

Public comments (2023-002-IG-UA)

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Respected Oversight Board,

We submit the following comments in accordance with the points made in the case selection process:

1. Socio-political context regarding violence against women in the world:

Gender-based violence (GBV) is an ongoing and significant problem worldwide. According to the United Nations (UN), gender-based violence is defined as “*any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women whether occurring in public or private life*”¹. Gender-based violence includes violence against women that is “*more specific than gender-based violence in that it only applies to people who identify or present as women*”². And, its scope extends to adult women, adolescents and girls.

Violence against women is evident in different behaviors and spaces, such as at home and at work. Likewise, this type of violence is materialized through different actions, e.g., physical, psychological, economic, digital and workplace violence. Regarding data on violence against women in the world, organizations such as UN Women, the World Bank and the World Health Organization (WHO) point out that “*an estimated 736 million women—almost one in three—have been subjected to physical and/or sexual intimate partner violence, non-partner sexual violence, or both at least once in their life (30 per cent of women aged 15 and older)*.”³

In particular, one form of violence against women is intimate partner violence (IPV). According to official data, “*most violence against women is perpetrated by current or former husbands or intimate partners. More than 640 million women aged 15 and older have been subjected to intimate partner violence (26 per cent of women aged 15 and older)*.”⁴ And, UN Women indicated that “***Globally 81,000 women and girls were killed in 2020, around 47,000 of them (58 per cent) died at the hands of an intimate partner or a family member, which equals to a woman or girl being killed every 11 minutes in their home***”⁵

¹ Health Organization, W. (2022) *Violence against women, World Health Organization*. World Health Organization. Available at: <https://www.who.int/health-topics/violence-against-women> (Accessed: March 22, 2023).

² Kirkegaard, D. (2022) *What is gender-based violence (GBV)?, USA for UNFPA*. Available at: <https://www.usaforunfpa.org/what-is-gender-based-violence-gbv/> (Accessed: March 22, 2023).

³ Bank, W. (2022) *Violence against women and girls – what the data tell us, World Bank Gender Data Portal*. Available at: <https://genderdata.worldbank.org/data-stories/overview-of-gender-based-violence/> (Accessed: March 22, 2023).

⁴ UN Women, a (2021) *Facts and figures: Ending violence against women, UN Women – Headquarters*. Available at: <https://www.unwomen.org/en/what-we-do/ending-violence-against-women/facts-and-figures> (Accessed: March 22, 2023).

⁵Ibid.

Two concerns about this issue are **impunity** and the **stigma surrounding violence against women**. Stigma and misconceptions about this type of violence have the impact of silencing victims. Specifically, stigma is often associated with ideas such as that the victim sought to be in this situation of violence - by remaining in the relationship - so that the perpetrator's acts are accepted. Other conceptions that blur intimate partner violence is that it only occurs in marital relationships, leaving out other couple dynamics that involve trust and dependency⁶. Stigma is not exclusive to IPV: gender based violence directed towards public women (politicians, journalists and social leaders) are justified as occupational hazards or the cost to pay for being public figures, for example.

This stigma implies not only the silencing of victims, but the maintenance of all violent acts as a private matter, based on the shame felt by the victims⁷. It also translates to obstacles in accessing justice and reparations: women often hide incidents of violence for fear of appearing weak or of reprisals, they also often suffer revictimization during complaints, officials responsible for prosecuting perpetrators are resistant to initiating prosecutions, and there is not always adequate legal protection or access to integrated services. This unfortunate perspective on gender based violence, but also has an effect on society in general. Lack of institutional responses to violence promotes a discourse of state tolerance.

This context reflects the importance of recognizing violence against women and working to ensure safe spaces to talk about this issue.

2. The challenges for and importance of testimonies and condemnation of gender-based violence on Facebook and Instagram: the Colombian experience with “escrache digital”.

In Colombia, for several years, testimonies and condemnations of gender-based violence made on social networks such as Facebook and Instagram have been recognized and protected. It should be noted that this protection is based on freedom of expression and a series of limits have been established for its exercise.

This type of denunciation is known as “escrache digital”⁸ or, so called, digital complaints. In the “escrache digital”, people who have been victims of gender-based violence and violence against women point out - publicly, usually using a social network - the facts constituting the violence plus, on some occasions, presented with slurs, condemnations and the call for a social and institutional response.

In the last four years, the Colombian Constitutional Court has analyzed five cases related to these digital complaints. In these five cases, the facts that supported the legal action are similar: a person (the victim of violence, a social collective or a third person) denounces in

⁶ Moodley, K. and News, a (2022) *The stigma around domestic violence still strong despite recent campaigns*, *Hope Standard*. Available at: <https://www.hopestandard.com/news/the-stigma-around-domestic-violence-still-strong-despite-recent-campaigns/> (Accessed: March 22, 2023).

⁷ Ibid.

⁸The term “escrache” was first used in Argentina and refers to the public denunciations made at the homes of those allegedly responsible for human rights violations during the dictatorship in the XX century.

digital spaces, such as Facebook or Instagram, the occurrence of gender-based violence, along with insults and/or the condemnation of the violence. However, one challenge identified is that these complaints are often challenged in court for its content and tone, as the legal constitutional action is usually filed by the persons identified as perpetrators, since they consider their rights to honor, good name and privacy to have been violated. Therefore, the Court has had to define, weigh and protect the rights in conflict: the freedom of expression of the complainants of violence vs. the honor and good name of the alleged perpetrators.

Specifically, the Court has protected digital complaints by considering them a legitimate exercise of freedom of expression and, moreover, because they constitute a special protected speech as they involve a matter of special interest to society.

What we estimate is useful for the case selected by the Oversight Board are, mainly, two considerations: on the one hand, that virtual denunciations, although they may be uncomfortable or offensive, are made in the exercise of freedom of expression. Moreover, when referring to a topic such as gender-based violence, denunciations are a **special protected speech**⁹, since they raise social awareness of this problem and facilitate openness to talk about it for the victims. On the other hand, the limits for this type of discourse are found in not turning into cyberbullying or sharing personal data of the alleged perpetrator. Therefore, the content of the complaint - including slurs - are protected by freedom of expression. Above all, because these speeches should not be read in an isolated and decontextualized manner, but as part of a denunciation in search of an institutional and social response to gender-based violence.

Finally, although the Constitutional Court did not analyze hate speech and digital complaints, **the differential reasoning given to this type of speech is important.** The Oversight Board may likewise consider that Meta's community standards have a similar consideration. Moreover, we believe that both Meta's hate speech policy and previous Oversight board decisions reflect that these policies seek to counter manifestations that generate intimidation and an act of offline violence. For example, in the case of Myanmar post about Muslims, the Board determined that "although the user's post could be considered offensive, it did not advocate hatred or incite imminent harm". Thus, speeches that contain denunciations, accompanied by insults or strong statements, but do not generate or call for violence should not be removed from social networks.

In addition, we believe that Meta's policy on hate speech allows the inclusion of a differential approach to digital denunciations, testimonies and condemnations that are made in regard to gender-based violence. For example, when referring to insults or slurs, it is established that if they are included to reprove or raise awareness¹⁰, they can be used.

⁹ Corte Constitucional, L. (2021) *Sentencia T 289 de 2012, Corte Constitucional de Colombia*. Available at: <https://www.corteconstitucional.gov.co/relatoria/2021/T-289-21.htm> (Accessed: March 22, 2023).

¹⁰ "We also prohibit the usage of slurs that are used to attack people on the basis of their protected characteristics. However, we recognize that people sometimes share content that includes slurs or someone else's hate speech to condemn it or raise awareness"

In conclusion, the case under analysis of the Oversight Board is an opportunity to vindicate digital denunciation and condemnation of gender-based violence. This type of denunciation requires a differential approach and special attention to the context¹¹: these are subsequent denunciations of violent actions that have real and significant impacts and seek to inform society and the authorities about their occurrence.

¹¹ The importance of analyzing the context in hate speech was pointed out in the Russian poem case by the Oversight Board.