

Deficiencies in the regulatory regulations of the media in Ecuador: A critical analysis of the Regulation to Prevent and Eradicate Violence Against Women in the Media

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ABSTRACT:

The study evaluated the Regulation to Prevent and Eradicate Violence Against Women in the Media to determine its effectiveness in terms of clarity, enforceability, and applicability. Through a critical documentary analysis, the regulation was examined in two stages: a detailed textual analysis of its provisions and a SWOT analysis to assess its practical applicability. Results indicated that, although the regulation clearly expressed a commitment to protecting women's rights, it contained ambiguities in key concepts such as "gender approach" and "non-stereotyped representation," which hindered interpretation and limited its effectiveness within the media context. The regulatory provisions used ambiguous language that suggested enforceability but lacked precise guidelines for implementation. It was concluded that the regulation should be revised to incorporate specific compliance indicators, methodological guidelines, and a clear monitoring framework. This would allow media organizations to apply the regulations consistently and reduce resistance to adoption. Periodic reviews were also recommended to enhance applicability and alignment with international standards.

Introduction

Regulatory Law plays a fundamental role in the protection of the public interest, social stability and the prevention of abuses of power in industries of great social and economic relevance (Jiménez Salas, 2021). This area of law, by intervening in strategic sectors, seeks to establish a balance between the freedom of operation of private actors and the security and equity needs of society.

Regulatory Law, in its nature, does not pursue a monolithic objective; rather, it focuses on guiding and monitoring the practices of industries whose activities significantly affect society as a whole. Within this field, the regulation of the media has a particular relevance. Being a pillar in shaping public opinion and disseminating values and beliefs, the media not only inform, but also shape collective perceptions and attitudes. (Leturia & Villanueva, 2023)

In this sense, its regulation becomes a key instrument to protect the public from potential excesses or biases that could distort information or promote harmful behavior. The notion of regulating the media, therefore, aligns with the idea that regulators must not only ensure responsible press freedom, but also ensure that this freedom does not compromise other fundamental values such as fairness, inclusion, and safety. (Aba-Catoira, 2020)

Theory provides the philosophical and normative basis that defines the aspirations and guiding principles of regulation. Based on this theory, policies are formulated, which are the concrete principles embodied in action strategies and serve as guidelines to be followed to ensure coherence and effectiveness in the regulatory process. In the case of the media, regulations must fulfil the function of establishing a clear and precise framework that demarcates acceptable and unacceptable practices, guiding media companies and journalists in their work (Chirino, 2020). These rules, however, often present difficulties inherent in the attempt to regulate an activity that necessarily involves subjective and cultural elements. In this way, specific challenges arise, such as the need to adapt standards to technological and social changes without losing clarity and applicability.

In the specific area of gender regulations in the media, there is a growing concern to address and mitigate the problems of equal and non-discriminatory representation of women (Jácome, 2020). The media, by reflecting and reproducing cultural values and stereotypes, has a considerable influence on the perception of gender in

society (Suing et al., 2022). In response, the Regulation to Prevent and Eradicate Violence Against Women in the Media was enacted in Ecuador as a measure aimed at guiding and regulating gender content and representations in the media. This regulation aims to establish criteria that prevent the reproduction of content that perpetuates or justifies gender violence. (Ecuador Presidency of the Republic of Ecuador, 2018)

However, despite its noble purpose, the regulation presents a series of structural and conceptual challenges that affect its effective implementation. The wording of its provisions has been criticized for the vagueness and ambiguity of some of its key concepts. Terms such as "gender-sensitive content" or "non-stereotypical representations" lack a precise and objective definition, which generates diverse and, in some cases, contradictory interpretations. This lack of clarity and specificity not only hinders the work of regulators, but also prevents the media from properly understanding and applying the provisions of the regulation, which puts the fulfilment of its objectives at risk.

Conceptual precision in a regulatory framework is not a simple matter of style or wording; This is an essential element in ensuring that the rules are clear, enforceable and effective. To minimize vagueness issues, it is essential that regulations include clear parameters and specific criteria that guide both regulators and regulated subjects. Without such parameters, the regulation process becomes an ambiguous and potentially unfair exercise, where each actor interprets the norm according to their convenience or understanding, which can generate an uneven and arbitrary application (Vila, 2006). Ecuador's regulations on gender-based violence in the media do not escape this problem, as their imprecise language and lack of clear guidelines hinder effective implementation. This situation is particularly worrying if one considers that the objective of the regulation is to combat an urgent social problem such as gender violence, the eradication of which requires consistent and coherent policies and regulations.

Faced with these problems of vagueness and ambiguity, this study aims to carry out a critical analysis of the "Regulation to prevent and eradicate violence against women in the media", evaluating its regulatory structure and the concepts used in its drafting. The main objective of this paper is to determine the extent to which the regulation complies with the principles of clarity, obligatory nature and applicability necessary for its effectiveness in practice.

To this end, the study will address the conceptual and linguistic aspects of the regulation, identifying the possible deficiencies that hinder its implementation and proposing improvements that will strengthen its regulatory function. To this end, a desk analysis methodology will be employed, where the provisions of the regulation will be examined in the light of contemporary regulatory theories and approaches, as well as international practices in gender media regulation. In addition, a comparison will be made with other similar regulations in the region to identify good practices and possible solutions to the problems detected in the Ecuadorian regulations.

The relevance of this study lies in the importance of ensuring that regulations aimed at the media are accurate and effective. The regulation of media content on gender issues not only has an impact on the communication industry, but also contributes to the construction of a more equitable society that respects human rights. In the Ecuadorian context, where significant problems of gender-based violence persist, having clear and enforceable regulations is essential to advance in the eradication of stereotypes and discriminatory attitudes that affect women. This work, by proposing recommendations for the improvement of the regulation, seeks to contribute to a more effective regulatory framework and greater coherence in public policies aimed at combating gender-based violence in the field of the media.

Materials and methods

This study employed a desk analysis methodology aimed at conducting a critical and systematic review of the "Regulations for the Prevention and Eradication of Violence against Women in the Media". To achieve this goal, a two-step approach was designed.

In the first stage, the content of the regulation was examined through a critical reading and a detailed textual analysis. The regulations were broken down into their structural and conceptual elements, paying particular attention to their wording, the language used and the internal coherence of their provisions. This textual examination was carried out in the light of contemporary principles and theories on media regulation,

particularly those related to gender violence and the representation of women in the media, taking as a reference the levels of analysis proposed by Denis McQuail: theory, policies and regulations in the formal sense. Based on this theoretical basis, specific evaluation criteria were established to measure the precision and clarity of the concepts used in the regulation, such as "gender approach" and "non-stereotypical representation", which constitute key concepts in the regulation analyzed.

In addition to the documentary analysis, the study applied a SWOT analysis tool (Weaknesses, Threats, Strengths and Opportunities) to evaluate the regulation according to its objectives and its applicability in the media (Aliaga et al., 2018). The SWOT analysis was designed to unravel the internal and external characteristics of the regulation, exploring factors that could favor or limit its effectiveness in the Ecuadorian context. See more details about the method at (Nogueira Rivera et al., 2024)

The information collected during the SWOT analysis allowed for a comprehensive evaluation of the regulation, taking into account both the internal aspects of its wording and structure and the external factors that affect its implementation in practice. Each dimension of the SWOT analysis was addressed in detail, and the findings obtained were used to develop specific recommendations that would strengthen the regulation in its most vulnerable dimensions. These recommendations included suggestions to improve the conceptual clarity and applicability of the regulation.

For data analysis, the information collected was organized into thematic categories, corresponding to the components evaluated in each stage of the methodology. In the documentary analysis, the results were classified according to the levels of conceptual clarity, obligatory nature and normative applicability. Finally, in the SWOT analysis, the results were organized according to the four dimensions of analysis (strengths, weaknesses, opportunities, and threats), thus facilitating a coherent and complete interpretation of the findings. This systematic organization made it possible to identify patterns and specific areas in which the regulation requires improvements to effectively meet its objectives.

The results of the study were interpreted based on contemporary regulatory principles and the specialized literature on media regulation in relation to gender-based violence. This approach made it possible to contextualize the findings and propose informed and substantiated recommendations to strengthen the Ecuadorian regulation, suggesting concrete improvements that address the problems of clarity and applicability.

Results-discussion

Article 1 of the Regulation establishes its objective: to create criteria that serve to prevent and eradicate violence against women in the media. Based on this article, it can be inferred that the existing problem that is intended to be mitigated is violence against women. Therefore, the standard should include specific instructions to guide the means and regulators on the structure, conduct and content of the means to that end. In addition, determined, objective and measurable criteria should be expected as far as possible; If so, the regulatory work to understand how much the media comply or not will be more efficient.

Vagueness in concepts

In the first articles, a section of concepts is presented that have an important problem: they are vague concepts. Oliveiros (2010) states that "in order to minimize the problem of vagueness, it is necessary to indicate the conditions or parameters at the time of the creation of the standard, indicating the main qualitative aspects [...]". The wording of the Regulations to Prevent and Eradicate Violence Against Women in the Media fails to mitigate this problem:

***Art.3.1 Gender-sensitive content:** These are messages reproduced or disseminated in the media that contain social, cultural, inclusive, non-stereotyped and equitable representations between men and women.*

It is stated that content with a gender focus is that which "contains social, cultural, inclusive, non-stereotyped and equitable representations between men and women". The logical question is: what is an "inclusive" social representation? This term admits different interpretations and has a high degree of indeterminacy. Objective criteria should be indicated in order to determine that expected level of "inclusiveness", but the regulation does not establish such criteria. The same is true of "non-stereotypical" and "equitable" representations. There are no

specific, objective or measurable parameters. This is a difficulty for those who regulate or are regulated with this type of regulation. If a media outlet wishes to check whether the content it produces meets the requirements of Article 3.1 to be classified as "Gender-Responsive Content", it will not do so because the criteria are ambiguous and/or vague. The rest of the concepts mentioned in the first section (of Article 3) suffer from the same defect.

Lack of criteria for case identification: context and intentionality

The regulations present a problematic dichotomy with exceptions to cases. Article 3.1 establishes what is content with a gender approach (acceptable) and articles 3.2 and 3.3 what is discriminatory/violent content (reprehensible).

***Art. 3.2 Discriminatory Content:** Any advocacy of national, racial or religious hatred that constitutes incitement to violence or any other similar illegal action against any person or group of persons, including those of race, colour, religion, language or national origin. It includes both the typology that is constant in international treaties and conventions, as well as those criteria that appear in Ecuadorian legislation. Content that discriminates against women denotes any distinction, exclusion or restriction based on their status as such, which has the purpose or effect of undermining or nullifying the recognition of women, infringing human rights and fundamental freedoms in the political, economic, social, cultural or any other spheres.*

This allows media outlets to have a standard on the type of content they broadcast, facilitating regulation and compliance. However, in practice, there are situations that might seem acceptable content and are not, or vice versa. An example is the films that show scenes of violence against women as a criticism of this behavior. Based solely on the concepts given by the law, even criticism of violence remains reprehensible. This is because the standard only specifies what constitutes "good" and "bad" content, but does not cover guidelines for evaluating media outlets in cases that do not fall into those categories. The purpose of the regulation is to prevent and eradicate violence against women; however, the defect presented can cause the rules to be applied inappropriately or simply ignored. In both cases, the proposed objective would be corrupted.

Media regulations or lax suggestions?

After the concepts section, the rules of procedure begin with the operative section. Two defects have been found in them: the provisions are not well defined and are not specific enough.

Provisions

Regulatory standards must be clear and that clarity is particularly relevant when the standard provides something. In the regulation, a series of expressions are used that imply that the regulation is optional, or at least, not mandatory. Article 4 initially mentions that there are parameters that must be met, but immediately afterwards it mentions that the media must "contemplate" the guidelines presented. According to the Dictionary of the Royal Academy of the Spanish Language, "contemplate" is to take something into account (RAE, 2024). The problem lies in that definition, because the regulation is not really governing the media, it only asks that it be taken into account. The regulation should have maintained uniformity using expressions that denote obligatory nature. However, in the following articles the same drafting error is made. Expressions such as "avoid" are used, which do not make the objective of the provision clear. Both the regulator and the media may interpret the provision differently. To mitigate this possibility, the regulation should propose in which cases the regulation is applicable or use clear dispositive verbs: the regulation does not do this.

Specificity

The provisions revolve around media content. An example is the following standard:

***Art. 4.b Avoid using qualifiers that justify a crime:** Do not use expressions such as "crime of passion", "crime of jealousy", "attack of jealousy", or those related to these. Do not reproduce comments, statements or dialogues that justify acts of violence against women, or everyday reactions that could generate empathy with the aggressor and, in this way, take the focus off the crime or violent act.*

Again, there is little clarity in the wording. A general provision is established not to use qualifiers that justify the crime, but only examples of expressions that fall into that category are given and the sentence is closed with "nor those related to these", which only clarifies that it is not an exhaustive list.

The SWOT analysis of the Regulation made it possible to evaluate its internal and external dimensions, identifying strengths, weaknesses, opportunities and threats based on their regulatory content and practical applicability. Table 1 presents the results of the analysis of each dimension.

Table 1: SWOT analysis of the Regulations to prevent and eradicate violence against women in the media

| Strengths | Weaknesses |
|--|---|
| Explicit commitment to protecting women's rights in the media. | Ambiguity in key concepts such as "gender approach" and "non-stereotypical representation", which makes it difficult to interpret them. |
| Aspiration to eradicate gender violence in the media, aligning with international standards. | Lack of clear guidelines for the media on how to implement the established provisions. |
| Inclusion of regulations that prohibit representations that justify or promote gender violence, establishing an initial regulatory basis. | Imprecise wording in provisions that suggest lax obligation, such as in the use of terms that can be interpreted as "optional". |
| Recognition of the impact of the media on the social representation of gender, establishing a solid theoretical justification. | Inconsistency in the terminology used throughout the regulation, which can lead to ambiguities in its application. |
| Opportunities | Threats |
| Potential for adoption of regulatory practices from other countries with advances in gender regulation in the media. | Resistance of the media to regulations perceived as limiting freedom of expression. |
| A global context of growing interest in the eradication of gender-based violence in all areas, which favors public support for the regulation. | Lack of effective control and monitoring mechanisms to ensure compliance with the established provisions. |
| Possibility of improving regulations through periodic reviews based on feedback from stakeholders and experts in the field. | Absence of clear parameters to identify and sanction infractions, which can reduce the effectiveness of the regulation. |
| Ability to position itself as a normative reference in the field of gender media regulation in the region. | Different interpretation of the regulation due to the lack of objective criteria, which can affect its effectiveness. |

The analysis carried out revealed significant limitations in terms of the clarity, binding nature and applicability of the regulation. Although this document showed an explicit commitment to the protection of women's rights in the media, ambiguity in essential concepts, such as "gender focus" and "non-stereotypical representation", made it difficult to interpret and weakened its applicability in the media context. The provisions contained in the regulations, instead of establishing clear mandates, presented imprecise wording that, by suggesting mandatory in a lax manner, left it to the discretion of the media to adopt effective practices.

The regulation also lacked detailed guidelines to guide the media in implementing its principles, which limited its effectiveness. This lack of precision in terminology and the absence of a clear framework for monitoring generated significant obstacles in its applicability and acceptance by media agents. The resistance of the media was seen as a threat that, added to the lack of effective control and sanction mechanisms, compromised the impact of the regulation on the prevention and eradication of gender violence.

To improve the applicability and clarity of the regulation, it would be desirable to establish a reviewable regulation and a detailed structure of compliance indicators, accompanied by methodological guides and monitoring protocols. The development of awareness-raising strategies and the promotion of the participation of key actors could strengthen the support and applicability of the standard. In addition, the adoption of objective criteria and precise metrics would be essential to minimize ambiguity in interpretation and ensure more effective implementation in the media arena.

Conclusions

In conclusion, although it is positive and necessary to generate regulations that address gender issues, the Regulation to Prevent and Eradicate Violence Against Women in the Media shows significant deficiencies that affect its effectiveness and regulatory purpose. The vagueness in the definition of key concepts and the lack of specific, objective and measurable criteria generate ambiguities that make it difficult to apply the regulations uniformly and consistently. In addition, the wording of the provisions with terms that suggest optionality rather than mandatory nature diminishes the regulatory force of the document.

The problem with issuing this type of regulation lies in the fact that, by not complying with the basic principles of clarity and specificity, the very purpose of media regulation is not achieved: to protect the public interest and prevent abuses. In addition, issuing innovative regulations without in-depth analysis and a clear structure can be counterproductive. Instead of promoting positive change, they can lead to confusion, resistance, and lack of compliance. It is critical that regulators work on creating precise and enforceable regulations that truly promote equity and prevent violence in the media, thus ensuring that practices are adopted that contribute to eradicating violence against women and promote fair and equitable representation.

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