



# More than words

Seeking consensus to define hate speech

Asociación por los Derechos Civiles



July 2020  
[adc.org.ar](http://adc.org.ar)

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We acknowledge Hernán Gullco, Eduardo Molina Quiroga, Dafne Plou and Paz Peña, for reviewing this report.



*More than words: seeking consensus to define hate speech* was produced as part of a project supported by Ford Foundation. It is for public dissemination and has no commercial purposes. It is published under a Creative Commons Attribution–NonCommercial–ShareAlike. To view a copy of this licence, visit: <https://creativecommons.org/licenses/by-nc-sa/4.0/>

## Executive summary

Hate speech is currently one of the most controversial issues regarding internet regulation. On the one hand, it is stated that digital technologies have allowed a viralization of denigrating messages and as a result, members of disadvantaged groups are exposed to aggression, humiliation, and other attacks on their dignity. On the other hand, it is noted that excessive regulation jeopardizes freedom of expression, insofar as tolerating even hostile, offensive, or annoying discourse is an essential part of that right.

Part of the problem is that there is a sharp disagreement on how to define hate speech. Within this scenario, the Inter-American Court of Human Rights (IACHR) is in a position to collaborate in the specification of a common concept, due to its role as ultimate interpreter of the American Convention on Human Rights. Yet this court has refrained, so far, from doing any deep analysis on which sorts of speech are not to be protected – or deserve minor protection – when considering freedom of expression. In the case of the Internet, this gap has been filled by platforms, who – through their moderation policies – are responsible for eliminating content if it is deemed to constitute hate speech.

The complexity of this controversy compels us to analyze the phenomenon as diversely as possible. Hence, this study focuses on four different Latin American countries: Argentina, Brazil, Costa Rica, and Panama. It looks at how each of these countries defines hate speech and how they address it. This approach is made both, from a legal and a social perspective. The aim of the former is to find the common properties of hate speech in the region's legal system. The latter seeks to expose how groups who are regularly slandered on the web endure such hostility, and how they conceive it in light of what is established by their legal systems.

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## 1. Introduction

An array of international bodies, such as the Inter-American Commission on Human Rights (IACHR), are warning on the regional escalation of hate speech and urge national states to implement measures for its prevention and punishment. In turn, they emphasize that the phenomenon must be regulated with sufficient specificity in order to delimit its interpretation and avoid the erosion of free speech.<sup>1</sup>

The difficulty lies in the fact that hate speech is a vague concept and thus, reaching consensus on its definition is problematic and creates controversy. In the case of hate speech on the internet, the complexity only increases.

The role of platforms – in particular, social networks – is to be seriously considered, since it is their content moderation policies that determine which sort of speech should be tolerated or sanctioned within their scope. On the other hand, the business model of these platforms often encourages the spread of this type of content, due to its success in catching public attention, thus ensuring user retention in their networks.

It is widely recognized that freedom of expression includes the tolerance of offensive, shocking, or disturbing speech, yet does not protect hate speech. The main challenge is to be able to discern between the two without falling into considerable subjectivity, leading to inconsistent results.

In the online world, these decisions are made by platforms through their content moderation policies. These methods of assessment carried out by private actors are very much debated, at times because of removing content in excess, while others, because of exaggerated tolerance. The sensitivity of this issue should be a powerful enough argument for platforms to engage in giving greater legitimacy and transparency to the processes by which such decisions are made.

The growing tension between hate speech and the right to equality and non-discrimination, particularly in the digital realm, increases the social debt to those groups who regularly suffer derision and harassment. Therefore, we stress the urge for its immediate study.

We believe that one of the most effective ways to overcome this tension is to agree collectively in a definition of the concept. Under this rationale, we

must consider as many perspectives as possible and listen to all sectors, even in the case we do not reach ultimate consensus. For a number of reasons, people may justly disagree and remain in such a state indefinitely. Despite this, the task is by no means fruitless, as it will help build bridges between different positions and clarify the arguments on each side.

This report is a contribution to such collective debate within Latin America and the Caribbean. Due to its focus, it deals with the reality of four countries in the region: Argentina, Brazil, Costa Rica, and Panama. Three prestigious organizations collaborated on this project: Coding Rights, Sulá Batsú, and IPANDETEC.

The document tackles the issue of hate speech from two points of view:

First of all, there is the legal perspective. A comparative analysis seeks out to understand which concepts and properties are considered by the laws of each country to regard an expression as hate speech. The diversity of international human rights instruments, together with each nation's legal framework will serve as a basis to detect similarities and differences in how hate speech is conceived.

Secondly, there is a social aspect. In this section, we present a summary of testimonies - regarding online harassment - provided by women activists and members of the lesbian community. Through interviews, the participants were able to give account of personal and collective cases, as well as to reflect on their experiences on the internet. As with the legal point of view, the narrative of the people interviewed gives us the chance to deepen into the similarities and differences between each experience.

In addition to the comparison within each one of these angles - legal and social -we sought to establish contacts between the two of them. This exchange has allowed us to inquire about the links between hate speech as a settled practice in a legal norm and as a lived experience.

The aim is to contribute to the task of seeking consensus in drawing up a characterization of "hate speech" meeting the following objectives:

- to help orientate in the definition of a concept which demands specificity, in order to avoid discretion.
- to provide greater legal certainty to those in charge of its application.
- to be as legitimate as possible, in terms of the sectors represented.

It is clear that this report on its own cannot comply with the entire task. But at least we hope to contribute to the search for a collective solution to a problem that requires comprehensive approaches.

## 2. Context

The Internet has drastically reduced the cost of content dissemination, enabling people to spread their voice to increasingly larger audiences. This does not mean that every individual has equal opportunity to influence others through his or her ideas, since social and power inequalities are replicated in the virtual realm, and some voices are more influential than others. Nonetheless, social media, forums, chats, etcetera, are means that have substantially facilitated communication between people.

In a way, the rise of the digital world has helped create a more democratized and diversified environment.<sup>2</sup> The momentum gained by freedom of expression due to the appearance of information and communication technologies has been widely recognized. It is no coincidence, thus, that authoritarian governments always have the Internet and its users within sight. Blockades, shutdowns, censorship, and massive surveillance are all parts of agendas that we see on a daily basis, implemented by governments and private actors.

However, there are some side effects. The greater ease with which all opinions can travel on the Internet includes the most extremist. Therefore, unpleasant expressions have found their opportunity to proliferate in the virtual space, either as general messages or directed towards individuals in particular.

## 3. Legal perspective: a comparative analysis of hate speech

### 3.1 International treaties

As a starting point, we seek to compare the main international legal instruments that directly address hate speech. By directly, we mean that this comparison does not, for example, include the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), who do not have a specific provision on hate speech,<sup>3</sup> although it is clear that

the obligation to modify socio-cultural patterns based on stereotypes or ideas of superiority and inferiority,<sup>4</sup> stated in that instrument, may have its implications on the regulation of hate speech.

Likewise, we have also omitted the Inter-American Convention against Racism, Racial Discrimination and Related Forms of Intolerance,<sup>5</sup> and the Inter-American Convention against All Forms of Discrimination and Intolerance,<sup>6</sup> who expressly demand commitment from its member states to prevent and sanction the dissemination of material that “defends, promotes or incites hatred, discrimination and intolerance” by any means, including the Internet. The reason for this omission is that until the date of issuing this report (May 2020), the only country of the four considered who had complied with the signature, ratification and deposit process is Costa Rica, and only for the first instrument mentioned. The rest – and Costa Rica included, for the second – signed both, but have not yet completed the approval and ratification process for their incorporation to each country’s legal order.<sup>7</sup> Nonetheless, as countries in the region ratify them in the future, both instruments will become important in discussions on hate speech over the internet.

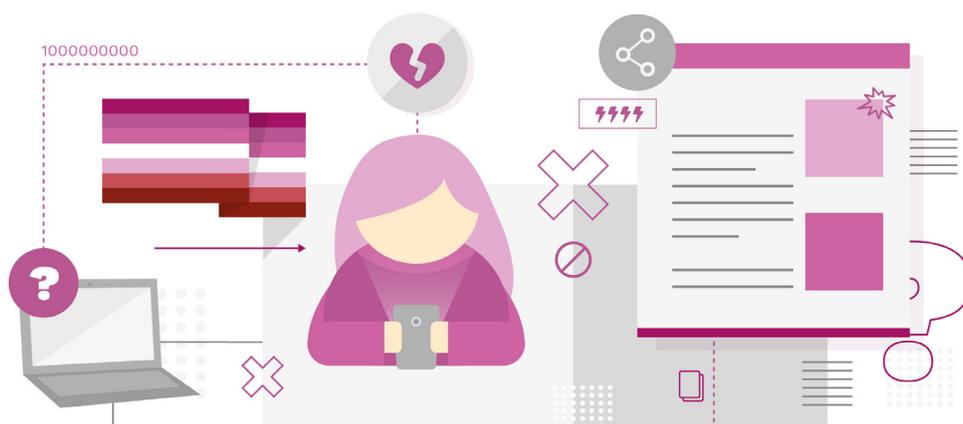
These clarifications having been made, our study will focus on the following three documents:

First, the American Convention on Human Rights (ACHR),<sup>8</sup> on which the Inter-American System of Human Rights is founded. The ACHR is categorical in its statement that hate speech is not protected by freedom of expression. In that sense, it defines as such “... any advocacy of national, racial, or religious hatred that constitutes incitements to lawless violence or to any other similar action against any person or group of persons on any grounds including those of race, color, religion, language, or national origin...” (Article 13, subsection 5). From this wording, it can be deduced that the distinctive property to consider expression as hate speech is that it must represent an incitement to violence or similar action.

The second instrument to compare is the International Covenant on Civil and Political Rights (ICCPR),<sup>9</sup> the foundation of the universal human rights system. The ICCPR agrees with the ACHR by excluding hate speech from the protection afforded by freedom of expression. However, it differs in the form of its definition. According to Article 20.2, this is “any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law”. Unlike the ACHR,

the ICCPR regards hate speech as inciting – in addition to violence – hostility or discrimination.

The third document is the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).<sup>10</sup> Like the ones above-mentioned, this instrument requires member states to penalize hate speech in their countries. But on determining its content, ICERD differs from both, ACHR and ICCPR. Its Article 4, subsection (a) declares that states shall punish “all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another color or ethnic origin”. In this case, hate speech is viewed not only as incitement to violence or discrimination but also the mere delivery of any expression founded on hatred or racial superiority.



### 3.2 Hierarchy of international treaties and domestic law

Noticeably, the three documents cited show a disparity in their conception of hate speech. This divergence becomes more complex when looking at how each country deems the hierarchy of international treaties in relation to their domestic law.

To start with, in Argentina, according to Art. 75 subsection 22 in its Constitution, international human rights treaties – including the ACHR, the ICCPR, and the ICERD – enjoy constitutional status and therefore, have more authority than national laws. Furthermore, Argentinian case law has been quite

compliant, adjusting its rulings to decisions and interpretations of international bodies, in particular those belonging to the Inter-American System.<sup>11</sup>

Panama, on the other hand, somewhat differs from the Argentinian case. First of all, its Political Constitution does not establish an explicit hierarchy in relation to international human rights treaties. For this reason, it was the Panamanian Supreme Court that ruled that international treaties have a legal status and exceptionally, enjoy constitutional status provided they do not contradict the basic principles of the rule of law or the institutions that uphold the State's independence and self-determination.<sup>12</sup>

Costa Rica presents an even different situation. In this country, the Constitution does state the prevalence of international treaties over domestic laws, but the Constitutional Chamber has broadened that criterion and argued that human rights instruments can take precedence over the Constitution itself, insofar as they grant greater rights or guarantees to individuals.

Finally, there is Brazil, where two different situations can be identified. The Human Rights treaties incorporated from 2004 onward have constitutional status, due to Constitutional Amendment 45. However, for those approved before that year - as is the case with the treaties cited in this report - the High Federal Court (STF) upheld them to be above the law but below the Constitution.

### **Two types of normative heterogeneity: vertical and horizontal**

The analysis carried out has led us to recognize two types of normative heterogeneity. The first is horizontal in type and refers to the different solutions that international standards set for resolving a hate speech dispute. The second is vertical in type and is linked to the different ranks HR treaties hold in the legal order of each country.

Within this situation, two objections can be raised, each addressing one of the heterogeneity types mentioned. The aim of this reply is to show that these divergences must not be exaggerated, as the legal system itself has mechanisms to solve them.

In order to mitigate horizontal heterogeneity, the pro-persona principle is invoked, under which the standard that most widely protects human rights must be favored. However, in these cases, such principle does not apply

clearly, since we are facing a human rights controversy. For example, the ACHR has considered that robust protection should be provided to freedom of speech, whereas ICERD sides on the right to non-discrimination. Thus, it is difficult to seek for orientation from the pro-persona principle on deciding which should prevail, since neither norm protects more than the other. Rather, they are provisions that protect two different rights.

As to vertical heterogeneity, the argument is founded on stating the higher status of international HR treaties over domestic law, regardless of whatever domestic law provides for. This is the stance of the Inter-American System itself, who has endorsed ACHR prevalence over national legislation. Nonetheless, however desirable, and legally appropriate such solution may be, its implementation ultimately depends on the approval of the Inter-American System standard by each domestic legal system. Should a country not incorporate the principle of ACHR supremacy, the tension this creates must be subject to analysis.

In short, the conclusion we draw on analyzing the provisions upheld by international HR instruments is that no definite consensus exists on specifying the exact meaning of hate speech. Some positions seek to narrow the scope of its definition, so as not to affect freedom of expression - as is the case of ACHR -while others widely broaden the concept - as with ICERD - in favor of the non-discrimination principle. On the other hand, the weight of those instruments in each country will depend on the hierarchy granted in each legal order. In any case, we must direct our attention to the national level, in order to see what the domestic law of each of these countries considered in our study provides.

### 3.3 Domestic law

In Argentinian law, no definition of hate speech has been made. However, there are norms in relation to the issue. The main one is Law 23,592 on discriminatory acts, sanctioned in 1988.<sup>13</sup> This regulation provides for imprisonment of one month to three years for those who **“encourage or incite persecution or hatred**<sup>14</sup> against a person or groups of persons because of their race, religion, nationality, or political ideas”. In turn, Law 26,485 on comprehensive protection against women, passed in 2009<sup>15</sup> determines that “the publication or dissemination of stereotypical messages and images through any mass communication media, which **directly or indirectly** promotes the exploitation of women or their images, insults,

demeans, discriminates, discredits, humiliates or impinges on the dignity of women..." shall be considered media violence.

Panama has no laws that directly refer to hate speech. Despite this, Law 82,<sup>16</sup> which typifies femicide and violence against women, reaffirms that "women have the right to a life with dignity and free of physical, sexual, **psychological** and property-related violence, to privacy and not be subject to either torture, inhuman or degrading treatment **or to any form of discrimination**". On the other hand, Law 6 of the year 2000<sup>17</sup> established the obligation to use, "language, content, and illustrations that contribute to the elimination of gender-discriminatory practices, contrary to equality between men and women, in all school activities and textbooks".

Costa Rica also lacks a general norm but does have particular laws focused on certain environments susceptible to the proliferation of hate speech. For example, the law for the prevention and punishment of violence in sports events<sup>18</sup> penalizes those who "... utter racist or other forms of discriminatory insults which are contrary to human dignity, or **incite hatred and violence** against other human beings..." Similarly, the general law on public entertainment, printed and audiovisual materials,<sup>19</sup> states that "an activity cannot be prohibited or restricted (...) for the ideas it supports unless such activity incites subversion, vice, crime, **hatred grounded on religious, racial or nationality...**"

Finally, Brazil has not used the term "hate speech" in its legislation, but the anti-racism law<sup>20</sup> criminally punishes the action **to induce or incite discrimination** for reasons of race, ethnicity, religion, and national origin. In addition, this crime is aggravated when committed through social media or publication of any nature. On the other hand, in 2018, Law 13642<sup>21</sup> gave the Federal Police authority to investigate crimes committed through global computer networks which propagate misogynistic content, defining such as those which **spread hatred or aversion** towards women.

In addition to the redundancy of re-including hatred in the case of Argentina and Costa Rica, we find that these two countries and Brazil differ in the object of incitement. Argentinian law requires that the act incite persecution against a person or group of persons. Costa Rican legislation mentions incitement to violence. Finally, Brazil considers that the behavior to be punished should be one that leads to discrimination. These differences contrast with the similarities between the three when determining which categories must be protected. All of them explicitly mention race, religion,

and nationality. Subsequently, Argentina and Brazil added provisions that exclusively address violence against women. In these cases, the concept is broadened, as Argentina punishes messages and images that attack women, even indirectly, while Brazil refers not only to hatred but to aversion of women. For its part, Panama mentions the right of women to live a life without psychological violence, which could be a way of addressing the effects that certain type of discourse has on that group.

To sum up, the examination of domestic laws enables us to understand that the terminological diversity noticed in human rights treaties is not only maintained but increases at a national level. Concepts such as persecution or aversion are added to those already observed in international law. These differences, however, could all be put down to relatively unimportant semantic discrepancies, ultimately resolved by judges when applying the law. For this purpose, we will now focus on jurisprudence.

### 3.4 The courts

In Argentina, case law has interpreted that the behaviors considered in the anti-discrimination norms– incitement to hatred or persecution –must be understood not as a “random comment with discriminatory undertone” but a message aiming to “encourage, give zest, move or advocate persecution or hatred”.<sup>22</sup> The courts have also adopted the test of the clear and present danger in determining the scope of a discriminatory act. It must therefore be established – in accordance with the context of the expressions – whether a present and obvious risk of a person being subject to attitudes of hatred or persecution is created.<sup>23</sup>

No jurisprudence on hate speech has been detected in either Panama or Costa Rica. In the latter country, however, there have been references to understanding hate speech as those expressions used to intimidate or incite violence against certain individuals or groups because of their racial, ethnic, gender traits or religious beliefs.<sup>24</sup>

Similarly, the High Federal Court of Brazil ruled that, insofar as there is no specific legislation, anti-racism law should also apply to LGTB-phobic acts, even if such group is not mentioned. To justify this position, the court held that the concept of racism emerges “as the display of power from a historical-cultural value, motivated by the aim at justifying a situation of inequality and meant for ideological control, political domination (...) of

those who, by integrating a vulnerable group (LGBTI+), are degraded to an outcast status in the legal order, thus exposed to unfair and injurious exclusion from the general system of law protection, as the result of a repulsive derogation and perverse stigma (our translation)".<sup>25</sup> This decision was made in the exercise of an abstract review of constitutionality, not within a real case of legal offense. Therefore, it remains to wait how it will be implemented.

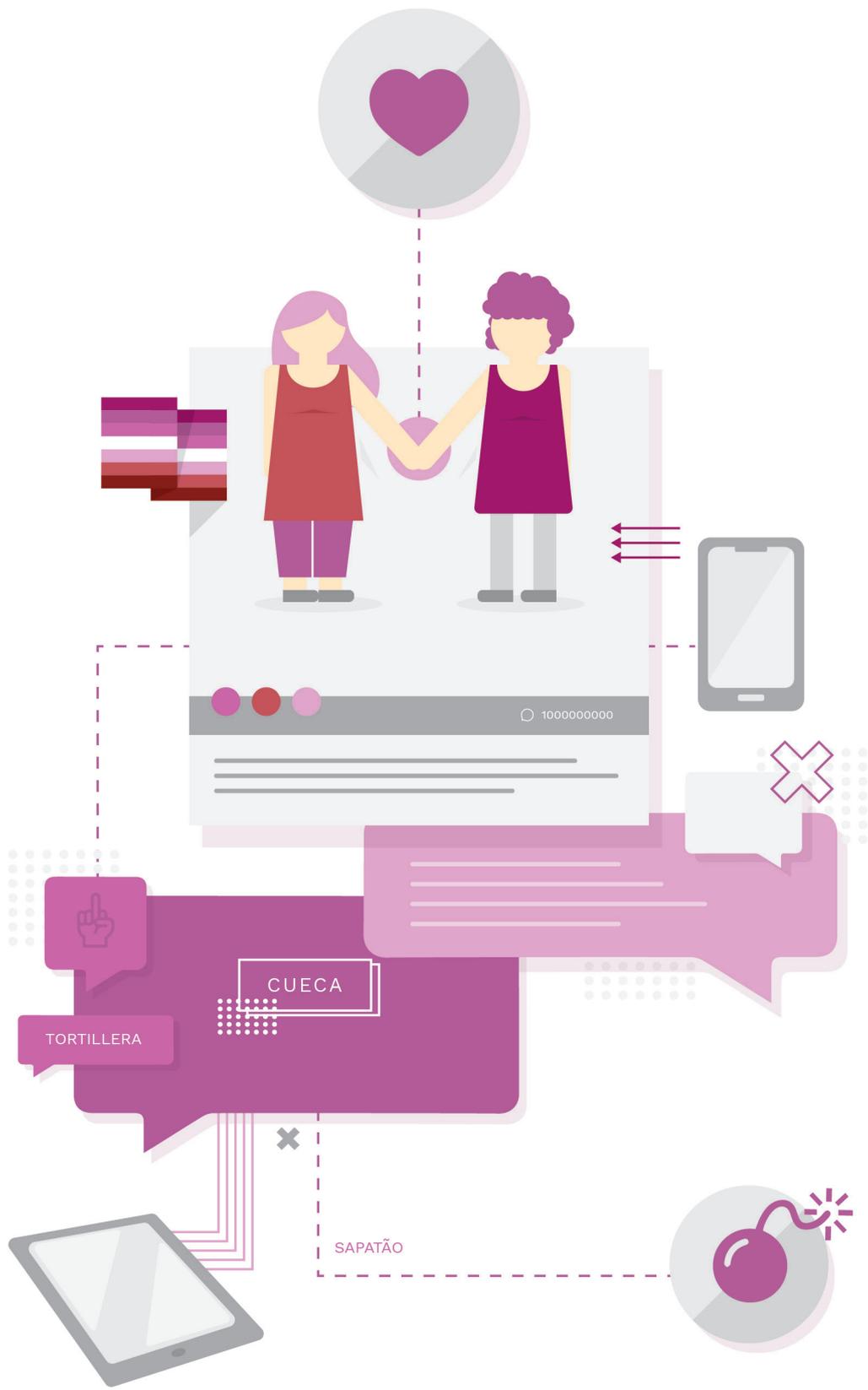
The above examples are obviously insufficient to account for the entire case law history on the subject in the countries discussed. However, they prove useful for drawing several conclusions.

First of all, our demand for greater specificity collides with the lack of attention on the subject shown by the judiciary. There is no systematic set of rulings to identify a position on hate speech. Instead, there are scattered court decisions invoking different aspects of the phenomenon, yet – whether due to their succinctness or their random character – they do not build up to a regular legal doctrine.

Secondly, there is a strong persistence of diversity. On the one hand, Argentinian courts have been inclined to apply the test of the clear and present danger. This criterion was used by American jurisprudence for a long time, although later abandoned in favor of incitement to imminent lawless action. The latter guideline appears to be the one followed in the reference made by the Court of Costa Rica. In turn, Brazil is moving forward to a broader conception that exposes the impact of discrimination on the groups suffering from it. Hence, emphasis is made on the detrimental effects on human dignity that certain rhetoric exerts on particular sectors.

Finally, the criteria detected come into tension with the standards set by the inter-American system. Indeed, the Special Rapporteur on Freedom of Expression of the Inter-American Commission on Human Rights (IACHR) has noted that the Convention suggests that violence is a requirement for any restriction on freedom of expression,<sup>26</sup> which appears not to be consistent with the judicial decisions of Argentina and Brazil.

All in all, the uncertainty is far from being dispelled. The concept of hate speech remains disputed and is subject of controversy among members of our societies.



## 4. Social perspective: approaches to hate speech as a lived experience

### 4.1 Speech as communicative action

The concept of discourse is often associated with the spread of a public message. Our study, however, addresses it from the perspective of communicative action. Discourse represents a system of ideas socially built through signs and statements that can be expressed in different forms and media.<sup>27</sup>

Therefore, discourse is more than just words in their way of expression, but also in their significance. When based on supremacist grounds or a feeling of hatred, conscious or not, towards another person or other people, it can pose serious dangers and consequences.

Inquiry into what is perceived as hate speech by those most vulnerable to enduring it over the Internet, and what properties they ascribe to it, is an invaluable resource to grasp the social mechanism of this practice better.

Motivated by this conviction, we reached members of the lesbian community in the countries concerned. Two main reasons led us to focus our attention on this particular group in this opportunity:

Firstly, we were encouraged by the desire to contest – at least in part – the long-standing cultural invisibility with which they have been treated as subjects of analysis.<sup>28</sup> Secondly, because a thorough approach to the LGT-BIQ+ movement<sup>29</sup> is impossible within the narrow scope of this study lest we ignore particularities pertaining to each sector or fall into hasty, fallacious generalizations.

During November 2019 and January 2020, fourteen semi-structured interviews<sup>30</sup> were conducted in which the following activists and members of the lesbian community recounted their personal and collective experiences: from Argentina: Lisa Kerner and Flavia Massenzio; from Brazil: Bruna Bastos, Caroline Bastos da Silva, Monica Benício, Camila Marins, Michele Seixas, Kamila Valenti; from Costa Rica: Joselyn Sánchez, Emma Chacón Alvarado and Michelle Jones; and finally, from Panama: Lorena Chávez, Lucía Ellis and Gretchen Madrigal.

Lastly, we find it necessary to stress that the analysis of the interviews in search of meanings, properties, and particularities pertaining to online hate speech, as well as its presentation in this report, are solely attributable to the Asociación por los Derechos Civiles (ADC).

## 4.2 Hate speech as a social practice: three interpretations

Expressions of hostility or contempt are human actions. Their repetition in a particular social environment, time, and space, makes them a practice that bears a different meaning to those who render them from those who receive them.

Hate speech, as a social practice, finds its origin and spread in assimilations and hegemonic organizational structures in the formative environment of groups and individuals.<sup>31</sup> In other words, it is linked to predominant systems and power relations which underlie human perceptions, attitudes, and behaviors. Addressing its possible causes, as well as its effects, can be very helpful when viewing how to prevent and eradicate this practice.

At least three primary interpretations linked to hate speech can be drawn from these interviews, each one presented separately to facilitate its exposition. However, many times they appear simultaneously in the actual narratives, as part of the phenomenon.

### ► As an instrument of sexist hierarchy

In view of what is stated above, it is not surprising that most of our interviewees questioned the oppression and exclusion of lesbians in different spheres of society, especially considering a hegemonic political, economic and social order, which sets up power relations and could be called *cis-heteropatriarchy*.<sup>32</sup>

This figure involves the combination of at least three features recurring in the interviews, which could be condensed in the following manner:

The term patriarchy was used to cite the power structure that institutionalizes male supremacy over women, resorting to a binary and hierarchical thought pattern. Man is taken as the human parameter while legitimizing

the subordination and oppression of women based on natural roles fabricated from biological differences between the sexes, and the disguise of gender as a social construct. The *cis-* prefix refers to cisgender, a term that describes the coincidence between a person's self-perceived gender identity and the biological sex assigned at birth. This fortuitous event acquires mandatory character in a system that does not give rise to dissent. Thus, the supposed natural gender order imposes the idea of complementarity between female and male, recognizing heterosexuality as the only genuine expression of sexual and emotional relationships, making it a norm.

This hegemonic system erects power relationships that permeate people's external and internal mindset, grounded on parameters of normality and exclusion that rule over bodies, identities, and subjectivities.

Those who do not comply with or adjust to the established subordination rules are perceived as abnormal and deviant, subject to discipline. A chain of corrective actions emerges, spawning expressions of hostility and even hate towards lesbians. Lesbianism as an expression of female sexuality shakes the foundations of sexist culture, as it represents the rejection of the gender roles it assigns women. Furthermore, as a political identity, it unmasks the power and domination patterns in which it occurs by calling for its transformation.

It is within this scenario that we collect the testimony of several members and advocates of the community who, in the struggle for lesbians' human rights, make their visibility and public presence a political stance. Hence, the first assimilation of hate speech appears as a cultural practice that endorses sexist hierarchy, irrespective of how conscious its promoters may be.

"For me, it is very important to name things, my political positioning is as a lesbian, [...] for me it is very important to call myself a lesbian in all spaces where I participate [...] since I came out of the closet, I have always been a very visible lesbian ... because I am constantly positioning myself politically, [...] so then, yes, I have gone through hate speech for the same thing, because in my (social) networks I am like I am in any other space..." (J. Sanchez, personal communication, 11-21-2019)

► **As a discriminatory message or expression**

Discrimination can be defined as a social practice of exclusion towards actual or perceived differences between individuals and groups because of prejudice. Broadly speaking, it means the granting of disadvantageous treatment to another or to others because of one or more characteristics that are not acceptable to those who discriminate.<sup>33</sup>

As mentioned in the previous section, the parameters of normality and exclusion that determine social acceptance of differences is not only akin to the cis-heteropatriarchal system, but to any other form of power structure of oppressive nature, such as racism. The existence of several simultaneous overlapping systems accounts for the frequent situations in which those who discriminate in certain spaces appear as subject of discrimination in others. This dynamic ultimately consolidates perceptions and habits that are often not assumed as carrying a discriminatory sense.<sup>34</sup>

“Prejudiced, racist, and discriminatory talk resorts to the moral and religious side as a way of saying that there is something wrong in behaviors and bodies that do not recreate the standard. But on the other hand, I can see that even those who are affected by such preconceptions as racism and segregation also engage in dialogues of intolerance and hate. I feel like (social) networks are big war battlefields.” (C. Bastos da Silva, personal communication, 12-3-2019)

A person who discriminates subjectively internalizes difference as natural deviance, losing sight of its social character. Discrimination and contempt turn difference into a sociocultural stigma that structurally defines people, often permanently.

“If LGBT people were brought up in a society in which they are accepted, the inequality gap would be minimal. There wouldn’t be so many mental health issues in LGBT people and in several more aspects as well. This does not only happen when it comes to homosexuals, but to women too. That if women are not married, that don’t have children, a lot of social pressure stuff that evolves into hate speech because it just doesn’t fit in the standard.” (G. Madrigal, personal communication, 2- 10- 2020)

At this point, it is worthy to stress that those descriptions in which hate speech can be perceived as carrying a discriminatory sense, the different pretexts for such discrimination are cited, sometimes presented simultaneously.

“We are very careful about the internet, there is hate speech on our sexual orientation, but the worst attacks continue to be racist, which are far more common. Lesbophobia is very powerful on the Internet, but racism is still the main source of hatred. When we give visibility to the image of the black lesbian, many people oppose to it, women as a class, as lesbians and this homogeneity that people like to preach.” (B. Bastos, personal communication, 11-28-2019)

Thus, pondering discriminatory content on the sole basis of one or more pretexts turns out to be insufficient. Multiple discrimination is a particular type of this phenomenon that occurs at the intersection of various forms of oppression and not a mere addition of social factors.<sup>35</sup>

#### ► As an exercise in symbolic violence

This third and final interpretation drawn from the stories we gathered is likely to be overlooked, as it may well be regarded as a constituent of the previous two. However, we find it striking how some of our interviewees have assimilated hate speech as a behavior that, at the very least, is aimed at undermining people’s dignity in order to convey a message of subordination.

The relationship between discourse and the order it appears to represent is made possible by its symbolic power. Consequently, the violence exerted through this social means shares its character and can be called **symbolic violence**.<sup>36</sup>

It is the imposition of a worldview, with social roles, cognitive categories, and specific mental frameworks. This type of violence can be identified in the spread of stereotypical patterns, values, icons, or signs that convey and reproduce domination, inequality, and discrimination in social relations.<sup>37</sup>

The violence underlying hate speech motivated by prejudice, often by its symbolic capacity, arises as the enabling precondition to the exercise of the other types of violence.

In a somewhat both, similar and different sense, IHR Court points out that one of the most extreme forms of discrimination against LGBTIQ+ people is that which materializes in situations of violence.<sup>38</sup> While the Court's ruling could be interpreted as referring specifically to physical violence, one could ask about its symbolic type.

Aside from this, both the IACHR and some of the interviewees seem to agree that hate speech often provides the symbolic corridors through which hate crimes occur.<sup>39</sup>

"If there is sexual violence against a lesbian woman, it is because they believe that by raping her, she will become heterosexual. Therefore, that rape is aggravated, because there's hate crime there, which has to do with all that rhetoric that all we women need are penises". (E. Chacón Alvarado, personal communication, 11-22-2019)

### 4.3 Other characteristics associated with hate speech

From the interviewees' narratives, and whatever meaning they give to on-line hate speech, a first common characteristic within the phenomenon can be detected: its heterogeneity.

Hate speech appears as a non-homogeneous phenomenon that varies according to certain indicators: who its conveyors and targets are, what kind of potential or actual damage it produces, where, and under what circumstances it takes place.

"There are, like, degrees of hate speech too, you know? Because if they say, like, 'hey, you slut!', it's... mild, a remark, it's annoying... but mild, but if you say "Just die, you shouldn't be here, you shouldn't have rights... so when it starts escalating, and then I think that's already serious, preconceived hate speech" (M. Jones, personal communication, 11-6-2019)

So heterogeneous does it seem that at least half of the women interviewed associated online hate speech with other digital occurrences such as bullying, harassment, identity theft, and threats.

When inquiring about the legal and institutional means available in order to defend themselves, fight and eradicate online hate speech, a second common feature arises: the context of inequality in the access to justice, and in the legal and institutional recognition of LGBTIQ+ people in general.

Broadly speaking, we point out that despite the fact there have been different degrees of progress in each country:

- there is still a legal vacuum – due to either non-existence or shortcomings in the law – in terms of prevention and eradication of all types of discrimination in general, and/or including the LGTBIQ+ population in particular.
- there is a partial or total failure in adopting an intersectional gender and diversity perspective for the legal production and functioning of public institutions.
- advocates for the LGBTIQ+ population’s rights often lack human and financial resources, both individually and collectively, to engage in the cumbersome bureaucratic procedures of legal cases or administrative complaints.

“... we have a problem, it’s the subject of language, which is sexist and non-inclusive, everything is written, or a lot of things are written, in the masculine, then there are a thousand interpretations. Now we cannot fail to bear in mind that we are women, therefore, we are seen as that, as women, and there is the invisibility of being lesbian because, well, it all goes back to patriarchy and sexism [...] So that’s our starting point, then the laws are conceived from the heteronormative perspective.” (E. Chacón Alvarado, personal communication, 11-22-2019)

This second feature might explain why, although most interviewees recognized occasions when they, their reference organizations, or someone they know suffered what they consider online hate speech, they did not file the correspondent administrative complaints.

## 4.4 Social media experience

Consulted whether they or their reference group has been directly affected by what they understand as hate speech, the interviewees' answers varied. The majority of the experiences reported happened on social networks: Facebook is the most usual, followed by Twitter and Instagram. These women point out that at present, the use of such platforms is an inevitable part of their activism.

Although social media does not replace grassroots activism and in-person demonstrations, it is perceived as a complement that brings a number of benefits. The scope and the speed in which content, activities, and calls for action can be spread allows them to reach different types of audiences and engage in more interactions – at times friendly, others not as much.

### The algorithmic bubble

It is well-known that social media platforms use algorithms that select and filter the contents that users access based on the presumption of their interactions and preferences. This creates an algorithmic bubble, which seems to have a double effect. It is clear from the interviews that, on the one hand, it allows to create an affinity between profiles that interact in a common and constructive way, providing a sort of protection against online hostility and aggression. While, on the other hand, it can also lead to an exacerbation of the quarrels with users who disagree with the content.

“We don't get attacks on the pages, just messages of praise and encouragement. I think that's because the page is still small and has “likes” from lesbians. But I know bigger pages that suffer attacks, they receive indecent sexual proposals. Not even on my personal page [...], My impression is that both, the collective networks and my own, are inside the (algorithmic) bubble and that is why there are no hate messages. (K. Valenti, personal communication, 11-28-2019)

The algorithms from which the mentioned bubbles are generated are key elements of the Internet business model and of which its functioning little is known.

### Personal accounts vs. institutional accounts

Most of the stories are divided between experiences using personal accounts and those belonging to their member groups or organizations they are part of. Some of them narrated that most of the times they suffered what they consider to be hate speech, it was through personal accounts, either via direct messages or through interactions in published content. In these situations, their reactions were not unanimous: on some occasions, they deleted and/or blocked the user who had posted them, while on others they refrained from doing so.

**Institutional accounts**, on the contrary, appear to have received fewer derogatory messages in general. The accounts on these types of profiles are divided between those that happened through direct messaging and those that occurred explicitly in the interactions of published content. At least three of the women mentioned that a large number of the private messages they received were linked to sexual proposals by men and heterosexual couples. This type of content was also interpreted as lesbophobic hate speech.

As to hate messages being posted publicly on institutional profiles, the reactions were not unanimous either. However, the decision not to remove either the aggressive content or the account sending it prevailed, to prevent attacks from escalating. In some cases, there was a tendency to encourage like-minded users to generate positive interactions, in order to retaliate the aggression, while in other cases organizations and activists were called upon to do so from their profiles. Finally, there were other occasions in which this content was simply ignored.

### The media in social networks

In at least three interviews it was mentioned that what is understood as hate speech arises especially in the interactions of other users with content published and disseminated by news sites and mass media in social networks. Either because of the interview they have given or just being mentioned as public figures when this news content reached social plat-

forms on the Internet, they prompted unexpected negative reactions, which drew their attention. On the other hand, they noted that they especially encountered behaviors perceived as hate speech in the interactions with news or LGTBIQ+ content disseminated by online media.

### Reporting mechanisms and application of social media filters

Some interviewees commented that when they encountered content, interactions, or profiles of third parties on social networks which they felt encouraged by hate, they resorted to using the reporting mechanisms available on platforms.

Experiences with the use of these tools range from frustration to success, tilting more to the former. In general, they expressed deep perplexity when discussing the criteria platforms implement to revise reported content.

“We have made massive denunciations and it doesn’t help” [...] sometimes the discourse is subtle and sometimes the replies are very cultural, so I don’t know who is revising for them, but I do think that sometimes they don’t understand the situation that is really happening, so they just can’t really judge and handle the reports that are coming properly”. (M. Jones, personal communication, 11-6-2019)

“...I understand that it (the content reporting mechanism) works by aggregation, so once they pick up several reports, they revise. The more reports they receive, the faster they act, but we did have successful cases where several people, mainly bigots, have had their accounts closed or suspended. Religious fundamentalists, with vicious hate speech and also have many followers, which is a shame”. (G. Madrigal, personal communication, 2-10-2020)

Activists and members of the Brazilian lesbian community have expressed their distrust in automated solutions applied by platforms to block content considered to be offensive through filters. They refer particularly to the use of the word *sapatão* (lesbian in Portuguese) which – despite the fact it is often has a derogatory connotation – it is a disputed term because of its cultural re-appropriation by the lesbian collective, infusing

it with a positive sense. The application of filters hinders this process of re-appropriation.

### The role of trolls or haters

Another common point that emerges from the interviews, in relation to what is regarded as hate speech in social networks, is the figure of trolls or haters.

This type of fake users hide their real identity and use their accounts to generate endless controversy and often insulting interactions in multiple formats. Far from encouraging debate or dialogue, interactions by trolls or haters can be highly disturbing or harmful. The fact that one troll user can operate with multiple accounts renders it very difficult to eradicate them in public content and forums, naturalizing their existence.

The presence of this type of troll users and the viralization of their content poses an obstacle for those affected by them to trace their original sources.

This issue is part of a current, much wider, debate on the determination of responsibility for content in social networks and the Internet, which calls for reflection on the role of intermediaries, in addition to users.

### Responsibility of social network users

One of the interviewee's stories stands out by highlighting the role of users who do not create the discriminatory content themselves or even feel affected by them, but simply spread it thoughtlessly. It is Monica Benicio,<sup>40</sup> Marielle Franco's partner, who provided this observation.

Marielle Franco was councilor in Rio De Janeiro and a human rights activist, particularly for black women living in the favelas. She was murdered on March 14, 2018, four days after denouncing members of the 41st Military Police Battalion for abuse of authority against the inhabitants of the Acari slum and opposing military intervention in the security zone of Rio.

Since then, Monica has become a public figure carrying the "Justice for Marielle" campaign around the world, supported by the LGBTBIQ+ international network, especially lesbians.

The interviewee comments that the use of her social networks is mostly linked to the search for truth and justice for her partner, but also to lesbian activism, political news, and racial and gender issues. She believes that before the murder, Marielle was already a public figure, as well as the relationship they had. On both of their social networks, she remembers receiving only messages of praise and encouragement.

However, among the social networking experiences Monica says took place after the brutal crime, one, in particular, is striking and moving. She says that when it became the trend to share photos comparing a decade ago to the present, certain users made a meme<sup>41</sup> with photos of Marielle and a decomposing body. Despite not understanding why someone would waste time producing something like this, she also reflected on the injurious effect this post had on anyone who had loved Marielle and received it.

According to Monica, most people do conceive there is a responsibility in their actions on the Internet or the consequences of sharing this kind of material. In particular, she refers to the person who sent her the meme without reflecting on its scope and effects, Monica says that receiving this content threw her into a painful state. She used sedatives to get over it (and even considered suicide) but managed to get through thanks to the support of her friends. Hence, her stress on the seriousness of this type of action.

#### 4.5 Regulation of hate speech (online): Yes or no?

To finish, an overview of some of the considerations that the interviewees had around the possibility of regulating hate speech online:

- In the case of **Panama** and **Costa Rica**, these referents are mostly in favor of its approval, although there is no agreement on how it should be done: whether through the creation of a specific norm or through the creation of aggravating circumstances for existing crimes in the national criminal law. What does underlie it is the consensus that its sanction would not solve the basic problem. This could only be ensured by better education incorporating an inclusive human rights perspective.

- In **Argentina**, Dr. Flavia Massenzio -coordinator of the LGBT Defense Office of the Autonomous City of Buenos Aires (CABA) and president of the Argentinian Lesbian, Gay, Bisexual and Trans Federation (FALGBT)<sup>42</sup>- stressed the need to update the national law on discriminatory acts of 1988, following the example of CABA law 5.261<sup>43</sup> (2015). The CABA Anti-Discrimination Law, despite not explicitly mentioning the Internet, establishes the possibility of punishing these acts, as well as the promotion of means to create awareness, sensitivity, and training capacity. It also establishes a set of tools to work from a comprehensive approach to discrimination.

Complaints filed at the CABA LGBT Defense are reported to the Public Prosecutor, which in turn has a department specialized in cybercrime. On the other hand, she also mentions that the National Institute against Discrimination, Xenophobia, and Racism (INADI) has an Internet Observatory that handles complaints about hate messages in the digital environment.

- In **Brazil**, the Supreme Court criminalized LGTBIQ+ phobia in 2019, based on the same law which tackles racism. The opinions of our interviewees seem to all point in the same direction.

On the one hand, a distrust in the deterrent effect fear of punishment could have on people who slur them, having the democratically elected president endorsed such slurs.

On the other hand, there is still a need to resolve how it is to be implemented, and this leads several interviewees, who are overall in favor of penalizing LBTBIQ+ phobia, to be suspicious of its effectiveness in a society, and especially its judiciary, in which structural racism prevails.

Once again, what emerged from the interviews is that laws and public policies aimed at improving the quality of life and increasing the opportunities of access to different areas of society for LGBTIQ populations should take place in a general framework of comprehensive sexuality education and the teaching of human rights. In particular, the idea of including citizen education on social responsibility in the use of on-line platforms is stressed. A further enhancement of the Civil Rights Framework for the Internet<sup>44</sup> addressing the protection of personal

data and social control of the algorithms. This would not only represent a step forward in the struggle against the hostility and forms of discrimination that may occur there but also in the consolidation of democracy within the region.

## 5. General conclusions

The different countries of Latin America and the Caribbean continue to be in a period of democratic consolidation. Attention to the phenomenon of hate speech and its causes is one of the tasks to be accomplished, and thus set the foundations for a comprehensive development that adequately articulates civilized coexistence and the construction of citizenship in its broader sense.

In particular, this report allows us to make the following observations:

- The laws of our region display various criteria and terminologies to define hate speech. Thus, there is no single standard that can lead to establishing the behaviors falling into this definition with certainty. Given this variety, the inter-American system can serve as a guideline, but its scope is limited since so far there have been no legal cases in which the IACHR has addressed this issue directly.
- A starting point for characterizing the content of hate speech is to separate the different assumptions that can be encompassed under the same category. Distinguishing whether its target is an ordinary person or a public figure; identifying whether the speech mentioned is directed at a particular individual or expressed in a general manner; checking whether the message was posted within the context of public affairs issue or as a specific attack, among others, will allow us to discuss it under a common framework of understanding.
- It is not necessarily bad news that the concept of hate speech is so controversial. It is a reflection of the reasonable disagreements we have as members of a society. Therefore, the goal must be to arrive at decisions with the highest degree of legitimacy, through deliberation involving all sectors affected. Likewise, the debate should help the region to develop its own conception of hate speech – and ways of handling it – which is not exclusively tied to perspectives built out of realities from other parts of the world.

- Greater dialogue should be promoted between human rights organizations and groups affected by hate speech actions. Discussion of the issue is sensitive, as it involves the possibility of conflicting values – such as freedom of expression or conscience vs equality and non-discrimination – which are equally important to us. Thus, it is essential that organizations that defend these rights work together in order to produce solutions that attempt to harmonize the different interests at stake.
- Hate speech has been interpreted in the interviews we conducted as a means of normalization and oppression promoting unequal power relations, as acts of discrimination, and as an exercise of symbolic violence. To deal with it successfully, it is necessary to reflect on the systems of power distribution in which they are inserted
- Hate speech has been understood as having a heterogeneous character, which varies depending on the identity of their perpetrators and targets; the real or potential harm they pose; the medium through which they are delivered and their context, among other factors. This heterogeneity invites us to reflect on the specificity of hate speech in relation to other phenomena such as bullying, threats, and digital identity theft.
- Addressing the phenomenon of hate speech ultimately requires questioning the context of inequality in the access to justice and the legal and institutional recognition of individuals and groups that have historically been subjugated.
- Internet companies must be involved in the discussions, in order to provide a safe environment of participation for the most vulnerable communities. Similarly, they must increase their accountability for the algorithms and operations used in their platforms and products.
- Regulations, to be effective, should not be approached from a punitive perspective, but rather, it appears necessary to bring multiple views together, providing ingenious and convergent solutions to reduce the influence of such expression.
- Community-based popular education should be a means for transformation used in the prevention of hate speech, so as to avoid restricting the debate to the adoption of mitigating measures or sanctions

and instead, move forward to addressing – with equal importance – the worthiness of recognizing the diversity of identities, of gender, ethnicity, class or sexual orientation.

The fight against social inequality, of which online hate speech is part, must run through the length and breadth of a community's social fabric. It must take place in all those spaces where the meanings and senses of individual and collective practices are produced. It implies eroding the social imaginaries that have endorsed, upheld, and advocated them over time. But above all, it implies the acknowledgment that hate speech has an influence on a substantial part of our societies, as a vital precondition to combat it.

## 6. Notes

**1** Inter-American Commission on Human Rights (IACHR). (2019, August 6). "IACHR condemns massive shootings and any rhetoric of hate, racism, and intolerance in the United States of America" [Press release]. Retrieved from <https://www.oas.org/es/cidh/prensa/comunicados/2019/193.asp>

Inter-American Commission on Human Rights (IACHR). (2015). *Hate speech and incitement to violence against lesbian, gay, bisexual, trans, and intersex people in the Americas*. Retrieved from [https://www.oas.org/es/cidh/expresion/docs/informes/odio/Discurso\\_de\\_odio\\_incitacion\\_violencia\\_LGTBI.pdf](https://www.oas.org/es/cidh/expresion/docs/informes/odio/Discurso_de_odio_incitacion_violencia_LGTBI.pdf)

United Nations. (2019, June 18). "UN News: UN launches new plan against hate speech". Retrieved 21 April 2020, from <https://news.un.org/es/story/2019/06/1457971>

**2** Cf. Eugene Volokh, Cheap Speech and What It Will Do, 104 Yale L.J. (1995). Available at: <https://digitalcommons.law.yale.edu/yj/vol104/iss7/10> (last accessed 2/4/2020).

**3** Available at <https://www.ohchr.org/sp/professionalinterest/pages/cedaw.aspx> (last access: 2/4/2020)

**4** Cf. Article 5(a) of CEDAW. Similarly, we should not fail to mention the Yogyakarta Principles (available at <http://yogyakartaprinciples.org/principles-sp/>), a set of standards for applying human rights standards in relation to sexual orientation and gender identity. While not a legally binding instrument, it can serve as a tool for interpreting rights from a gender perspective.

**5** Available at [http://www.oas.org/es/sla/ddi/tratados\\_multilaterales\\_interamericanos\\_A-68\\_racismo.asp](http://www.oas.org/es/sla/ddi/tratados_multilaterales_interamericanos_A-68_racismo.asp) (last access: 2/4/2020)

**6** Available at [http://www.oas.org/es/sla/ddi/tratados\\_multilaterales\\_interamericanos\\_A-69\\_discriminacion\\_intolerancia.asp](http://www.oas.org/es/sla/ddi/tratados_multilaterales_interamericanos_A-69_discriminacion_intolerancia.asp) (last access: 2/4/2020)

**7** The list of countries that signed and ratified both treaties can be found at [http://www.oas.org/es/sla/ddi/tratados\\_multilaterales\\_interamericanos\\_A-68\\_racismo\\_firmas.asp](http://www.oas.org/es/sla/ddi/tratados_multilaterales_interamericanos_A-68_racismo_firmas.asp) and [http://www.oas.org/es/sla/ddi/tratados\\_multilaterales\\_interamericanos\\_A-69\\_discriminacion\\_intolerancia\\_firmas.asp](http://www.oas.org/es/sla/ddi/tratados_multilaterales_interamericanos_A-69_discriminacion_intolerancia_firmas.asp) (last access: 2/4/2020)

**8** Available at [https://www.oas.org/dil/esp/tratados\\_b-32\\_convencion\\_ame-ricana\\_sobre\\_derechos\\_humanos.htm](https://www.oas.org/dil/esp/tratados_b-32_convencion_ame-ricana_sobre_derechos_humanos.htm) (last access: 3/21/2020)

**9** Available at <https://www.ohchr.org/SP/ProfessionalInterest/Pages/CCPR.aspx> (last access: 3/21/2020)

**10** Available at <https://www.ohchr.org/SP/ProfessionalInterest/Pages/CERD.aspx> (last access: 3/21/2020)

**11** In the “Giroldi” and “Bramajo” cases, the Argentinian Supreme Court upheld that the jurisprudence of inter-American bodies was an inevitable pattern of interpretation of international treaties. Later, in rulings such as “Arancibia Clavel” and “Simón”, the court took a step forward along this path by establishing that the decisions of the Inter-American Court of Human Rights were mandatory.

**12** A complaint of unconstitutionality filed by Celio E. Gutiérrez, on his own behalf and representation, against Decree No. 38 of August 3, 1999, issued by the Election Court, Panama, July twenty-five (25) July, two thousand (2001). Supreme Court of Justice. Plenary. Web site: <http://bd.organojudicial.gob.pa/registro.html> (last access: 3/21/2020)

**13** Available at <http://servicios.infoleg.gob.ar/infolegInternet/ane-xos/20000-24999/20465/texact.htm> (last accessed 3/21/2020)

**14** Highlighted phrases in bold throughout the text are always ours.

**15** <http://servicios.infoleg.gob.ar/infolegInternet/ane-xos/150000-154999/152155/norma.htm> (last access: 3/21/2020)

**16** Available at [https://oig.cepal.org/sites/default/files/2013\\_pan\\_ley82.pdf](https://oig.cepal.org/sites/default/files/2013_pan_ley82.pdf) (last access: 3/21/2020)

**17** Available in Law No.6, 5-4-2000, <https://docs.panama.justia.com/federales/leyes/6-de-2000-may-5-2000.pdf> (last access: 3/21/2020)

**18** Available at [http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm\\_texto\\_completo.aspx?param1=NRTC&nValor1=1&nValor2=75507](http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=75507) (last access: 3/21/2020)

- 19** Available at <http://proledi.ucr.ac.cr/wp-content/uploads/2018/11/ley-general-de-espectaculos-publicos-y-materiales-audiovisuales-e-impresos-7440.pdf> (last access: 3/21/2020)
- 20** Available at [http://www.planalto.gov.br/ccivil\\_03/leis/l7716.htm](http://www.planalto.gov.br/ccivil_03/leis/l7716.htm) (last access: 3/21/2020)
- 21** Available at [http://www.planalto.gov.br/ccivil\\_03/\\_Ato2015-2018/2018/Lei/L13642.htm#art1](http://www.planalto.gov.br/ccivil_03/_Ato2015-2018/2018/Lei/L13642.htm#art1) (last access: 3/21/2020)
- 22** Federal National Chamber in Criminal and Correctional Matters, Room I, “Maradona, D s/infracción ley 23.592” cited in Rivera, Julio César “Los límites de la tutela constitucional de la libertad de Expresión”,/ “The limits of constitutional protection of free speech” Constitución de la Nación Argentina Comentada/ in the Argentinian National Constitution, 2019.
- 23** Federal National Criminal and Correctional Chamber, Room I, “Cherashny, G s/processing”, in Rivera, ob cit.
- 24** Resolution N 66250, 2017 of the Constitutional Chamber, available at <https://nexuspj.poder-judicial.go.cr/document/sen-1-0007-936549> (last access: 3/21/2020)
- 25** ADO 26/DF, rel. Min. Celso de Mello, julgamento em 13.6.2019. - MI 4733/DF, rel. Min. Edson Fachin. A summary of the court decision in Portuguese can be found at <http://www.stf.jus.br/portal/informativo/verInformativo.asp?s1=racismo+e+crime&pagina=1&base=INFO> (last access: 3/21/2020)
- 26** IACHR. Annual Report 2004. Report of the Office of the Special Rapporteur for Freedom of Expression. Chapter VII, OAS/Ser.L/V/II.122. Doc. 5 rev. 1. <http://www.oas.org/es/cidh/expresion/docs/informes/anuales/Informe%20Anual%202004.pdf> (last accessed 3/21/2020)
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- 28** Guerra, L. (2011, October 15). Lesbian Subjectivities in the Blank Spaces of Identity. Retrieved 23 April 2020, from [https://scielo.conicyt.cl/scielo.php?script=sci\\_arttext&pid=S0718-71812011000200008](https://scielo.conicyt.cl/scielo.php?script=sci_arttext&pid=S0718-71812011000200008)

**29** The term LGBTIQ+ is an acronym for the words lesbian, gay, bisexual, transgender, transsexual, transvestite, intersex, and queer. The + symbol is added at the end to include all groups that are not represented in the previous abbreviation.

**30** The interviews were carried out using a semi-structured methodology, which means that six minimum objectives were established beforehand, to allow for comparison while allowing the interviewer great levels of freedom and spontaneity to ask their questions. The pre-established goals were: 1. to obtain descriptions of activism and its possible relationship with the use of the Internet, 2. to obtain information about the definitions and characteristics of hate speech on the Internet, and the possible cause-effect relationship with activism or the sexual orientation of the person interviewed, 3. to obtain information about the role played by Internet companies or social networks and its link to the capacity of action from the people who, as users, become targets of these aggressions. 4. obtain an approximate definition and/or notion of hate speech on the Internet by the person interviewed, 5. examine the role of the state and the judiciary in relation to the victims of hate speech and 6. inquire the normative framework in relation to the exercise of the lesbian community's fundamental rights in their country.

**31** Murcia, N., Jaimes, S. S., & Gómez, J. (2016). Social Practice as an Expression of Humanity. *Cinta de Moebio*, 57. Retrieved from [https://scielo.conicyt.cl/scielo.php?script=sci\\_arttext&pid=S0717-554X2016000300002](https://scielo.conicyt.cl/scielo.php?script=sci_arttext&pid=S0717-554X2016000300002)

**32** Algarra, B. M. (2016, June 13). What is Heteropatriarchy? A quick guide to understanding a buzzword. *La Información* (Spain). Retrieved from <https://www.lainformacion.com>

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- 39** Inter-American Court of Human Rights. (2020, March 12). Inter-American Court of Human Rights, Azul Rojas Marin and others vs. Peru, judgment of March 12, 2020 (Preliminary Objections, Merits, Reparations, and Costs) (p. 26 Point 93). Retrieved 24 April 2020, from [http://www.corteidh.or.cr/docs/casos/articulos/seriec\\_402\\_esp.pdf](http://www.corteidh.or.cr/docs/casos/articulos/seriec_402_esp.pdf)
- 40** M. Benicio, personal communication, 04-12-2019.
- 41** The term Internet meme is used to describe an idea, concept, situation, expression or thought, delivered in any kind of virtual media, comic, video, audio, text, images and all kinds of multimedia devices, which are spread through the internet from person to person until they are widely disseminated. Retrieved from [https://es.wikipedia.org/wiki/Meme\\_de\\_internet](https://es.wikipedia.org/wiki/Meme_de_internet)
- 42** F. Massenzio, personal communication, 12-9-2019.
- 43** The Autonomous City of Buenos Aires. (2015, April 9). Law 5261 - Against Discrimination (CABA). Retrieved from <http://www2.cedom.gov.ar/es/legislacion/normas/leyes/ley5261.html>
- 44** Brazilian legislation of 2014, aiming to introduce respect for civil rights in the use of the internet.



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