. Although the publication did not mention her name, her face was clearly identifiable. In addition, the use of a hashtag frequently used by pages and groups supporting Syrian women exacerbated the symbolic dimension of the damage by inserting the image into mass circulation channels linked to debates on women's rights.

Although the content was reported three times by a user, the reports were automatically closed without human review, as Meta prioritizes review based on criteria of virality and estimated severity, and the reports were not evaluated within 48 hours. Only after an appeal to the Oversight Board and the selection of the case for review did Meta acknowledge its error and remove the post for violating its policy on bullying and harassment, considering that the content mocked the woman's physical injuries and suggested that she was responsible for the violence she suffered.

In analyzing the case, the Board held that Meta's original decision to keep the content online was inconsistent with its own policies and human rights responsibilities. The Board concluded that "[c]ontent that normalizes gender-based violence by praising it or implying it is logical or deserved, validates violence and seeks to intimidate women, including women who seek to take part in public life"[136]. In this regard, it noted that it is concerning that the message conveyed by this content "is that violence is acceptable and can be used to punish transgressions of gender norms."[137]

From the perspective of freedom of expression, the Board examined the removal of content in light of Article 19 of the International Covenant on Civil and Political Rights, applying the three-part test of legality, legitimate purpose, and necessity and proportionality. It concluded that the removal of the content met these requirements, as it pursued the legitimate aim of protecting the rights of third parties–in particular, equality, dignity, and non-discrimination–and constituted an effective and proportionate measure to prevent the continued dissemination of an image that humiliated and degraded the woman portrayed. In the words

[136]Oversight Board, Image of gender-based violence, Standard decision, August 1, 2023.
[137]*Ibid.*

of the Board, "[t]he cumulative effect of content normalizing gender-based violence to encourage or defend the use of violence, and the harm to women's rights and the perpetuation of an environment of impunity all contribute to a heightened risk of offline violence, self-censorship, and suppression of the participation of women in public life."

The Board also expressed concern about the shortcomings of Meta's policies for addressing content that normalizes gender-based violence. It warned that relying exclusively on the policy on bullying and harassment left significant gray areas, especially in cases where the woman is not identifiable or where the violence is presented in a symbolic or narrative manner. In this context, the Board maintained that there was a regulatory gap that allowed content celebrating, justifying, or trivializing gender-based violence to remain online, and invoked CEDAW Committee General Recommendation No. 35 to emphasize that social media companies must strengthen their self-regulatory mechanisms against gender-based violence facilitated by digital technologies.

As a result, the Board not only overturned Meta's original decision, but also made structural recommendations aimed at addressing regulatory gaps that directly impact the protection of women's rights.

4. Conclusion

The case law and decisions examined throughout this section allow us to affirm that digital violence against women today constitutes one of the most serious, persistent, and systematic threats to the effective exercise of freedom of expression. Far from being occasional or isolated incidents in online discourse, they are part of "broader social patterns of power and gender inequality against women and girls that existed before the advent of the internet and (...) now, they have simply become intertwined and interacted with new technologies," becoming a patriarchal social mechanism through which "women are forced to remain in a situation of subordination."[138]

In the digital age, the internet has become a central space–and in certain contexts the primary space–for the exercise of freedom of expression, political participation, and public deliberation. However, this same space has been transformed into "the new battleground in the struggle for women's rights", simultaneously expanding opportunities for expression and possibilities for repression.[139]

International and national courts have begun to recognize that digital violence triggers reinforced positive obligations on the part of states, both to prevent it and to investigate, punish, and remedy it effectively. The European Court of Human Rights has been clear in stating that online attacks against women, and in particular journalists, cannot be analyzed in isolation, but rather as part of patterns of violence that generate inhibiting effects incompatible with a democratic society. In a similar vein, various national courts have affirmed that practices such as the non-consensual dissemination of intimate images, coordinated digital harassment, and online intimidation are not protected by freedom of expression and justify proportionate criminal and civil responses aimed at protecting women's dignity, privacy, and public participation.

[138]UN Women Regional Office for the Americas and the Caribbean; Follow-up Mechanism to the Belém do Pará Convention of the Inter-American Commission of Women (2022) *CIBERVIOLENCIA Y CIBERACOSO contra las mujeres y niñas en el marco de la Convención Belém Do Pará*, p. 16. Available at: https://www.oas.org/es/mesecvi/docs/MESECVI-Ciberviolencia-ES.pdf [Own translation]

[139]Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Irene Khan, Report on Gender Justice and the Right to Freedom of Opinion and Expression, *Op. cit.*, para. 4.

These decisions are in line with a growing consensus in international human rights law: "the spate of online violence, hate speech and disinformation often compel women to self-censor, limit what they post or leave platforms."[140] As a result, silencing not only affects direct victims, but also reduces the diversity of voices, greatly limits women's opportunities to participate in public life, impoverishes public debate, and weakens democratic pluralism.

At the same time, the cases analyzed by the Oversight Board highlight the central role of digital platforms in the governance of contemporary public discourse. Gender-based violence facilitated by digital technologies has characteristics that intensify its impact: it can be perpetrated at any time and from anywhere, amplified by secondary aggressors, and reproduced with a speed and persistence that deepen the harm suffered by victims. The lack of timely, context-sensitive, and gender-sensitive responses not only perpetuates violence, but also contributes to normalizing hostile digital environments that discourage women's expression and participation.

The structures of inequality, discrimination, and patriarchal models that sustain offline gender-based violence are not only reproduced in digital environments, but in many cases are amplified and redefined through information and communication technologies. The consequences of this violence are deeply gendered and generate processes of revictimization, stigmatization, and exclusion that are expressly prohibited by international law.

Taken together, these developments consolidate a clear normative standard: gender equality and women's freedom of expression cannot be promoted without protecting the spaces in which they operate, and this undoubtedly includes the digital space. Recognizing, naming, and confronting online violence is not an undue restriction on speech, but a necessary condition for ensuring a truly pluralistic, inclusive, and democratic public space. Given the essential role that the digital space plays today in freedom of expression, when women's voices are silenced in this arena, it can mean that they are not heard at all, with profound consequences for equality, democratic deliberation, and the very validity of human rights.[141]

> ***In the age of social media and exponential lies, women journalists are the first to be attacked. And the line between information operations and information warfare is very thin (...) Our systems in the virtual world are corrupted. It is the least regulated globally (...) In the Philippines women are attacked at least ten times more than men (...) And then when you go on top of that, the two fracture lines in nearly every country where we've studied information operations are gender and race.***
>
> ***It's women who have led the charge back (...) the people who fought back are women. The solutions have been driven by that (...) Women are the first to be attacked, and women are the first to push back.***
>
> ***María Ressa***[142]

[140] *Ibid.,* para. 13.
[141] *Ibid.,* para. 23.
[142] See full interview at: Mullally, E.; Vorozhtsova, A. (2025) Portraits of FoE Defenders: Interview with Maria Ressa–"It's an Information Armageddon". Columbia Global Freedom of Expression. Available at: https://globalfreedo-

VI. Women's religious expression: tensions and jurisprudential standards

The right to freedom of thought, conscience, and religion is recognized in numerous international human rights instruments. It encompasses both the freedom to have or adopt a religion or beliefs of one's choice and the freedom to manifest them–or to change them–individually or collectively, in public or in private.

The United Nations Human Rights Committee has stated that the freedom to manifest one's religion or beliefs encompasses a wide range of activities, including, among others, the performance of ritual and ceremonial acts, the construction of places of worship, the use of ritual objects, the observance of religious holidays, the observance of dietary rules, and the wearing of distinctive clothing or headcoverings.[143]

In accordance with international human rights law, this right may only be subject to limitations prescribed by law that are necessary to protect public safety, order, health, or morals, or the fundamental rights and freedoms of others. These restrictions must comply with the requirements of legality, necessity, and proportionality.

The intersection between freedom of expression, gender, and freedom of thought, conscience, and religion is a complex area in contemporary jurisprudence. In this area, women often find themselves at the center of normative and symbolic disputes surrounding the expression of religious beliefs, whether because of their clothing, their participation in public spaces, or their critical expressions regarding traditional practices—especially those that violate or discriminate against them. In different contexts, these expressions have been subject to state regulation, political or social scrutiny, or criminal sanctions, giving rise to persistent tensions between individual autonomy, state neutrality or partiality, and social cohesion.

Controversies surrounding the wearing of the Islamic veil by Muslim women clearly illustrate these tensions. In some countries, general bans on the wearing of certain religious garments in public spaces or state institutions have been adopted, while in other contexts mandatory rules on women's clothing are imposed. While these regulations respond to diverse political, cultural, and legal contexts, they share a common element: they directly affect women's expression and their ability to decide how to manifest their beliefs or religions in public spaces. The international human rights system itself has maintained different criteria for the same case. Indeed, in the case of *Sonia Yaker v. France* (2747/2016), the UN Human Rights Committee ruled that French legislation prohibiting the wearing of the niqab is discriminatory and disproportionately affects Muslim women. In the same case, the European Court of Human Rights concluded that the ban was legitimate.[144]

In authoritarian contexts, these logics are intensified. The regulation of women's bodies and appearance can function as a mechanism of social control and political discipline, especially when linked to official religious narratives. The case of Iran is illustrative. For decades, international human rights mechanisms have documented a sustained pattern of persecution and criminalization that includes arbitrary detentions,

mofexpression.columbia.edu/publications/portraits-of-foe-defenders-interview-with-maria-ressa-its-an-information-armageddon/

[143]Human Rights Committee, General Comment No. 22 - Article 18 - Freedom of thought, conscience, and religion, U.N. Doc. HRI/GEN/1/Rev.1 at 35 (1994), para. 4. Available at: https://hrlibrary.umn.edu/gencomm/hrcom22.htm

[144]Negrete Morayta, A. (en imprenta) *Artículo 18 del Pacto Internacional de Derechos Civiles y Políticos*, in Pacto Internacional de Derechos Civiles y Políticos: Mirada actualizada y nuevas tendencias, Círculo de Estudios de Derecho Internacional de los Derechos Humanos.

excessive use of force against protesters, torture and other cruel treatment, and the use of criminal law–including the death penalty–as a tool of political control. These practices disproportionately affect women and girls, particularly when they exercise their right to express themselves, protest, or question norms imposed on their bodies, clothing, or social roles.

Following the death in custody in September 2022 of Mahsa Amini, a 22-year-old Kurdish woman detained for allegedly violating rules on the mandatory wearing of the hijab, this pattern intensified. The protests that followed, articulated under the slogan "Woman, Life, Freedom," were met with widespread repression, including mass arrests, criminal prosecutions, executions, and reprisals against journalists, human rights defenders, relatives of victims, and others who brought visibility to state violence against women on religious and political grounds. In this context, the imposition of mandatory veil-wearing has functioned not only as a religious regulation, but also as a central mechanism for controlling and disciplining women's public expression.[145]

There are various decisions by courts and international bodies that have addressed controversies related to the use of the Islamic veil, religious expression, and women's autonomy. Some rulings have legitimized restrictions on such expression in the name of state neutrality or social cohesion; others, however, have protected women's right to decide how to present themselves in public spaces or to question patriarchal practices protected by religious narratives. Below, we will analyze some of these rulings to illustrate the tension between women's freedoms and their right to live a life free of violence and discrimination, and those based on other social constructs or seemingly neutral laws that have direct implications for gender.

1. International courts and bodies confronting restrictions on women's use of headscarves and religious expression

In the case of ***Hudoyberganova v. Uzbekistan*** (2004), the Human Rights Committee held that the expulsion of a Muslim university student for wearing the hijab violated Article 18 of the International Covenant on Civil and Political Rights, which protects freedom of thought, conscience, and religion.

Raihon Hudoyberganova, a student at the State Institute of Oriental Languages in Tashkent, Uzbekistan, and a member of the Department of Islamic Affairs, began wearing the hijab during her second year of studies. Some time later, the institute closed the Muslim prayer room and urged students who wore the hijab to transfer to the Tashkent Islamic Institute. Subsequently, the Institute adopted a new regulation prohibiting religious clothing on its premises. Hudoyberganova was informed of this and signed the regulation, although she expressed her disagreement with it alongside her signature. Following the refusal of students who continued to wear the hijab, the Institute closed the Department of Islamic Affairs. Hudoyberganova was also suspended from the Institute.

In response, the student filed a lawsuit in a Tashkent district court, requesting the restoration of her student rights. The Institute responded by demanding her arrest for violating a national law on freedom of

[145]In this regard, Viviana Krsticevic, a member of the Independent International Fact-Finding Mission on Iran, pointed out that Iranian authorities have carried out "a widespread and systematic attack against a civilian population, namely women, girls, and others who rejected the mandatory hijab laws, expressed support for human rights, or acted in solidarity with protestors," conduct that the Mission considered to constitute gender-based persecution and, in certain cases, crimes against humanity. See: Šajkaš, M. (2024) Interview with Viviana Krsticevic on Violations of Women's Rights in Iran. Columbia Global Freedom of Expression. Available at: https://globalfreedomofexpression.columbia.edu/publications/interview-with-viviana-krsticevic-on-human-rights-in-iran/

conscience and religious organizations that prohibited Uzbek citizens from wearing religious clothing in public places. The court dismissed the lawsuit, and she appealed, but the lower court's decision was upheld. She also appealed to the Ombudsman, who responded with a copy of a letter from the dean of the Institute, alleging that Hudoyberganova had violated the Institute's regulations and belonged to an extremist Wahhabi sect.

Hudoyberganova brought her case before the Human Rights Committee, which concluded that the student's rights under Article 18 of the International Covenant on Civil and Political Rights had been violated because, while "freedom to manifest one's religion or beliefs is not absolute and may be subject to limitations, which are prescribed by law and are necessary to protect public safety, order, health, or morals,or the fundamental rights and freedoms of others,"[146] Uzbekistan did not allege any justification as to why the restriction in this case would be necessary, as required by the Covenant.

Thus, the Committee found that the student's right to freedom of thought, conscience, and religion had been violated when she was suspended by the educational institution for refusing to remove her hijab. It emphasized that "the freedom to manifest one's religion encompasses the right to wear clothes or attire in public which is in conformity with the individual's faith or religion"[147] and that preventing "a person from wearing religious clothing in public or private" or "any coercion that would impair the individual's freedom to have or adopt a religion"[148] is prohibited.

This standard applied by the Committee in the Hudoyberganova case, based on proportionality and the state's obligation to justify any restriction on religious freedom, contrasts with the position taken by the European Court of Human Rights in the ***Şahin v. Turkey*** case (2005).

Leyla Şahin, a medical student at Istanbul University, was prevented from attending classes, taking exams, and enrolling in courses due to a university circular prohibiting the wearing of headscarves in academic spaces. The measure was justified on the basis of the principle of secularism, historically central to the Turkish constitutional model and used to prevent the wearing of headscarves from being associated with radical Islamist movements. After participating in a demonstration against the hijab ban, Şahin and other protesters were suspended from the university. Although a subsequent amnesty removed the disciplinary sanctions, the university restriction remained in place. Şahin challenged the circular in the national courts, which rejected her claim on the grounds that the university had the power to regulate dress in order to ensure institutional order.

In reviewing the case, the European Court recognized that the hijab ban interfered with the student's religious freedom and that "freedom of thought, conscience and religion is one of the foundations of a 'democratic society.'"[149]

However, it concluded that Turkey had acted within the margin of appreciation of the state to protect the principle of secularism and equality[150] and that in democratic societies "in which several religions coexist within one and the same population, it may be necessary to place restrictions on freedom to manifest one's

[146]Human Rights Committee, Views of the Committee under article 5, paragraph 4, of the Optional Protocol to the International Covenant on Civil and Political rights, concerning Communication No. 931/2000, 18 January 2005, CCPR/C/82/D/931/2000, para. 6.2.
[147]*Ibid.*
[148]*Ibid.*
[149]European Court of Human Rights, Leyla Şahin v. Turkey, Application No. 44774/98, Judgment of 10 November 2005, para. 104.
[150]*Ibid.,* para. 122.

religion or belief in order to reconcile the interests of the various groups and ensure that everyone's beliefs are respected."[151] In this context, the Court considered it "understandable that the relevant authorities should wish to preserve the secular nature of the institution (...) and so consider it contrary to such values to allow religious attire, including (...) the Islamic headscarf."[152]

The dissenting opinion of Judge Françoise Tulkens, however, reveals the central weaknesses of the ruling, especially from a gender perspective. Tulkens questioned the Court's majority acceptance of such a severe restriction without concrete evidence of a pressing social need, based on hypothetical risks, such as the impact of the veil on those who choose not to wear it. She recalled that the Court "has never accepted that interference with the exercise of the right to freedom of expression can be justified by the fact that the ideas or views concerned are not shared by everyone and may even offend some people."[153]

It also rejected the association between the veil and radical Islam: "Not all women who wear the headscarf are fundamentalists and there is nothing to suggest that the applicant held fundamentalist views."[154] It emphasized that the applicant's personal interest in manifesting her religion "cannot be wholly absorbed by the public interest in fighting extremism."[155]

Tulkens also noted that arguing that "[w]earing the headscarf is considered (...) to be synonymous with the alienation of women"[156] and that its prohibition "is therefore seen as promoting equality between men and women"[157]–without explaining the relationship between the prohibition and equality–cannot justify restricting women's religious freedom. She emphasized that the wearing of the veil "has no single meaning (...) [i]t does not necessarily symbolise the submission of women to men and (...) in certain cases, it can even be a means of emancipating women."[158] For the judge, the ban was an exercise of paternalism incompatible with personal autonomy, which ended up excluding Şahin from a space where these democratic values should be nurtured. Tulkens stated emphatically that what was missing from this debate was "the opinion of women, both those who wear the headscarf and those who choose not to."[159]

The restrictive approach adopted by the European Court in *Şahin* was further developed years later in the case of ***S.A.S. v. France*** (2014), where the Grand Chamber declared France's 2010 general ban on full-face veils in public spaces to be compatible with the European Convention. The law in question, drafted in neutral language, prohibited any garment that covered the face, but in practice its application was mainly directed at Muslim women who wore the niqab[160] or burqa.[161] The penalty was a fine of up to €150 and the obligation to attend "citizenship" courses.

The applicant, a French citizen and practicing Muslim, wore the niqab and burqa voluntarily and regularly, in accordance with her religious beliefs. She did not claim to wear it in contexts where identification was necessary–airports, banks, or instances where identification is relevant–but in her daily life.

[151] *Ibid.,* para. 106.
[152] *Ibid.,* para. 116.
[153] European Court of Human Rights [Dissenting opinion of Judge Françoise Tulkens], Leyla Şahin v. Turkey, Application No. 44774/98, Judgment of 10 November 2005, para. 9.
[154] *Ibid.,* para. 10.
[155] *Ibid.*
[156] *Ibid*., para. 11.
[157] *Ibid.*
[158] *Ibid.*
[159] *Ibid.*
[160] A niqab is a veil that covers the face, leaving only the eyes uncovered.
[161] A burqa is a veil that covers the face, leaving only a mesh to see through.

She argued that the ban violated her rights to privacy, religious freedom, freedom of expression, and equality by preventing her from publicly expressing her faith.

The Grand Chamber, however, understood that French law pursued a legitimate aim: to guarantee the minimum conditions for life in society and coexistence, as a way of protecting the rights and freedoms of others. While recognizing that the full veil is a manifestation protected by Article 9 of the European Convention on Human Rights, it concluded that the state enjoyed a wide margin of appreciation in this matter and therefore considered that the general ban was proportionate to the objective pursued.

This reasoning consolidated a particularly permissive standard in the face of broad restrictions that disproportionately affect Muslim women. The objections of third parties, human rights organizations, and specialized academic centers were particularly critical. ARTICLE 19 and Amnesty International warned that the ban, justified in part as a measure of equality, could in fact "lead to intersectional discrimination against Muslim women," confining them to their homes and exposing them to increased violence against their personal integrity.[162] The Open Society Justice Initiative further noted that the ban "reduced their autonomy", encouraging "verbal abuse and physical attacks."[163]

The standard adopted by the majority was called into question by the partially dissenting opinion of Justices Nussberger and Jäderblom, which offers a framework that is more respectful of autonomy, religious plurality, and substantive equality. Both judges stated that they did not share the majority's opinion, as "[i] t is doubtful that the blanket ban on wearing a full-face veil in public pursues a legitimate aim"[164] and that "such a far-reaching prohibition, touching upon the right to one's own cultural and religious identity, is not necessary in a democratic society."[165]

They also recalled that "there is no right not to be shocked or provoked by different models of cultural or religious identity, even those that are very distant from the traditional French and European lifestyle"[166] and that the European Convention on Human Rights "protects not only those opinions "that are favourably received or regarded as inoffensive or as a matter of indifference, but also (...) those that offend, shock or disturb"—a principle that also applies to "dress codes."[167]

The partially dissenting judges considered that French law restricted pluralism by preventing "certain women from expressing their personality and their beliefs by wearing the full-face veil in public"[168] and that, in this sense, "the blanket ban could be interpreted as a sign of selective pluralism and restricted tolerance."[169] Far from producing the intended effect of "liberating women presumed to be oppressed," the measure will, on the contrary, "further exclude them from society and aggravate their situation."[170]

[162]European Court of Human Rights, S.A.S. v. France, Application No. 43835/11, Judgment of 1 July 2014, para. 90 and 93.
[163]*Ibid*., para. 104.
[164]European Court of Human Rights [Joint partly dissenting opinion of Judges Nussberger and Jäderblom], S.A.S. v. France, Application No. 43835/11, Judgment of 1 July 2014, para. A.2.
[165]*Ibid.*
[166]*Ibid.,* para. B.7.
[167]*Ibid.*
[168]*Ibid.,* para. C.1.14.
[169]*Ibid.*
[170]*Ibid.,* para. C.2.21.

2. National courts and women's religious expression

National courts also have varying criteria. Some have adopted approaches that recognize the expressive, identity, and gender dimensions involved in these controversies, while others have legitimized restrictions.

In ***EEOC v. Abercrombie & Fitch Stores, Inc.*** (2015), the US Supreme Court addressed a case of employment discrimination linked to a Muslim woman's wearing of a hijab. Samantha Elauf was excluded from a hiring process because her religious headscarf contravened the company's image policy.

The Court rejected the company's argument that there could be no discrimination because the candidate had not disclosed her need for accommodation due to her religious practices. The Court held that in order to constitute discriminatory treatment, it is sufficient that the need for accommodation was a motivating factor in the decision not to hire the plaintiff. It thus affirmed that apparently neutral policies cannot operate as indirect mechanisms of religious exclusion and that employers have a positive obligation to accommodate religious practices, unless this would create an undue burden. This decision is particularly relevant from a gender perspective because it highlights how Muslim women face specific forms of structural discrimination when their religious identity becomes visible in the workplace.

A protective approach to religious expression can also be seen in the ***case of Ms. L*** (2003) before the Federal Constitutional Court of Germany. In this case, a Muslim teacher was excluded from a teaching position in public schools for refusing to remove her religious headscarf during class. The Higher School Authority of Stuttgart made this decision on the grounds that aptitude was a relevant criterion for hiring and that the headscarf represented an expression of cultural separation and a political symbol incompatible with its principles of religious neutrality.

In analyzing the case, the Court concluded that the refusal to hire her violated her religious freedom and her right to access public positions without discrimination, due to the lack of a clear and specific legal basis for such a restriction, since the German legal framework recognizes the freedom to believe or not to believe, to express and to act in accordance with one's beliefs—this includes the right to guide one's conduct according to the teachings of one's faith and to act in accordance with one's religious convictions. Therefore, prohibiting teachers from showing their personal affiliation with a faith or religious community through the observance of their dress code contravenes that right as it forces people to choose between their religious practices in accordance with their faith and the exercise of their profession.

However, the Court left open the possibility for legislation to establish future restrictions, as long as they were clearly provided for in the law and duly justified.

This opening was subsequently used to legitimize other types of restrictions, as evidenced in the ***case of Dr. E*** (2020), also decided by the Federal Constitutional Court of Germany. In that case, the Court upheld the ban on the wearing of the hijab by a judicial intern during certain functions in which she could be perceived as a representative of the state, justified on the basis of the principle of ideological and religious neutrality of the state, the principle of the proper functioning of justice, and the negative religious freedom of others. The aim was for legal practitioners to comply with neutral conduct with regard to religious dress codes while carrying out their practices.

Although the Court recognized that the wearing of the hijab was covered by religious freedom and that the ban conflicted with the practitioner's religious freedom, unlike in the educational sphere, the judicial context requires a reinforced appearance of ideological and religious neutrality and that, within that framework,

the visible religious expression of officials or practitioners may be legitimately restricted. Consequently, the Court determined that the established duty of conduct was justified and should be respected.

It should be noted that the decision does not conduct a gender-based proportionality analysis of the specific and differentiated impact that such bans have on women's career paths and personal autonomy to comprehensively define their position and justify, where appropriate, the overriding interest that would or would not justify this decision on the individual right to religious expression.

3. Digital platforms, religion, and feminist protest

Tensions between religious freedom, gender, and freedom of expression take on a particular dimension in the digital ecosystem, especially in authoritarian contexts where social media becomes one of the few spaces available to document abuses and articulate resistance.

This is the context for the decision in the case of ***Vetticad and Dorsey v. State of Rajasthan*** (2020) resolved by the High Court of Rajasthan in India. This case addressed the criminalization of feminist expressions that question patriarchal structures associated with religious traditions, broadening the analysis to include women's right to criticize such structures without fear of criminal sanctions.

The case originated from the publication on Twitter of an image showing Indian journalists and activists holding a sign with the slogan "Smash Brahminical Patriarchy,"[171] which led to the opening of criminal proceedings for alleged offense to the religious sentiments of the Brahminical community. The Court ruled in favor of the women, holding that the slogan could not be interpreted as having a direct connection to the religious sentiments of any sector of society, but rather as an expression criticizing sociological concepts of a specific sector of the Brahmin community. "The words in the poster at best convey the feelings of the concerned person regarding being strongly opposed to the Brahminical Patriarchal system and desirous of denouncing the same."[172] This decision is particularly relevant from a gender perspective, as it explicitly recognizes the right of women journalists and activists to denounce religious structures without fear of criminal reprisals. In contrast to other judicial approaches that project a paternalistic or abstractly neutral logic, in this case the Court protected women's critical expression.

Another noteworthy decision was adopted by the Oversight Board in the ***case of Iranian woman confronted on street*** (2024). The case concerned a video posted on Instagram showing a man confronting a woman in public for not wearing a hijab in Iran, to which she responded by asserting that she was defending her rights.

The content, published in 2023, was accompanied by a line of text in the description that read "it is not far to make you into pieces" and indicated that the woman in the video had been arrested after the incident. The post expressed support for the woman in particular and for Iranian women who are critical of the Iranian regime. After being flagged by an automated classifier for a possible violation of Instagram's community standards and after several reviews, Meta decided to remove the post because it interpreted the phrase as a threat against the man in the video, in violation of its policy on violence and incitement.

[171] Before the Court, the journalists and activists explained that "Brahminical patriarchy" seeks to "enforce effective sexual control over women to maintain not only patrilineal succession, but also caste purity, the institution unique to Hindu society," and therefore the relevance of this theory is a matter of sociological debate. See: High Court of Judicature for Rajasthan at Jodhpur, Vetticad and Dorsey v. State of Rajasthan, 7 April 2020, pp. 4-5.
[172] *Ibid.*, p. 6.

The Board overturned this decision, concluding that the removal was unnecessary and disproportionate. In its analysis, and taking into account the authoritarian Iranian context and the widespread persecution faced by women who challenge the strict norms imposed by the regime, it held that the phrase in question constituted rhetorical language, widely used in the Iranian context to express outrage and disgust with the regime, and not a real threat directed at a specific person. The decision emphasized that "[s]ocial media has been central to the women's protest movement in Iran, playing a critical role in the mobilization of protests and broadcasting of vital information (...), and in documenting and publicly preserving evidence about abuses and human rights violations." In this case, moreover, the woman in the video had already been identified and detained by the Iranian regime, and the content "was clearly posted to call attention" given that the practice of publicizing detentions and demanding the release of a detained person "is regularly used by the movement and by human rights defenders in Iran, and can help protect individuals held by the regime."[173]

In conservative and authoritarian societies, where traditional channels of expression and protest are severely restricted, the circulation of this type of content plays a central role in highlighting human rights violations, generating international pressure and, in some cases, offering a form of protection against state violence. The decision thus affirms that the protection of gender-based freedom of expression requires moderation that is sensitive to the political, social, and linguistic context, especially when allegations of violence and state control over women's bodies and lives are at stake.

4. Conclusion

The cases analyzed in this section show that women's freedom of expression and religious freedom continue to be the subject of legal disputes marked by gender stereotypes, conceptions of state neutrality that are not gender-neutral, and, in authoritarian contexts, state practices of control and discipline. The decisions show a wide divergence in standards: while some courts and international bodies have protected women's autonomy to express their beliefs or question patriarchal practices associated with religious narratives, others have legitimized broad restrictions that, in some cases, disproportionately affect their expression, participation in the public sphere, and trajectories. Taken together, this overview reveals that regulations–whether they prohibit or impose religious symbols–directly affect women's expressions and lives, and that their impact cannot be assessed without paying attention to the contexts of structural inequality and intersectional discrimination that these women face.

It also highlights that, in the digital environment, private platforms have become key players in amplifying women's voices in adverse contexts, but they can also generate new mechanisms of silencing. Ensuring effective protection of freedom of expression in terms of gender therefore requires standards that recognize the diversity of meanings of religious beliefs, reject paternalistic approaches, and ensure a contextual, proportional, and sensitive assessment of the realities faced by women exercising their religious freedom.

VII. Judicial mechanisms for censoring women

Censorship of women's expression does not always take direct or openly repressive forms. In many contemporary contexts, silencing operates through formally legitimate legal, administrative, or judicial mechanisms that do not expressly prohibit expression, but make it expensive, monitor it, judicialize it, or make it risky. These mechanisms–protective measures, private criminal actions, administrative, civil, or fiscal lawsuits, formal requirements, or procedural standards–function as indirect instruments of control,

[173]Oversight Board, Iranian Woman Confronted on Street, Standard decision, 7 March 2024.

particularly effective against women journalists, human rights defenders, or researchers who denounce abuses of power, corruption, gender-based violence, human rights violations, or issues of public interest.

This section analyzes four cases in which the law was used as a tool for disciplining. In some, courts managed to identify and curb these practices; in others, judicial decisions contributed to reinforcing dynamics of silencing. Taken together, the cases show how many instances of contemporary censorship shift from content to procedure, from the message to the messenger, and from explicit punishment to structural intimidation.

1. Between protection and surveillance

The case of ***Duque v. Unidad Nacional de Protección*** clearly illustrates how state measures formally aimed at protecting journalists can become surveillance mechanisms that directly affect freedom of expression. Claudia Julieta Duque is a journalist and human rights defender, recognized for her investigations into serious human rights violations in Colombia. As a result of her journalistic work, she was subjected to illegal surveillance, threats, harassment, and psychological torture by members of the then-Administrative Department of Security (DAS), a Colombian intelligence agency that has since been dissolved.

These events led to the adoption of protective measures ordered by both the Constitutional Court of Colombia and the Inter-American Commission on Human Rights, consisting of the assignment of armored vehicles, driven by the journalist herself and without escorts. The protection scheme was implemented by the National Protection Unit, an agency that inherited some of the functions and personnel of the DAS. Years later, Claudia Julieta learned from independent sources that criminal proceedings were being planned against her based on information obtained from the GPS system installed in the armored vehicles she used, without her having been informed of its existence or having given her consent for the monitoring of her movements.

Duque argued that the use of GPS not only violated her right to privacy and *habeas data*, but also exposed her to real risk, given the history of state espionage against her and the possibility that this information could be used for illegal intelligence purposes. She also argued that the constant monitoring of her movements directly affected her journalistic work, making it difficult to protect her sources and having an inhibiting effect on her investigations. Faced with the UNP's refusal to hand over the information obtained, delete the data, or remove the device –on the grounds that it was part of the protection scheme– she filed a writ of protection. This was rejected in both the first and second instances, as the UNP's monitoring measure was considered legitimate in order to exercise its mandate to protect the journalist, until the case was selected for review by the Constitutional Court.

The Court held, on the one hand, that the installation of GPS in the armored vehicle did not, in itself, constitute a violation of fundamental rights, as it was a measure aimed at a legitimate purpose: the protection of the journalist's life and personal integrity. It considered that geolocation was a proportionate restriction of the rights to privacy and work, as it would allow for a timely response to risky situations. However, the Court recognized that the UNP had violated Duque's right to *habeas data* by denying her full access to the information collected, retaining the data for longer than strictly necessary, and failing to explain its use, circulation, and destination in a transparent manner. Consequently, it ordered the complete disclosure of the information, the periodic destruction of irrelevant data, and the justification for retaining any data.

From a perspective central to this study, the Court emphasized that the protection of journalists in risky contexts imposes reinforced obligations on the state and that such measures must be implemented from a gender perspective, considering "both the particular forms of violence suffered by women and the specific

ways in which protection measures that may be necessary or appropriate for women journalists are implemented."[174] It also emphasized that the measures must address the specific needs of journalism, including the protection of sources and freedom of investigation.

This case highlights that, through surveillance and monitoring practices, the state can generate indirect forms of censorship that are especially harmful to women journalists who face differentiated risks. As Duque herself pointed out, permanent monitoring revictimizes her in light of previous experiences of psychological torture, threats, and persecution, and "prevents her from carrying out her journalistic work in conditions of dignity and safety."[175] In this sense, the case highlights the blurred lines between protection and control, and the need for state measures aimed at safeguarding women journalists not to become, under the guise of security, new surveillance mechanisms that undermine their freedom of expression.

2. Intimidating litigation and SLAPP

The case of ***Maughan v. Zuma***, decided by the High Court of South Africa, is one of the most significant developments in strategic litigation against public participation[176] (SLAPP) in the criminal sphere. Journalist Karyn Maughan was the subject of a private criminal action brought by former President Jacob Zuma after she published an article about a trial he was facing for corruption and fraud, which had been long delayed due to alleged health issues.

Zuma claimed that the publication constituted an unlawful disclosure of confidential medical information and brought a private criminal charge against the journalist. In response, Maughan requested that the subpoena be quashed, arguing that the action had no legal basis and that it was "a gross abuse of process as the summons (...) has been obtained for the ulterior purpose of intimidating, harassing and preventing her from performing her job as a journalist by freely reporting on the Respondent's criminal trial,"[177] thereby also violating freedom of the press.

The Court declared the criminal action invalid due to lack of basic legal requirements and explicitly classified it as a SLAPP suit. In its reasoning, it held that these are mechanisms by which "lawsuits are instituted to quash criticism and debate through litigation that is deemed an abuse of process"[178] and emphasized that when directed against journalists, these actions seek to intimidate, harass, and prevent them from reporting. The Court was emphatic in stating that such lawsuits "are not used to vindicate any right but are used rather to silence journalists who are perceived to report in the public interest."[179]

The decision is highly significant in that it expressly extends the concept of SLAPP traditionally associated with civil law–to the criminal sphere, recognizing that private criminal actions can be used as tools of intimidation and censorship.

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[174] Constitutional Court of Colombia, Judgment T-294/23, Judgment of August 3, 2023, para. 133 [Own translation]
[175] *Ibid.*, para. 44 [Own translation]
[176] For a comparative analysis of judicial responses to Strategic Lawsuits Against Public Participation (SLAPP), see: ARTICLE 19 (2023), *How are courts responding to SLAPPs? Analysis of selected court decisions from across the globe*, Columbia Global Freedom of Expression, Special Collection of The Case Law on Freedom of Expression, ISSN 2993-1908. Available at: https://globalfreedomofexpression.columbia.edu/wp-content/uploads/2023/07/GFoE_SLAPPs-paper.pdf
[177] High Court of South Africa, Karyn Maughan v. Jacob Gedleyihlekisa Zuma, Case No. 12770/22, Judgment of June 7, 2023, para. 66.
[178] *Ibid*., para.185.
[179] *Ibid*

The Court accepted the arguments presented by the organizations Campaign for Free Expression, Media Monitoring Africa Trust, and South African National Editors' Forum, acting as *amicus curiae*, which warned of the growing trend of attacks on journalists, especially women journalists, and in particular, the differentiated impact of these practices on them. In this context, the Court noted that Maughan was one of the few journalists who continued to report on the legal proceedings involving Zuma "despite the media comments and harassment she has been subject to."[180] The ruling also analyzed the harassment and bullying directed at the journalist on social media by members of the defendant's family and the spokesperson for the Jacob Zuma Foundation, documenting degrading insults, misogynistic expressions, and threats, which contributed to creating a hostile and intimidating environment for the exercise of her profession[181]. This climate of harassment does not occur in a vacuum: "Incendiary, misogynistic statements and negative gender narratives are often spouted by senior officials and political figures, which creates an overall toxic environment in which non-state actors feel emboldened to attack women."[182]

This case is emblematic because it names and dismantles a sophisticated form of censorship: the use of criminal law as a mechanism of retaliation against women who investigate those in power and contribute to public debate. The Court thus reversed the disciplinary logic that seeks to punish women's critical expression and reaffirms that freedom of expression requires effective protection against abuse of the judicial system.

In contrast to this protective standard, the case of ***Angjushev v. Cvetkovska***, decided by the Basic Civil Court in Skopje of North Macedonia, is a troubling example of how civil defamation suits can operate as mechanisms of intimidatory litigation against investigative journalism and civil society. Unlike the South African precedent, the decision in this case imposed severe restrictions on freedom of expression and exhibits multiple characteristics of a SLAPP.

Saska Cvetkovska, editor-in-chief and co-founder of the Investigative Reporting Lab– Macedonia (IRL)—, was sued for defamation along with the organization following the broadcast of the documentary *Conspiracy Against the Air*, the result of a two-year journalistic investigation into the importation of highly polluting fuels used in public institutions. The documentary addressed a matter of clear public interest–air pollution and the responsibility of political and economic actors–and included allegations about the key role of Kocho Angjushev, former deputy prime minister and one of North Macedonia's most important businessmen.

In the first instance, the court dismissed the claim, recognizing that the documentary was part of the legitimate exercise of investigative journalism and that, as a senior public official, Angjushev had to tolerate a higher degree of scrutiny. Furthermore, it considered that the documentary was the result of a journalistic investigation into the urgent problem of air pollution and environmental protection, which was of great public interest. However, following Angjushev's appeal, the Skopje Court of Appeals overturned the ruling and remanded the case back to the lower court. The same court of first instance then ended up adopting a decision diametrically opposed to the initial one: it found Cvetkovska and the IRL liable for defamation and ordered them to pay symbolic damages, as well as to publish the decision in a national newspaper.

[180] *Ibid.,* para. 119.

[181] The journalist testified before the court that she had been called "a thing, a bitch, a lying bitch, a white bitch, a witch, a racist, a pig, an alcoholic, a criminal, a hypocrite, a propaganda journalist, a racist, a servant of white privilege, a hack and an askari (traitor)." See paras. 121–122 of the judgment.

[182] Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Irene Khan, Report on Gendered disinformation and its implications for the right to freedom of expression, *Op. cit*., para. 85.

This lawsuit has all the typical elements of a SLAPP: a marked imbalance of power between the parties, the questioning of investigations into matters of high public interest, the nature of the compensation sought, and legal grounds for the lawsuit focused on procedural rather than substantive issues. Although the financial penalty was minimal, the symbolic and disciplinary impact of the ruling is significant, as it validates the use of the judicial system to discredit, intimidate, and discourage independent journalism. This effect is heightened when the action is directed against a woman in a visible position of journalistic leadership, in contexts where "political attacks against critical journalism are increasingly frequent"[183] and where, as international standards warn, "the more visible the women are, the more likely they are to be attacked as part of a deliberate strategy to intimidate, silence and exclude them from engaging in political and public life."[184]

Another silencing mechanism operates through civil lawsuits for moral damages which, under the guise of legal neutrality, impose verification standards that are practically unattainable when it comes to covering or amplifying reports of gender-based violence. These actions not only seek to protect the reputation of the accused, but also function as tools that discourage feminist journalism, punish the circulation of victims' stories, and restrict public debate on structural violence. The case of ***Montes v. Peredo***, decided by the Superior Court of Justice of Nuevo León, Mexico, clearly illustrates this type of indirect censorship.

The case originated from anonymous complaints published on the university blog *#AcosoenlaU* (harassment at the University) about various forms of gender violence committed by professor and writer Felipe de Jesús Montes Espino Barros, including sexual harassment, abuse of power in the academic sphere, and sexual conduct with minors. In response, the Monterrey Institute of Technology, where the accused worked, launched an internal investigation that culminated in the professor's dismissal and the adoption of a gender-based violence protocol within the institution.

The following year, after Montes was included as a participant in the Monterrey International Book Fair, organized by the same institution, journalist Ximena Peredo published two columns in the newspaper *El Norte* in which she referred to the anonymous complaints, analyzed institutional responses to accusations of sexual violence using the Montes case as an example, and defended the idea of "possible justice" through public denunciation when institutional mechanisms fail to respond adequately to complaints of gender-based violence.

Some time later, Montes filed a civil lawsuit for moral damages against Peredo, alleging that the columns had caused him serious psychological and physical harm and damaged his reputation, and claiming compensation of 20 million Mexican pesos (approximately US$995,000 in 2022). In the first instance, the Second Civil Oral Trial Court of Nuevo León dismissed the lawsuit, considering that the texts constituted opinions protected by freedom of expression and were based on information "of public interest; not only because it concerns a public figure, but primarily because it deals with an issue involving sexual abuse of minors and sexual violence against women."[185]

Montes appealed, and in 2025, the Fifteenth Civil Chamber of the Nuevo León Superior Court of Justice overturned the ruling. It described the journalist's latest column, *The Return of a Predator*, as defamatory and concluded that Peredo had abused her right to freedom of expression. According to the Court, the jour-

[183]See: Reporters Without Borders, World Press Freedom Index: North Macedonia. Available at: https://rsf.org/en/country/north-macedonia

[184]Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Irene Khan, Report on Gendered disinformation and its implications for the right to freedom of expression, *Op. cit.*, para. 37.

[185] Fifteenth Unitary Civil Chamber of the Superior Court of Justice of the State of Nuevo León, Case No. 122/2024 - DSC150052060995, Judgment of April 25, 2025, p. 18 [Own translation]

nalist made serious allegations, including pedophilia, without sufficient factual basis, relying on anonymous complaints and uncorroborated information. The Chamber held that the journalist, "although she has the human right to freedom of expression, exceeded its limits by abusing that right, as she did not carry out a reasonable and proper investigation and verification aimed at determining whether the facts she wanted to disseminate had sufficient basis in reality,"[186] which would have violated the writer's honor and presumption of innocence. Consequently, it found her liable for moral damages and ordered her to cover the costs of the plaintiff's psychological therapy.

The Court also stated that in the first instance ruling, "the principle of gender perspective was misapplied,"[187] because the judge treated the plaintiff as a criminal "due to the existence of an anonymous accusation on the internet,"[188] which, according to the court, had been discredited by documentary evidence. It thus considered that the first instance ruling violated the plaintiff's human rights.

Although the Court acknowledged "that the issues of pedophilia, sexual abuse, and violence against women of any kind are of great sensitivity, importance, and significance to society in general,"[189] the standard it imposes to enable journalistic expression on allegations of gender-based violence is extremely high, requiring journalists to have verifiable evidence before reporting on gender-based violence, even when based on anonymous allegations circulating publicly and internal processes within an academic institution.

In practice, this reasoning by the Court may have an inhibiting effect and discourage journalists from covering these particularly sensitive issues and giving space to victims' stories, especially when the allegations are anonymous or made outside formal channels. It also validates the use of the judicial system as mechanism to discredit, intimidate, and discourage feminist journalism, particularly when it amplifies accusations of gender-based violence and the social interest that this entails.

> ***If the next court were to convict me without appeal, I think I would experience it with a sense of history. And we'll have to see what we do, I have to pay for therapy, and then how we respond to this, how we are going to respond. That makes me understand the times we are living in as complex times, a frontal attack on human rights, on women's rights. But also as an unprecedented authorization for women to respond, and that excites me greatly. Either way, whether I am convicted or not, I am excited that this case is joining the great struggle for respect for women's right to express ourselves and communicate freely. To influence our reality and inhabit our space, whether people like it or not. I don't experience it as a victim, even though I am a victim. But I put it in a much bigger bag. And that's where I like to be.***
>
> ***This is a case that involves sexual violence, and this is a debt that society owes us, women. At the heart of this case is the defense of women's right to live a life free of violence and to stop our bodies from being used. The great cause for many women is to reclaim our bodies; they are ours and they are not to be touched. When I remember all that, I feel a strong desire to pursue this case to the very end. It hurts a lot; there is pain, there is a wound that we all have to heal. So we are left with these kinds of opportunities to vindicate all the pain.***
>
> ***Ximena Peredo***[190]

[186] *Ibid.*, p. 27 [Own translation]
[187] *Ibid.,* p. 14.
[188] *Ibid.*
[189] *Ibid.,* p. 27.
[190] This case is analyzed in this section under the name *Montes v. Peredo*.

3. From SLAPPs to lawfare

The case of ***Philippines v. Rappler and Ressa*** is a prime example of the evolution of SLAPPs toward more sophisticated forms of lawfare, in which the criminal, fiscal, and regulatory apparatus of the state is used to harass, wear down, and silence independent journalism. Unlike classic SLAPP cases–often articulated through civil defamation suits–this case illustrates how the punitive power of the state can be instrumentalized to persecute journalists through a multiplicity of criminal and administrative proceedings, with an intimidating effect that is intensified by the accumulation of simultaneous proceedings.

Since 2018, journalist Maria Ressa and the digital media outlet Rappler have faced more than twenty lawsuits brought by the Philippine authorities. In November 2018, tax officials filed criminal charges for alleged tax evasion, alleging that Rappler Holdings Corporation and Maria Ressa failed to provide accurate information on their tax returns, in violation of the National Internal Revenue Code. The charges were heard in two different courts: the Court of Tax Appeals and the Regional Trial Court of Pasig City. In the first case, Ressa faced a maximum sentence of up to 30 years in prison; in the second, up to 10 years. In the latter, the Court even issued an arrest warrant for the journalist, after which Ressa had to pay cash bail in December 2018. She was ultimately acquitted in both cases, the last of which was in September 2023.

The defense argued that the charges were not based on a legitimate criminal investigation, but rather on Ressa's connection to Rappler, a digital media outlet known for its independent and critical journalism in the Philippines. Indeed, the criminal cases were initiated shortly after Rappler published investigations into corruption, abuses of power, and human rights violations committed during the administration of then-President Rodrigo Duterte.

Ressa further argued that the state was abusing its taxing power as a "power to destroy," equivalent to a form of prior restraint on press freedom. She contended that the criminal case had been strategically designed to hinder Rappler's expansion plans and limit its access, as well as that of its journalists, to press conferences and official events during the 2019 election period. It is particularly significant that the criminal proceedings were initiated without an effective prior audit, reinforcing the interpretation of the case as part of a broader strategy of judicial harassment.

In September 2023, after nearly five years of proceedings, a regional court in the Philippines acquitted Rappler and Maria Ressa, concluding that Rappler did not act as a securities operator, did not earn taxable income, and therefore had no outstanding tax obligations. Although the ruling did not explicitly analyze freedom of expression, the outcome was interpreted as a significant defeat for the use of state apparatus to harass independent journalism.

This case highlights, first and foremost, the harmful nature of lawfare when it is directed against women journalists who occupy visible leadership positions and engage in critical journalism. Ressa was subjected to multiple simultaneous lawsuits, restrictions on her mobility, and public stigmatization,[191] in a context of sustained political hostility. The impact of this type of persecution goes beyond the individual affected and has a strong chilling effect on critical journalism as a whole.

[191]In this regard, Rapporteur Irene Khan highlighted that "In the Philippines, gendered disinformation was triggered at the highest political level of the State against Maria Ressa, Nobel Laureate and journalist, and amplified by followers of then President Duterte." See: Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Irene Khan, Report on Gendered disinformation and its implications for the right to freedom of expression, *Op. cit.*, para. 86.

Second, the case shows how intimidatory litigation can evolve from isolated lawsuits into a comprehensive strategy of legal, economic, and psychological attrition. Ressa faced a barrage of criminal, civil, and regulatory proceedings simultaneously, revealing how formally legitimate legal tools can be abused to neutralize critical voices and discourage independent journalism.

The significance of the case was highlighted by the United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Irene Khan, who welcomed the acquittal as "victory for media freedom as well as justice," stressing that "[j]ournalistic work, especially journalistic expression about public and political issues, is an integral part of the right to freedom of expression and guaranteed by international human rights law."[192]

> ***In the Philippines in 2013, we did a nationwide survey, and in the national capital region, we asked, "If you have a man and a woman as presidential candidates with identical qualifications, whom would you choose?" In a country that's had two women presidents, 71% said they would choose the man. As Asia's largest Roman Catholic nation, we grew up with these beliefs in our culture.***
>
> ***In the last, I would say, twenty years, we've been able to change these perceptions. But when you put people in power who have those biases, they perpetuate them. What Duterte did–as Trump is doing in the US–is permit the worst of our societies to be their worst selves. Instead of giving people agency, Duterte gave them someone to blame. You can see this in the rise of white supremacy globally.***
>
> ***We went from hell to purgatory. You can actually recover. My cases went down. I had eleven criminal charges, eleven arrest warrants, and today I have one left of all those cases. But I fought for almost a decade.***
>
> ***María Ressa***

> ***After 8 years of legal harassment, the Philippines Court of Appeals has finally vindicated our client's rights and allowed her news site to operate. Maria Ressa is a journalist who speaks truth to power–and the law should not be weaponised to silence her. Although we celebrate this legal victory, Maria still faces years in prison in other spurious cases: the Philippine authorities are still pursuing [her] (…) Maria still faces over 30 years in prison on outstanding charges, and these must also be dismissed if press freedom and the rule of law are to prevail.***
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> ***Amal Clooney, Maria Ressa's Defense Attorney***[193]

[192]Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Irene Khan, *UN expert welcomes verdict on Maria Ressa's tax evasion case*, Press release, 19 January 2023. Available at: https://www.ohchr.org/en/press-releases/2023/01/un-expert-welcomes-verdict-maria-ressas-tax-evasion-case

[193]Ver: Clooney, A.; Gallagher, C.; Overman, C. (12 de septiembre de 2023) *Amal Clooney and Caoilfhionn Gallagher KC welcome acquittal of Maria Ressa of spurious tax evasion charges*, Doughty Street Chambers. Disponible en: https://www.doughtystreet.co.uk/news/amal-clooney-and-caoilfhionn-gallagher-kc-welcome-acquittal-maria-ressa-spurious-tax-evasion ; Clooney, A.; Gallagher, C.; Overman, C. (12 de agosto de 2024) *Amal Clooney and Caoilfhionn Gallagher KC welcome Court of Appeals' dismissal of shut-down order against Rappler*, Doughty Street Chambers. Disponible en: https://www.doughtystreet.co.uk/news/amal-clooney-and-caoilfhionn-gallagher-kc-welcome-court-appeals-dismissal-shut-down-order

4. Conclusion

The cases analyzed in this section identify a set of mechanisms that, without taking the classic form of explicit prohibitions or direct criminal sanctions, have profoundly restrictive effects on women's freedom of expression. Surveillance under protection schemes, private criminal actions, civil lawsuits for moral damages, and prolonged or abusive judicial proceedings form a network of practices that operate as indirect forms of silencing, particularly effective against women journalists and communicators, who face differentiated risks derived from their gender and the issues they address.

These decisions also reveal differing judicial responses. While decisions such as *Maughan v. Zuma* and *Philippines v. Rappler and Ressa* identify and dismantle strategies of intimidatory litigation, others, such as *Angjushev v. Cvetkovska* and *Montes v. Peredo*, validate standards that, in practice, discourage investigative journalism and scrutiny of matters of high public interest.

This situation requires us to rethink the standards for protecting freedom of expression in order to incorporate a substantive view of the differentiated impact of the law based on gender. It is not enough to analyze the formal legality of judicial measures or actions; it is essential to evaluate their real effects on public debate, informational pluralism, especially on issues that impact women and our rights, and women's participation in the public sphere. Otherwise, the law becomes yet another instrument of silencing.

VIII. Without information there is no autonomy: access to information and women's rights

Access to information is an essential dimension of freedom of expression and an indispensable prerequisite for the autonomous exercise of human rights. This right is especially important for the full development of women in accessing the information necessary to form opinions and make decisions. However, this right has been exercised unevenly and, in particular, women have historically been relegated from this right, leading in extreme contexts to the denial of access to essential information or education.[194]

In this context, the denial, restriction, or distortion of relevant information does not operate in a neutral manner: once again, it is embedded in contexts of structural inequality and produces differentiated impacts that exacerbate situations of violence, subordination, and exclusion. Lack of access to information on gender-based violence, sexual and reproductive health, rights in educational contexts, or health information, among other things, can translate, in concrete terms, into decisions made without free and informed consent, conditioned by the absence of real alternatives, institutional silencing, and serious impacts on women's dignity, autonomy, and lives.

This is particularly serious in cases of girls or adolescents who are victims of sexual violence, who, without adequate access to information on sexual and reproductive health, are victims of forced pregnancies and motherhood, in which their physical and psychological health is at high risk. Thus, the lack of information can operate as a determining factor in the production and reproduction of serious human rights violations.

This section analyzes a set of judicial and quasi-judicial decisions that address different manifestations of

[194]Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue, A/HRC/14/23, 20 April 2010, para. 44. Available at: https://docs.un.org/en/A/HRC/14/23

this problem. The cases examined show how the right of access to information takes on particular relevance when the prevention of gender-based violence, the accountability of public institutions, the protection of women's health, and the possibility of making informed decisions about one's own body and life plans are at stake. They also show that restrictions on information, even when presented under the guise of privacy, public health, or regulatory neutrality, can operate as mechanisms of silencing and discrimination.

In these contexts, state silence, administrative opacity, the improper classification of information as confidential, the censorship of content of public interest, or the lack of active transparency can constitute forms of institutional violence that violate women's human rights.

1. Access to information and accountability in relation to gender-based violence in educational settings

The case ***Petitioner v. National Autonomous University of Mexico*** addresses the tension between the right of access to information and the right to privacy in a context related to reports of gender-based violence in the university setting. The decision of Mexico's National Institute for Transparency, Access to Information, and Protection of Personal Data (INAI) set an important precedent by recognizing that information about allegations of sexual harassment against a public official in an educational setting is clearly in the public interest and cannot be automatically classified as confidential.

The INAI acknowledged that, in principle, information about the existence or non-existence of complaints filed against a fully identifiable person may affect their right to privacy and honor. However, it stressed that the analysis cannot be carried out in an abstract or decontextualized manner. In this case, the body noted that the public reputation of the professor in question had already been affected as a result of a series of widely publicized events and official statements, which placed him under heightened public scrutiny. In the words of the INAI itself, "it is considered to be in the public interest to know whether or not there are complaints against Mr. Pedro Agustín Salmerón Sanginés (...) which places him in a more exposed position of public scrutiny and makes it essential to override the confidentiality of the information related to the proceedings against him"[195].

On this basis, the INAI applied a test of suitability, necessity, and proportionality, concluding that access to the requested information was an appropriate and necessary measure to fulfill a legitimate objective: to strengthen transparency and institutional accountability in response to allegations of sexual violence in the educational sphere. The body held that, although the disclosure of information about allegations against an identifiable person may, in abstract terms, affect their privacy, the context was decisive. In this case, the information requested was linked to allegations of gender-based violence that were already publicly known and to the actions of an official who had even been proposed for a diplomatic post, which reinforced the public interest involved.

A central element of the reasoning was the nature of the information requested. The INAI emphasized that these were allegations of sexual assault in the educational sphere, in which "the individual in question (...) possibly took advantage of his position as a teacher to carry out harmful actions."[196] In this sense, the decision expressly incorporated a gender perspective, linking access to information with widely documented

[195]National Institute for Transparency, Access to Information, and Protection of Personal Data, Access Review Appeal: RRA 4790/22, Obligated Party: National Autonomous University of Mexico, Request Folio: 330031922000149, Resolution of June 1, 2022, p. 41 [Own translation]
[196]*Ibid*., p. 43 [Own translation]

patterns of sexual violence in educational institutions. To this end, the body based its analysis on official statistical data, recalling that "teachers are actors who undoubtedly commit violence against women within academic institutions and, furthermore, the places where assaults are most frequently verified are precisely school facilities."[197]

From this perspective, the decision is significant because it advances the recognition of the right of access to information on reports of gender-based violence as a key tool for preventing impunity, highlighting institutional practices that have historically tended to silence victims, and reinforcing the state's obligations of due diligence in relation to violence against women in the educational sphere.

2. Access to information and sexual and reproductive health

The cases of ***Lucía v. Nicaragua***, ***Norma v. Ecuador***, ***Susana v. Nicaragua***, and ***Fátima v. Guatemala*** constitute a coherent and unprecedented body of jurisprudence from the UN Human Rights Committee regarding Article 19 of the International Covenant on Civil and Political Rights. Through these four decisions, the Committee expressly recognized that the denial of sexual and reproductive information–including comprehensive sexuality education and information about legal options available during pregnancy–constitutes a violation of the right to freedom of expression in its access to information dimension. Consequently, such state omission can directly lead to the imposition of forced motherhood on girls who are victims of sexual violence.

Although the national contexts differ, the four cases share a structural pattern. All of the petitioners were girls between the ages of 13 and 15 who became pregnant as a result of rapes perpetrated by people in their immediate environment (family members, community leaders, or authorities). In all cases, the state systematically failed to provide clear, accurate, timely, and evidence-based information on sexual and reproductive health and on their rights and options during pregnancy. The girls did not receive information about emergency contraception, the risks of child pregnancy, the possibility of terminating the pregnancy, alternatives such as adoption, or access to psychological and social support resources. The result was the same in all cases: pregnancies continued without informed consent and motherhood imposed on girls, which significantly aggravated their situation of vulnerability.

The Committee approached these cases from a broad perspective, examining multiple rights (life, personal integrity, prohibition of cruel treatment, privacy, non-discrimination). However, what is innovative and makes them particularly relevant to freedom of expression is that the analysis under Article 19 of the International Covenant on Civil and Political Rights occupies a central place. In all four decisions, the Committee held that the right to freedom of expression is not limited to the ability to express opinions, but includes the right to seek and receive information essential for making autonomous decisions, particularly in the case of girls and adolescents in situations of extreme vulnerability.

In *Lucía v. Nicaragua* and *Susana v. Nicaragua*, the Committee was particularly vehement in its response to the state's silence. Nicaragua did not respond to any of the Committee's requests, which led to the petitioners' accounts being given full probative value. In both cases, the Committee concluded that the total absence of information on sexual and reproductive health, coupled with a legal framework that criminalizes abortion in all circumstances, deprived girls of any real possibility of making decisions about their bodies and their lives. The Committee stated that the lack of information, including the possibility of giving their children up for adoption, was a decisive factor that led to forced motherhood, in direct violation of Article 19.

[197] *Ibid.*

In *Norma v. Ecuador*, the Committee went a step further by emphasizing that even when the legal system provided legal exceptions for therapeutic abortion to avoid danger to the life or health of the pregnant woman–a situation applicable to 13-year-old girls–the lack of information rendered these exceptions illusory in practice. Norma was never informed that, given her age and condition, her life and health were at risk and that she could therefore legally access an abortion.

The case of *Fátima v. Guatemala* further expands this line of reasoning. The Committee analyzed not only the lack of information before and during pregnancy, but also the institutional violence and revictimization suffered by the girl within the health and justice systems. Fátima repeatedly stated that she did not wish to continue with the pregnancy, but she never received information about emergency contraception, therapeutic abortion–applicable in this case–or the possibility of adoption. The Committee concluded that this failure to provide information was a determining factor in the consolidation of forced motherhood.

In all four cases, the Committee concluded that the lack of information about the options available to the girls prevented them from making informed decisions about their sexual and reproductive health and resulted in both forced pregnancy and forced motherhood.[198]

Taken together, these four cases consolidate a novel normative standard in the universal system. The strategic litigation promoted by the movement *Son niñas, no madres* (They are girls, not mothers), which brought these four cases before the Committee, succeeded in demonstrating that without information there is no autonomy, and that the lack of comprehensive sex education and reproductive information is a structural factor that enables sexual violence, forced pregnancies, and imposed motherhood in girls. The Committee fully embraced this reasoning and recognized that Article 19 protects the right of girls and adolescents to receive information that allows them to understand what is happening to them, identify violence, protect their health, and make decisions about their future. "By recognizing this direct link between information and autonomy, the Committee takes a decisive step toward a deeper and more protective interpretation of Article 19."[199]

Along the same lines, the Inter-American Court of Human Rights addressed the link between access to information, personal autonomy, and sexual and reproductive health in the case of ***I.V. v. Bolivia***. Although the case did not concern forced motherhood in girls, but rather the sterilization of an adult woman in a public hospital without her informed consent, the Court clearly elaborated on the content of the right of access to information as an indispensable condition for the exercise of reproductive autonomy and the dignity of women.

The case originated from the tubal ligation performed on a Peruvian refugee woman during a cesarean section at a public hospital in Bolivia, without her prior, free, and fully informed consent. The Court found the state internationally responsible, among other things, for violating the right of access to information

[198]Human Rights Committee, Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No, 3626/2019, 17 January 2025, CCPR/C/142/D/3628/2019, para. 8.16; Human Rights Committee, Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 3627/2019, 25 April 2025, CCPR/C/142/D/3627/2019, para. 8.16; Human Rights Committee, Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 3628/2019, 20 June 2025, CCPR/C/142/D/3628/2019, para. 11.19; Human Rights Committee, Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 3629/2019, 11 July 2025, CCPR/C/143/D/3629/2019, para. 15.18.

[199]Furfaro, L. (2025) Portraits of FoE Defenders: Interview with Catalina Martínez Coral. Columbia Global Freedom of Expression. Available at: https://globalfreedomofexpression.columbia.edu/publications/portraits-of-foe-defenders-interview-with-catalina-martinez-coral/

recognized in Article 13 of the American Convention, in relation to the rights to personal integrity, private and family life, dignity, and the right to found a family. In its reasoning, the Court affirmed that informed consent is a *sine qua non* condition for any medical intervention and that it can only exist when "adequate, complete, reliable, comprehensible and accessible information has been received and fully understood."[200]

A key contribution of the ruling was that the Court established a direct link between reproductive autonomy and the right of access to information. It affirmed that the right of access to information imposes positive obligations on the state and that "this State obligation acquires special relevance when violations of the sexual and reproductive rights of women are involved, as in the case of non-consensual sterilizations performed in public hospitals."[201] In this regard, the regional court considered that health personnel "should not wait for a patient to request information or ask questions about their health for the information to be given,"[202] but rather have a duty to provide, *ex officio*, the information necessary for individuals to make free and informed decisions about their bodies and health. This obligation of active transparency is particularly critical in contexts of inequality, vulnerability, or asymmetrical power relations characteristic of the doctor-patient relationship.

The Court was particularly clear in stating that informed consent is not a mere administrative formality or an abstract ethical requirement, but rather a legal obligation derived from the American Convention. In this regard, it held that informed consent is a *sine qua non* condition for any medical intervention and that its absence renders ineffective the rule that recognizes autonomy as an inseparable element of human dignity. It also emphasized that, in matters of sterilization, consent must be given exclusively by the woman, without the authorization of third parties being required, given the seriousness and permanence of its effects on reproductive capacity.

In this specific case, the Court concluded that, even assuming that some form of verbal consent had been obtained during the surgical procedure–when the patient was under epidural anesthesia and in a state of surgical stress–it did not meet the conventional standards of prior, free, and fully informed consent. The Court emphasized that in "cases of female sterilization, owing to the relevance and implications of the decision and for greater legal certainty, consent should be given in writing"[203] since "[t]he more important the consequences of the decision to be taken, the more rigorous should be the controls to ensure that valid consent is given."[204] Consequently, the state failed to fulfill its obligation to guarantee the right of access to information and violated the victim's reproductive autonomy.

Read in conjunction with the decisions of the Human Rights Committee on forced motherhood in girls, this ruling by the Inter-American Court reinforces a cross-cutting standard in international human rights law: the denial of relevant information on sexual and reproductive health is not a neutral omission, but a form of institutional violence that violates freedom of expression in its access to information dimension, with direct effects on women's ability to make free, informed, and autonomous decisions about their bodies and their life plans.

[200]Inter-American Court of Human Rights, Case I.V. v. Bolivia (Preliminary objections, merits, reparations and costs), Judgment of 30 November 2016, Serie C No. 329, para. 189.
[201]*Ibid.,* para. 250.
[202]*Ibid.,* para. 156.
[203]*Ibid.,* para. 196.
[204]*Ibid*.

3. Women's health information and disproportionate restrictions in digital environments

Access to health information is essential to ensuring a better quality of life for people. In the case of women, restrictions on this type of information do not operate in the abstract or in a neutral manner, but rather are part of contexts of structural inequality that amplify their effects and deepen violations of rights. When the state, or as we see today with digital platforms, limits access to relevant health information –particularly on sexual and reproductive health–, the impact goes beyond public debate and directly undermines women's capacity to make free and informed choices.

The case of ***WOW v. AEMPS*** clearly reflects these risks. In this case, the Spanish health authority ordered the widespread blocking of the website of Women on Web International Foundation (WOW), an organization that provides information and support on safe abortions, on the grounds that it promoted the purchase of medicines that are banned in Spain and, in any case, cannot be administered without a prescription. After warning the organization about this situation and in view of the failure to cease the activity in question, the Spanish Agency for Medicines and Health Products (AEMPS) initiated administrative proceedings to interrupt or remove the information and, as a precautionary measure, ordered internet service providers in Spain to block access to the WOW website.

After the organization appealed to the Spanish courts and the case was examined by courts of first and second instance–which considered that blocking the site did not affect freedom of information or expression–the matter finally reached the Spanish Supreme Court. Although the Court recognized that the site contained sensitive health information and that the marketing of certain drugs was illegal, it concluded that the measure adopted–the total blocking of the website–was disproportionate.

The decision emphasized that the website did not merely facilitate access to drugs, but also contained "information, recommendations, and opinions on sexual health and reproductive rights [which] undoubtedly fall within the category of information and expression and, therefore, could not legally be shut down without judicial authorization."[205] It added that "organizations that promote so-called 'reproductive rights' carry out an activity that, whatever one's opinion of it may be, has a political dimension in contemporary society" and therefore requires "special attention from the point of view of freedom of information and expression."[206]

Consequently, the Supreme Court decided to partially uphold the appeal filed by WOW and ordered the annulment of the AEMPS decision insofar as it exceeded the mere interruption of access to the specific section of the website where the activity considered unlawful was carried out, as well as to render ineffective the precautionary measure adopted during the administrative proceedings.

This decision sets an important precedent regarding access to health information in digital environments, establishing that judicial authorization is always required when blocking content that constitutes a form of expression or information published on a website. In this way, the Court affirmed the primacy of the circulation of information of public interest regarding women's health over general and disproportionate restrictions. It further reinforced the idea that regulatory measures in this area must be strictly necessary, proportionate, and sensitive to the differentiated impacts they have on women's sexual and reproductive rights.

[205]Supreme Court of Spain, Judgment No. 1231/2022, Case No. 6147/2021, Judgment of October 3, 2022, para. 13 [Own translation]
[206]*Ibid*.

Along the same lines, the risks to women's access to health information are not limited to restrictions imposed directly by state authorities. As the case analyzed above shows, widespread blocking of online content can be disproportionate and seriously affect the circulation of information of public interest on sexual and reproductive health. However, in the contemporary digital ecosystem, these restrictions do not come solely from the state, but are reproduced–and sometimes intensified–through private content moderation policies on digital platforms.

The ***case of breast cancer symptoms and nudity*** sets an important precedent for analyzing how content moderation policies, particularly when applied automatically, can restrict access to information that is essential to women's health and produce discriminatory effects, even when presented as seemingly neutral rules. The matter was reviewed by the Oversight Board.

The Board reviewed Facebook's (now Meta) decision to remove an Instagram post intended to raise awareness about breast cancer symptoms, which included images of visible female nipples for strictly educational and medical purposes. The removal was automatic, using a machine learning-based classifier, in application of the policy on nudity and adult sexual activity. Although the company later acknowledged that this was a mistake and restored the content, the Board decided to issue a statement anyway, considering that the damage was irreversible: the post was removed for the entire month of October, coinciding with the international awareness campaign known as *Pink October*, dedicated to breast cancer prevention.

From an information access perspective, the Board noted that the removal of the content affected users' right to receive relevant health information, and that this impact fell disproportionately on women, as the primary recipients of information on breast cancer. The decision highlighted that automated moderation, when it does not incorporate adequate safeguards, can result in a form of censorship of content related to women's rights.

In its analysis, the Board determined that Facebook's decision was not even compatible with its own Community Standards, as these expressly provide for an exception for adult nudity for educational or medical purposes, including breast cancer awareness. However, the case revealed a particularly problematic lack of regulatory clarity: while Facebook's Community Standards allow for such an exception, Instagram's Community Standards–cited to the user at the time of content removal–did not explicitly provide for it. This regulatory inconsistency, coupled with the absence of clear information on which regime prevails, led the Board to conclude that the restriction did not meet the requirement of legality, as required by Article 19 of the International Covenant on Civil and Political Rights.

The Board also emphasized that health information "is particularly important (...) and is additionally protected as part of the right to health". It further stated that "awareness raising of breast cancer symptoms is a matter of critical importance" and that, therefore, "Facebook's actions jeopardize not only women's right to freedom of expression but also their right to health."[207]

Regarding the analysis of necessity and proportionality, the Board expressed concern about the excessive reliance on automated moderation systems to evaluate complex content. In this case, the system was unable to recognize explicit references to "breast cancer" in the text of the image, demonstrating the structural limitations of automation in understanding the educational, medical, or social meaning of certain messages. Automatic removal, without effective human review or robust appeal safeguards, was considered an unnecessary and disproportionate measure, incompatible with international standards of freedom of expression:

[207]Oversight Board, Breast cancer symptoms and nudity, Standard decision, January 28, 2021.

"[e]nforcement which relies solely on automation without adequate human oversight also interferes with freedom of expression."

This case reflects how this type of content moderation policy can have a discriminatory impact. By treating female and male nipples differently, and by preventing the circulation of information about diseases that mainly affect women, Meta's policies–applied automatically–silence content that is vitally important to women's lives, reinforcing structural inequalities. In the words of the Board itself, this situation raises serious concerns in light of the principle of equality and non-discrimination, as it has a "disproportionate impact on women."[208]

Finally, the Board ordered that the published content be maintained and issued structural recommendations aimed at improving transparency, regulatory consistency, and safeguards against automated moderation, including internal audits, greater clarity in the rules, and effective appeal guarantees.

4. Conclusion

The cases analyzed in this section highlight that the lack of access to information on women's rights is not merely an administrative deficiency or an isolated restriction, but rather a structural problem that acts as a concrete obstacle to the effective exercise of human rights. Whether they come from the state, educational institutions, health authorities, or digital platforms, restrictions on information relevant to women have material effects on their lives, as they condition their ability to make free, autonomous, and informed decisions about their bodies, their health, and their life plans.

The decisions examined here show that the right of access to information plays a central role in preventing gender-based violence, in ensuring the accountability of public institutions, and in the effective protection of other human rights, such as life, personal integrity, health, equality, and non-discrimination. In educational contexts, access to information about reports of sexual harassment is an indispensable tool for combating impunity and exposing institutional practices that have historically tended to silence victims. In the field of sexual and reproductive health, the jurisprudence of the United Nations Human Rights Committee confirms that the denial of information can directly lead to forced pregnancies and motherhood, particularly when it affects girls in situations of extreme vulnerability. Along similar lines, the Inter-American Court of Human Rights has affirmed that access to adequate, timely, and understandable information is an indispensable condition for informed consent and the exercise of women's reproductive autonomy, and that its absence constitutes an autonomous violation of the right of access to information.

Likewise, cases related to digital environments show that both state measures and those adopted by private platforms that restrict the circulation of information on women's health must be subject to strict standards of legality, necessity, and proportionality, so as not to enable the censorship of information of public relevance that has a differentiated impact on women's rights, especially in terms of health, sexual, and reproductive rights.

Reading these precedents together, they consolidate a clear and robust standard in international human rights law: "[a]ccess to information is key to women's empowerment and agency."[209]Without information, there is no autonomy, and without autonomy, the full exercise of human rights is not possible. In this sense,

[208]*Ibid.*

[209]Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Irene Khan, Report on Gender Justice and the Right to Freedom of Opinion and Expression, *Op. cit.*, para. 36.

the right of access to information–as an inseparable dimension of freedom of expression–requires enhanced protection when the rights of women and girls are at stake, particularly in contexts marked by violence, discrimination, and structural inequality.

IX. Conclusions

Throughout this research, it has been demonstrated that censorship and restriction of women's expression is not an exceptional or marginal phenomenon, but rather a structural, persistent, and cross-cutting practice that is taking on increasingly complex forms in contemporary legal systems. Far from manifesting itself solely through explicit prohibitions or direct criminal sanctions, silencing today operates through formally legitimate legal, administrative, judicial, and technological mechanisms that discipline, wear down, monitor, omit, or restrict access to and circulation of information essential to the autonomous exercise of women's human rights.

A comparative analysis of judicial and quasi-judicial decisions reveals a recurring pattern: when women report violence, investigate those in power, express feminist positions, participate in protests, engage in critical journalism, or seek information to make decisions about their bodies, health, or life plans, the law–and, increasingly, digital platforms–can become an instrument of control and exclusion. Intimidating judicialization, the strategic use of criminal and civil law, surveillance under seemingly protective schemes, the criminalization of protest, sexual violence as a repressive tool, the denial of information in educational and health settings, and automated content moderation constitute a network of practices that have profoundly restrictive effects on freedom of expression, with differentiated and aggravated impacts based on gender.

The different sections of the study identify specific forms of this structural silencing. First, cases linked to the persecution of feminist voices and human rights defenders show how protracted legal proceedings, institutional reprisals, and legal harassment function as mechanisms of attrition designed to discourage public denunciation and democratic debate. Second, the analysis of the exclusion of women from the public sphere–particularly journalists, politicians, and activists–reveals how structural and symbolic violence is combined with state decisions that reinforce gender stereotypes and legitimize their marginalization from public debate.

The section on the criminalization of protest highlights a particularly serious trend: the use of repression, criminal prosecution, and sexual violence as strategies of punishment and discipline against women who challenge the social order and traditional gender roles. Far from being isolated incidents, these practices have been recognized by international and regional bodies as systematic patterns aimed at silencing female dissent.

Likewise, the examination of digital violence against women shows that technological environments not only reproduce pre-existing inequalities, but also introduce new forms of censorship, amplified by opaque moderation systems, automated decisions, and seemingly neutral standards that end up making women's complaints, political discourse, and legitimate expressions invisible. At the same time, analysis of cases involving religious expression highlights the persistent tensions between freedom of expression, personal autonomy, and state regulations that disproportionately impact women, especially those belonging to religious minorities.

Finally, the sections devoted to alternative mechanisms of censorship and access to information lead to the conclusion that without information there is no autonomy. Denying, restricting, or obstructing access to

relevant information–particularly in the context of sexual and reproductive health–reinforces asymmetrical power relations and perpetuates structural forms of discrimination. Where women are deprived of essential information, their ability to decide freely is limited and the exercise of other fundamental rights is rendered meaningless.

The judicial responses analyzed offer an uneven picture. While some courts and international bodies have managed to identify and dismantle these indirect forms of censorship, incorporating due diligence standards and gender-sensitive approaches, others have validated restrictions that, in practice, discourage critical journalism, trivialize gender-based violence, criminalize women's protests, and restrict access to information of high public interest. This disparity highlights the urgency of integrating a substantive gender perspective into the analysis of freedom of expression, which is not limited to assessing the formal legality of restrictions, but also examines their real impacts on media pluralism, public debate, and women's participation.

In short, this study argues that guaranteeing women's freedom of expression requires much more than mere abstention from censorship. It requires the fulfillment of positive obligations of protection, transparency, and due diligence, both by states and private actors, in the face of practices that, under the guise of neutrality, reproduce silencing and exclusion. Otherwise, the right runs the risk of once again becoming a mechanism that legitimizes the marginalization of women from the public sphere and weakens the very foundations of democracy.


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