

CHALLENGES AND OPPORTUNITIES

of institutions in charge of closing the
gap of inequality between men and
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a glance through transparency

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EXECUTIVE SUMMARY

The Articulación Regional Feminista por los Derechos Humanos y la Justicia de Género (ARF or Articulación) is an alliance of feminist organizations in seven Latin American countries: Argentina, Bolivia, Chile, Colombia, México, Perú and Ecuador¹ (hereinafter, the region). The groups that participate in said organization are: Asociación Coordinadora de la Mujer in Bolivia; Estudio para la Defensa de los Derechos de la Mujer (DEMUS) in Perú; the civil association Equipo Latinoamericano de Justicia y Género (ELA) in Argentina; Centro Regional de Derechos Humanos y Justicia de Género: Corporación Humanas Chile in Chile; Corporación Humanas Centro Regional de Derechos Humanos y Justicia de Género in Colombia; and EQUIS: Justicia para las Mujeres in Mexico.

One of the objectives of ARF is the defense and promotion of the human rights of women from a feminist perspective in the region. Within this framework, ARF decided to monitor one of the institutional responses of the States when they aim to close the gap of inequality between men and women: the creation of specific Institutions, Ministries and Commissions.

The current monitoring falls within the framework of the Sustainable Development Goals (hereinafter, SDGs), specifically rela-

¹ Ecuador did not take part in this investigation, though it is part of ARF.

ted to goal no. 5 (Gender Equality) and no. 16 (Peace, Justice and Strong Institutions). The former has as its final aim to eliminate all forms of discrimination against women and girls, not only from the perspective of the exercise of human rights, but also as a fundamental aspect that allows for accelerated sustainable development at the global level. For its part, the latter goal aims to promote a context of peace, stability, human rights and effective governability based on the strengthening of the rule of law and, thus, of state institutions.²

These goals have, as well, different targets and indicators that show a clear path regarding what actions states should be carrying out in order to reach the goals. Although the prioritization by each country regarding the actions that it implements, based on its specific situation, is important, we should not ignore the path set out by the United Nations Development Program (hereinafter, UNDP), which can serve as an indicator for what has been done and what still needs to be done in the region.

Within this framework, the purpose of this report is to obtain information regarding the actions carried out in the different countries in order to close the gap of inequality between men and women, and to assess the strength of their institutions.³ This investigation aims to obtain information that is useful to civil society, so that it can hold the authorities accountable and make them develop public policy that reduces the inequality between men and women, so that these actions can be more than mere simulations. Furthermore, we seek to evaluate whether public policy, normative changes and the practices of the institutions are consistent with the Agenda 2030 Sustainable Development Goals.

Two tools were used to collect the information that appears in this document: 1) active transparency, that is to say, all publicly accessible information that is on official websites, and 2) passive transparency, that is to say, that information which was obtained through requests for access to information and the

² United Nations Development Program, Sustainable Development Goals, available at <https://www.undp.org/content/undp/en/home/sustainable-development-goals.html>

³ We are referring to institutional strength in the sense that the Institution have the elements for its consolidation and maintenance, with the aim of achieving the goals. These elements include a regulatory consolidation and maintenance, with the aim of achieving the goals. These elements include a regulatory framework which guarantees continuity, an organizational structure that allows for interlocution with relevant stakeholders and achieve its goals, as well as the resources that allow it to carry out activities related to its aim.

the right of petition. This exercise also served to give an account of the good practices and challenges regarding transparency in the participating countries, considering that transparency is a fundamental aspect for the fulfillment of SDG no. 16.

CHALLENGES WITH REGARD TO TRANSPARENCY

In the countries that provided information for the study, we can find very successful active transparency practices, as is the case in Mexico, Bolivia and Chile, where most of the information was obtained through this means. Nevertheless, a challenge across the board is that information on the budget of the institutions is not readily available in any country.

With respect to passive transparency, the obstacles for obtaining access to the information are mainly of a procedural nature. Nevertheless, it is necessary to note that when we speak of access to information, procedural issues become substantial. Without information or clarity regarding the processes required to access information, the right of access cannot be fully exercised.

Organizations insist on the need for States to present clear information on who must answer the requests of information, who requests should be directed to, the argumentation and motivation required so that the authorities respond, and the response times. These rules must be established in legislation and must be readily accessible. Furthermore, the authorities have the obligation to publicize the population's right to information. Progress in the region, in terms of access to information, must consider the necessity to expedite and facilitate these processes to counteract the resistance of the States to be transparent in their actions.

FINDINGS ON THE INSTITUTIONS RESPONSIBLE FOR CLOSING THE GAP OF INEQUALITY BETWEEN MEN AND WOMEN

The countries pertaining to the ARF (and the respective institutions) that we analyzed in the report are the following: Argentina, Instituto Nacional de las Mujeres (INAM); Bolivia, Viceministerio de Igualdad de Oportunidades; Chile, Ministerio de la Mujer y Equidad de Género; Colombia,

Consejería Presidencial para la Equidad de la Mujer; Peru, Ministerio de la Mujer y Poblaciones Vulnerables; and México, Instituto Nacional de las Mujeres (INMUJERES).

Intended beneficiaries of the public policies that the institutions implement and design

In Argentina, Colombia and Mexico, the objectives of the institutions studied are directed exclusively to women. In Chile, the objectives of the Ministerio de la Mujer y Equidad de Género include both men and women. The institutions in Bolivia and Peru direct their activities to a broader population, including women and men, children, adolescents, youth, the elderly and persons with disabilities. In Peru, displaced persons and internal migrants are also included, and there is a working session for lesbians and TGBI (trans, gay, bisexual and intersex) people.

In this sense, it becomes necessary to reflect on the necessity of creating institutions in which women are treated like they exist in a bubble. The problem with this approach is that they often isolate these populations from the public policy intended for the rest of society, creating specialized institutions that do not view the problem in a comprehensive manner.

Furthermore, the institutions that take this approach usually do not ensure that the gender perspective intersects all areas of work of the State, but rather focus their actions on policies directed exclusively to women, without taking into account their diversity or their integration into society, creating “pink policies” that are isolated from the rest of the actions that they implement. It is also pertinent to mention that the institutions must incorporate an intersectional approach that considers the various categories that women identify with.

Organizational Position of the Institutions

Three of the six countries have institutions that report directly to the Office of the President: Chile, Colombia and Peru. The Instituto Nacional de las Mujeres de Argentina (INAM) reports to the country's Ministry of Social Development, and Bolivia's Viceministerio de Igualdad de Oportunidades reports to the Ministry of Justice and Institutional Transparency. In Mexico, the Instituto Nacional de las Mujeres was created as a decentralized public agency of the Federal Public Administration.

Reporting to the executive branch can have advantages and disadvantages, so it is important to consider this when analyzing the actions that can be taken to eradicate the problem mentioned in their institutional mission. On the one hand, the countries that do not have independent organizations will have to find mechanisms that ensure the allocation of their own funds independent of the general expenses of the presidency, as well as the staff needed to achieve the specific objectives that are posed and autonomy for the use and acquisition of resources. On the other hand, the countries in which they do not report directly to the presidency face the challenge of finding institutional channels that allow for effective communication and for a broad impact of its policies in all the areas in which the State works. It should have an important, strategic position in the organizational structure of the government.

Conceptual Frameworks: What do the state authorities understand by equality and by gender?

The conceptual frameworks of gender and of equality are important because they set the tone for the institutions' understanding of their objectives and their actions. With regard to the concept

of gender, four countries (Argentina, Chile, Peru, and Mexico) reported that the information was found via active transparency, whereas in Colombia they had to resort to requests for access to the information. In Bolivia, the concepts were inferred from the public policy plan. In most of the countries this concept is defined in accordance with the international framework. Nonetheless, in the case of Bolivia, the definitions have characteristics that are specific to the country, where it is noted that Bolivian women are "subjects, rights holders, considering their specificities not only in terms of gender, but also in terms of the ethnocultural and generational matrix; this is not just for statistical purposes, but rather to understand that the violence against women has differentiated expressions and dimensions."⁴ Chile defines gender equality, but does not specifically define gender.⁵

The concept of equality only appears explicitly in the legislation of Peru,

⁴ The information was collected from the website of the Viceministerio de Igualdad de Oportunidades and refers to the Comprehensive Public Policy for a Decent Life for Bolivian Women, available at <http://www.justicia.gob.bo/index.php/viceministerios/vio> (in Spanish).

⁵ The concept was obtained through passive transparency. It is a concept that is found in Law 20.820 (Paragraph 1 – Nature, Object and Functions), which creates the Ministerio de la Mujer y la Equidad de Género, inspired by international treaties.

Mexico and Colombia. The definition was obtained via access to information in Chile and, as in the previous case, in Bolivia it was extracted from the public policy plan. In Argentina, the concept does not appear explicitly, but there are references to it in the main public policy developed by the INAM, the National Plan of Action for the Prevention, Assistance and Eradication of Violence against Women (2017-2019).

For the concepts of equality and gender that we analyzed, we encountered challenges and good practices. In terms of good practices, we noted Bolivia. While they focus on women as such, they incorporate an intersectional analysis which takes ethnocultural identities into account.⁶ There is also the case of Mexico, where in addition to the concept of gender, they included the concept of gender perspective.⁷

⁶ The information was collected from the website of the Viceministerio de Igualdad de Oportunidades and refers to the Comprehensive Public Policy for a Decent Life for Bolivian Women, available at <http://www.justicia.gob.bo/index.php/viceministerios/vio> (in Spanish).

⁷ Gender perspective: concept that refers to methodology and mechanisms that allow one to identify, question and evaluate discrimination, inequality and exclusion of women, when there is an attempt at justification based on biological differences between women and men, as well as the actions that should be undertaken to act upon gender factors and create the conditions for change that allow us to advance in the construction of gender equality. Article 5, Law of the Instituto Nacional de Mujeres.

It's important to note that the two concepts, which provide a conceptual framework for institutional work, are derived from the law, and so they are not easily modifiable.

With respect to the challenges, it is important to mention that the definitions of gender and equality are not found in the specific legislation regarding this matter, but rather they come from the interpretations of other laws or of the public policy plans regarding this matter; this is the case in Argentina and Bolivia. On the other hand, Colombia uses a definition from an informal source (gender) and another one from a formal source (equality). In the case of Argentina, the definition of gender is on a webpage, and it is also deduced from the National Plan of Action for the Prevention, Assistance and Eradication of Violence against Women.⁸ The authorities in Bolivia provided information regarding the concept of equality via passive transparency, making reference to the

⁸ Information available at <https://www.argentina.gob.ar/areas-de-intervencion/mujer-trabajo-y-empleo>

⁹ The concept is in the following laws: no. 348 Integral para Garantizar una Vida Libre de Violencia; no. 243 Contra el Acoso y Violencia Política hacia las Mujeres; no 018 del Órgano Electoral and no. 026 de Régimen Electoral hacia las Mujeres.

interpretation of the definitions of its public policy and in certain legislation, where equality is a basic principle.⁹ On the other hand, none of the concepts that were reported by the Institute in Colombia were found in any law or decree.¹⁰

Peru is a worrisome case since in the last months of the year 2018 a parliamentary majority in the Congress of the Republic, Grupo Fuerza Popular¹¹, has countermanded the gender and human rights perspective in legislative decrees.¹² These modifications come from a movement --normally led by religious groups-- that are seen in various parts of Latin America, in which a gender perspective has been labelled ideology that attempts "to overthrow the natural order of the family and of assigned roles for men and women in society."

Goals and Functions of the Institutions

¹⁰ Responses granted by right of petition to the question about the definitions of equality and equity.

¹¹ With majority in Congress, led by Keiko Fujimori, daughter of Alberto Fujimori who was sentenced for crimes against humanity, corruption and kidnapping.

¹² The decrees containing this perspective are the following: 1266, which establishes the organization and functions of the Ministry of the Interior; 1325, which declares emergency and dictates measures for the restructuring of the National Penitentiary System, and the National Penitentiary Institute; 1267 of Peruvian National Law; and 1348, which approves the Code of Criminal Responsibility of Teenagers.

The approach of the States to address the problem changes significantly among the countries of the region, and so it is possible to find institutions that are specifically focused on the eradication of violence, as well as some that have as their main goal the mainstreaming of a gender perspective, among others.

Of the six institutions analyzed, only Colombia's *Consejería Presidencial para la Equidad de la Mujer* does not specify its objectives. The other five institutions pose their objectives which can be divided into six thematic axes: 1) to eradicate gender violence, 2) to eliminate the forms of discrimination against women, 3) to guarantee the exercise of the rights of women, 4) equality and equity, 5) mainstreaming of the gender approach and institutional strengthening and 6) others.

It is important to note that half of the goals focus on women, making other manifestations of gender violence invisible. Furthermore, the intersectional approach is practically absent, such that it would be important for the States to explicitly incorporate their commitment to this approach when designing and implementing public policy.

With respect to the functions, although the institutions have a considerable amount, they do not inform us regarding clear activities that we could evaluate. Generic functions are

determined but there is no indication as to what they refer to: o endeavor, to encourage, to support, to defend, among others, that do not have a beginning, or an end defined.

In order to evaluate these actions, the creation of qualitative indicators that clearly show progress is needed.

An interesting example is the case of Argentina, that lists as a function to make viable the complaints to social representations regarding discriminatory, sexist, stereotyped or anti-woman behavior that is demonstrated, transmitted and/or propagated through the mass media. The aim is not clear, given that there is no indication whether the success of this function is for the complaints to be heard, resolved or analyzed. There would have to be precise actions and clear indicators regarding these in order to be able to determine success.

In addition to the above, we found countries that center their actions on establishing alliances, coordinating, contributing and helping, among others. This is important, because it shows that coordination and interrelation between more than one government organization is necessary so that the objectives can be achieved, and thus it doesn't depend simply on the institutions that this report analyzes.

The case of Colombia is representative, since nearly all its functions are related to coordination and **support** and, since there are not specific objectives posed, it is difficult to determine whether these correspond to a clear goal. For example, one of its functions is to support the formulation and design of programs, and projects, that are directed to improving the quality of life of women, especially the poorest and most disadvantaged women, from which we can deduce that it does not directly formulate or design programs.

Lastly, we have certain actions that have been clearly established in the cases of Bolivia and Mexico, that have among their function's verbs such as: to plan, to concretize, to formulate and to lead. In this case the evaluation of the tangible results is necessary; we have for example: the specific plan to favor equality, the policy that was formulated, the standard that was set.

It is important that the institutions have functions that allow them to evaluate their impact or that provide a clear line on what should be done to achieve the objectives established in the previous section. In the same way, it is important that the coordination activities be specified in order to know which institution shall be responsible for or in charge of achieving the objectives that

were posed and, as a consequence, the goals established in the SDGs.

Work plans, indicators and activities

All the institutions have a work plan. With regard to indicators, only Bolivia has impact indicators, and only two countries have results indicators: Bolivia and Colombia. In the case of Bolivia, it was specified that the policy lists three effects, with their respective quantitative and qualitative indicators. Only Colombia and Mexico have effectiveness indicators.

It is vital that methods be established in every country to assess the fulfillment of the objectives (through the corresponding functions) for which the institutions were created. With this in mind, process, result and impact indicators should be used, in accordance with said objectives, so as to measure their efficiency. In order to be able to know if the work plans are being carried out, as well as whether the indicators are being used, it is necessary that the countries report the activities that they are carrying out. Nevertheless, only Bolivia,

Argentina and Mexico specify these activities.

In the case of Mexico, the activities are presented very clearly, which allows them to be directly linked to the objective of the third quarter of 2017. Nevertheless, it does not allow a broader analysis with the general functions or with the long term objectives.

In Argentina, the activities that are listed must be closely linked to the functions and objectives of the Institution. Nevertheless, we found that, due to the lack of indicators it is difficult to determine if they are fully carrying out all the functions and, therefore, achieving the objectives.¹³

The activities that are listed in Bolivia, while very concrete, are also not linked to all the functions of the Institute. For example, we see that the presentation of data from the survey regarding the prevalence and characteristics of violence against women is one of the activities. Nevertheless, we do not concretely see

¹³ It is worth underscoring that while indicators have not been defined to inform the work of the National Institute of Women, the National Plan of Action for the Prevention, Assistance and Eradication of Violence against women 2017-2019, the main public policy at the head of the organization, does contain results indicators.

¹⁴ It is important to note that, while it is part of the functions of the Viceministro de Igualdad de Oportunidades according to the Supreme Decree no. 29894, the Plurinational Legislative Assembly is the one that drafts and sanctions new regulations, considering the information and technical support of the Ministries and Viceministries.

the formulation of standards to strengthen the mechanisms of protection, prevention and assistance, which is one of the functions that should be carried out.¹⁴ On the other hand, in terms of good practices, we found that Bolivia does have impact indicators, which is why many of these activities are reflected in an improvement that can be measurable.

While the mainstreaming of gender policies is necessary and urgent, it must be incorporated such that it allows for follow up and monitoring of actions to analyze effectiveness. This will allow for the creation of concrete actions that will allow for understanding of the gender variable within the national public policies and for response to the specific problems associated with these. In addition, it is necessary that indicators with a gender perspective be created, since these “have a greater impact in decision making about public policies that transform these relationships”,¹⁵ and that it not be understood just like something abstract and difficult to measure.

¹⁵ ONU Mujeres, *Transversalización de Género en los Objetivos De Desarrollo Sostenible – Agenda 2030*, p. 9, 2017. (Gender Mainstreaming in the Sustainable Development Goals – Agenda 2030)

Material Resources

The lack of accessible, sufficiently disaggregated data that allows for significant analysis of the figures regarding gender equality makes budgetary analysis difficult. The data that are shown were collected through passive transparency, but they are not always comparable because of the form in which they were provided. For example, in many cases a request was made for the percentage of the budget spent for something, but the response was in national currency, which does not allow us to compare the amount with the State's spending in another category, nor does it allow for comparisons between countries. In addition, in many cases, the time periods do not correspond with what was requested, or the information is not broken down per year.

Having clear information about resources is essential, since a suitable budget would contribute to strengthening functioning, whereas, without such, the work of the institutions is only a simulation that reflects good intentions, without the possibility of concretization.

Human Resources

Only Mexico has specific requirements for someone to hold the position of leading the institution. In Chile and Colombia, anyone who fulfills the general requirements for being part of the Public Administration can hold the position. In Peru, in order to be Minister (which is the highest position in the hierarchy) no special characteristics are needed either. Nevertheless, there are certain requisites for the General Director of Gender Equality and No Discrimination at the time of hiring.¹⁶ In Argentina, there are no requirements established for the Executive Director of the INAM;¹⁷ and in Bolivia the designation is an open appointment and it is not subject to the State provisions covering a career in administration. In this matter, it is indispensable that there be clear criteria to guarantee that the people

selected have the profile and

¹⁶ The requirements are: professional university degree in law, social sciences, or similar subject areas, a minimum of three years of experience in the public sector, studies specializing in gender, training in public administration, or subjects relating to the functions to be carried out, basic knowledge of office equipment, institutional service and being results oriented, proactive and having moral integrity.

¹⁷ The post of Executive Director of INAM explicitly excluded from the Law of Public Employment, but requisites for the person designed for the post are not established anywhere. As in the case of the Ministries and other hierarchies, these positions are freely appointed by the National Executive Branch (article 11 of Decree 698/2017).

the suitable capacities to avoid that they be hired for personal or political reasons.

With respect to the educational background of those holding these positions, the majority have studied social sciences. Nevertheless, there are still countries in which the holders of these positions do not have any training regarding gender issues, or have only initial experience in the field, when they should minimally have sufficient education and/or experience in gender and human rights to allow them to carry out their functions suitably. These problems are related to the nonexistence of criteria for the selection of the position holders and, by the same token, with the independence and powers that they must make decisions independently.

To strengthen the human and economic resources for the state mechanisms that work for gender equality is a political advocacy measure that is imperative for the women's movement, the aim of which is to guarantee continuity in the execution of public policy and the hiring of sufficient personnel to fulfill the operative plans.

Recommendations

It is indispensable to determine the proportions of the legitimate value and the implications of institutionalizing the gender perspective in the countries of the region. For this, it is necessary to build institutions designed with management autonomy, but that also have sufficient impact so that their actions reverberate in all areas of the state.

For this, the following are indispensable:

To have a clear legislative framework regarding the concepts of equality and gender including, as a minimum, the international standards. These concepts, furthermore, must include an intersectional view that allows for the incorporation of specific challenges faced by women with disabilities, lesbians, gays, bisexuals, trans and intersex people, migrants, refugees, indigenous people, among others. It is necessary to consider social gender roles involved in rule both by women as well as men, that can reinforce the different forms of discrimination.

To have an institutional design that allows these institutions to be seen as affirmative actions, with the objective of mainstreaming the gender perspective. In this sense, their structure and actions should avoid creating patches and "pink policies" that are isolated from the rest of the actions that are not directed specifically to this aim. The final objective would not be to create isolated cells, but rather that a gender perspective be present in all the actions and institutions of the State.

To have optimal financial, material and human resources: besides having sufficient budget, it is recommended that they have personnel that has been properly trained to carry out functions not only of public administration, but also of equality and gender perspective.

Set up a specialized structure: it should be made up of staff with a significant background of theoretical and practical knowledge regarding mainstreaming and institutionalization of a gender perspective. A tool to obtain this aim is to establish mechanisms of allocation and evaluation of personnel with this perspective.

Establish mechanisms of planning, follow up and evaluation of the Plan of Work and activities: it is vital that there be methods to evaluate the attainment of the objectives for which the institutions were created. With this in mind, process, result and impact indicators should be used, in accordance with said objectives, to measure their efficiency.

To establish clear and measurable objectives, functions and actions, that are based on an evaluation of the specific situation of each country and how to confront it.

To establish effective transparency practices in the institutions. They must be accountable to society for their work and, specifically, regarding the allocation and use of resources. The transparency must include proactive transparency measures through which the institutions propagate information regarding their functions.

To establish mechanisms of citizen participation -- with civil society-- in these institutions to favor communication and the design of public policy, in accordance with the needs of the population.

