

Media movements in times of pushback of human rights: Is everything lost?

In this century, an unprecedented number of media policies grounded in the right to communication was passed in Latin America. This is a landmark in the history of the region's media policy-making. Where those policies were passed, civil society organizations (CSOs) played critical roles. No similar period of intense mobilization and visibility is found in the past. As a result, most of the 11 broadcasting and telecommunication laws, the 17 access to information laws, and the 9 repeal of insult laws or removals of criminal penalties for defamation passed in Latin American countries during the last 15 years contain aspects that meet civic demands and international standards of communication as human right. Unquestionably, reforming regressive policies are long-term processes, but these advances are singular. (Segura and Waisbord, 2016)

Nonetheless, during the last two years, new conservative rulers came to power and started reforms that pushback the advances in communication and culture rights, and revoked key aspects of the freedom of speech and information laws passed with social participation. These are the cases of Michel Temer in Brazil, who became president after the impeachment of Dilma Rousseff, and Mauricio Macri in Argentina, who is the first right wing party leader elected in the history of the country.

The questions I try to answer are: Is there any possibility for media movements to impact on policy-making process in these conditions? Is there still alive any of their achievements? How can CSOs defend and enlarge communication rights?

If we accept that media policies are the result of complex processes that involve not only political and economic elites, but also social organizations, and public policies are not completely controlled by the State, but are also influenced by dynamic relations of state, market, and civic actors (Freedman, 2008), even in unfavorable contexts, CSOs may have the chance to impact –at least to resist and avoid part of the regressions- on communication policies.

Which are the fundamentals of this possibility? Besides the intended impact of CSOs on the content and implementation of new laws, there is another important contribution of media

movements: strengthening institutional competencies of civil society related to media policy-making. It includes the honing of competencies related to mobilization and advocacy: individual and organizational expertise related to technical matters, policy-making process, and strategic thinking. (Segura & Waisbord, 2016)

The hypothesis I try to demonstrate is that, amid pushback policies from conservative governments and worsening conditions for public expression in several countries, these “unintended outcomes” (Giugni, 1998) of media movements are critical to stop human rights regressions and to expand them in communication policies.

To demonstrate this, I study the case of media movements in Argentina during the last year. I interview their leaders and members, and analyze organizations and state documents and press information.

This analysis can contribute to understand the strategies and opportunities of progressive media movements in contexts of pushback of human rights not only in Latin America, but also in other regions of the world where conservative rulers rise to power.

First, I expose my theoretical perspective. Then, I reconstruct the characteristics of the organizations, their advocacy strategies and the impact they had on new communication policies in the Argentinean particular conditions since December 2015. Finally, I analyze how the social participation process between 2003 and 2015 had as non-expected result the institutional strengthening that made possible the fast OSC regrouping and resistance face to the new conditions.

Theoretical perspective

I assume a constructivist perspective of public policies and laws. I don't agree with approaches that consider them defined exclusively by political and economic elites, the product of legislative debate or judicial reasoning. On the contrary, I recognize the role of social actors and the power struggles they involve. I do not, therefore, analyze them only in its formal, institutional and administrative aspects in a supposedly neutral way, but rather as a conflictive process in which interests are linked to relative positions and powers.

I conceive civil society as expression of a public sphere that is fighting for a space between the market and the State; as a heterogeneous field with diverse organizational forms, strategies, financing and approaches. So, it maintains relations of relative autonomy with

the State and the market. I do not ascribe to its "beatification" as an eminently democratic sphere, but rather reflect its complexity and interrelations. I consider that its strength, together with that of the State, is a condition of democracy.

Social participation in the formulation of public policies would have the function of: strengthen democratization and legitimacy of basic policy decisions or when "relevant power" is put in place; it allows to make its implementation more viable, sustainable and effective due to the citizen commitment they activate; allows citizens to form and have more and better information to make public policy decisions; and decisions taken in a participatory manner will contain fewer errors and will be more prudent.

However, we also consider that the egalitarianism promoted by democratizing practices changes old hierarchies, relations of inequality and authority-subordination, and that these changes produce irritation manifested in diverse social actions (Araujo, 2015).

Impact

Between 2003 and 2015, Argentinean social organizations promoting communication rights achieved to impact on the Access to public information decree of the Executive in 2003 (*Decreto de Acceso a la Información Pública*), the decriminalization of slander and insults in 2009, and the Audiovisual Services Law the same year (*Ley de Servicios de Comunicación Audiovisual*).

Does this situation changed since the right wing government assumed in December 2015? Since then, the impact in the policy-making process of OSC demanding to reduce the distorting power of the market in media system (such as limits on the concentration of media ownership, and the legalization and promotion of community media) were lower than in the previous period. On the contrary, there were reforms that aimed to reduce the power of the state in public communication also claimed by civil society.

On one hand, since the second day of *Cambiamos* government, it modified the broadcasting law (*Ley de Servicios de Comunicación Audiovisual*) to expand or eliminate the limits to property concentration in radio and TV. The *Coalición por una Comunicación Democrática* quickly regrouped and protested but it failed to reverse these regressive reforms, except in some small aspects.

Besides, community radio associations formed *Interredes* to advocate for the continuity of legalization and promotion policies for their sector. It is making some progress but they are still minimal in relation to the paralysis of the policies directed to them, and now to the legal and economic persecution to community media.

On the other hand, although they hold some critics, civil society organizations participate and could have some impact on the new law of access to public information passed in 2016, which puts limits to the power of the State.

Moreover, with similar orientation, the Executive issued a resolution regulating the official advertising of that Power, which is an innovation long claimed by civil society, but it is only a resolution of just one of the three powers of the state and which reproduces commercial criteria of distribution of the official advertising.

Further these intended impacts, the unintended results of collective actions are very relevant, too. These impacts are institutional strengthening of civil society organizations, its members, another social groups and the state. They are important because of the regrouping of organizations that had dispersed such as the *Coalición*, and even more, by the alliance between organizations that had never worked together before like *Interredes*. This was possible thanks to the high levels of trust and knowledge accumulated by civil society working in communication during previous years.

Strategies

These differences in social impact on communication policies are linked to changes in organizations strategies?

The civil society that tries to influence in reforms of policies of communication does not only confront with the State. Neither its negotiating links are reduced to its leaders cooptation by the government. On the contrary, it produces diverse strategies that demonstrate its pragmatism and versatility in search of their objectives. Movements with different demands used similar strategies according to the political opportunities presented to them and their own institutional capacities (Segura and Waisbord, 2016).

That is why, despite the political sign of the government and its relation with organizations have changed since 2015, civil society is using the same strategies they did in the previous period (between 2004-2015).

The first strategy was to regroup or form new coalitions to have greater capacity of pressure to the government. The following actions were:

- Mobilizations of protest like those of community radio associations grouped in *Interredes* against the regulatory authority, *ENACOM*;
- Production of information such as about the state debts of funds to promote community radios;
- Lobby with legislators;
- Expression of their positions, as in the New 21 Points for the Right to Communication of the *Coalición por una Comunicación Democrática*; complaint documents and proposals of resolutions and action protocols;
- Participation in spaces of dialogue with the State, such as with ENACOM or the Commission of the Convergent Communications Bill;
- Use of administrative and judicial mechanisms, for example, to challenge constitutionality of the decrees that modify the audiovisual law
- Presentations to human rights international organizations, as the presentation to Inter-American Commission of Human Rights and OAS Special Rapporteur on Freedom of Expression to observe the Argentine State for not complying with international commitments on the right to communication;
- Training and debates in organizations and universities.

Therefore, if civil society strategies in both periods were so similar, the changes in their success influencing communication policies are not linked to them.

Organizations

If the modifications of social impact on communication policies are not linked to changes in organizations strategies, are they connected to social organizations' characteristics and resources of power?

Organizations that drive each type of demands -those seeking to reduce market power or state interference in public communication- have different organizational forms, institutional trajectories, members and resources. Their relative autonomy vis-à-vis the state is linked to the organizations' ability to act according to those factors, and to the political

opportunities they found and helped to create. Civil society is, therefore, also heterogeneous in its forms of political organization, financing, networks and structures.

The demands that tend to reduce the power of markets in communication are expressed by grassroots movements, such as community radio associations. They are conformed by these media whose members are militants. Therefore, they have a direct interest in the demands they present. Its members are also more numerous and are located throughout the country. They were the pioneers in raising demands related to communication in the country as soon as Argentina recovered its constitutional government. They were the first to nucleate in a national network: the Argentine Forum of Community Radios (*FARCO*). Then *AMARC-Argentina*, *RNMA*, *Red Colmena* and groups of community televisions were also formed. They also include one of the oldest networks at the regional level: the Latin American Association of Radio Education (*ALER*) formed in the 60s and also *AMARC-Latin America*. In this century, this paradigm was taken up by the *Coalición por una Radiodifusión Democrática* that *FARCO* convened in 2004 for proposing a new broadcasting law. Since 2015, these organizations have regrouped in the *Coalición por una Comunicación Democrática*, others formed *Interredes* and *ComunicAcción*.

The Coalition for Democratic Broadcasting regrouped, expanded and renamed Coalition for Democratic Communication to cover issues that exceed broadcasting. The Coalition, which had dispersed after 2009 Audiovisual Communication Law was passed, regrouped in much of the country, even in cities and towns where it had not previously developed and with new actors.

Thus, all community, alternative and cooperative media associations (*FARCO*, *AMARC-Argentina*, *RNMA* and *Red Colmena*) formed the *Espacio Interredes*. This is an unprecedented alliance that overcomes political differences that historically had kept these networks separate, in order to reach a way of interlocution with the government and to press for the continuity and deepening of the policies of legalization and promotion of the sector (Segura and others, 2016).

Besides, communication professionals working in state, universities and public and community media were grouped in *ComunicAcción*, although it had a more ephemeral existence.

This was made possible by the unintended but equally relevant effects of collective action in the area during the previous period. Between 2003 and 2015, in addition to the impact of social organizations in the phases of public debate, discussion and parliamentary definition, and implementation and control, they also had unexpected but highly relevant results:

- Organizations improve their skills related to mobilization and advocacy: they acquire learning on technical issues and the process of policy formulation, advocacy skills, capacity to form coalitions and build partnerships, etc.
- In addition, others are inspired to form new organizations. The Coalition for a Democratic Broadcasting, for example, stimulated the formation of other associations, networks, groups that pursue reforms in other media and cultural policies. At the regional level, the Coalition became a reference point for CSOs with similar objectives in other countries such as Ecuador, Mexico and Uruguay.
- They also contribute to the strengthening of institutional capacity and mechanisms for State participation using existing ones and promoting the creation of new ones.
- Moreover, collective action fosters knowledge, collaboration, learning and trust among civil society institutions, and between them and state agencies.

On the other hand, the organizations that demand to reduce the power of the states in communication were NGOs of technical experts -lawyers, journalists, academics, political scientists (*Asociación por los Derechos Civiles*, *Centro para la Implementación de Políticas de Equidad y Crecimiento*, and *Poder Ciudadano*), professional associations of journalists (*Foro de Periodismo Argentino*) and human rights organizations (*Centro de Estudios Legales y Sociales*). These organizations emerged in the 1980s and 1990s. They are registered as non-profit organizations and are financed mainly by foreign donors. Except *FOPEA* that has national reach, they act mainly in the capital, Buenos Aires, although they have alliances with organizations in some provinces. They integrate the *Regional Alliance for Freedom of Expression* created in 2000. They have more than one objective of intervention in matters of the right to communication. Their interests and those of their members are not directly linked to the rights they claim. Since 2015, CSOs seeking to reduce state power, such as *CIPPEC* and *Poder Ciudadano*, are part of the governing alliance (Vommaro and others, 2015).

Therefore, the organizations that have official allies are different from the previous period. The differences of impact reached by organizations with one or other kind of demands are understood and explained by the link they have with government.

Opportunities

If the modifications of social impact on communication policies are linked to relation among government and civil society, it is evident that they are connected to new political conditions. The question is: how?

Between 2003 and 2015, the opportunities for the impact on communication policies reforms of organizations seeking to reduce market power in media system were: division between political elites in government and economic elites in mainstream media, opening of state institutions to social participation, officials allied to civic organizations, political will and political force of government to pass these reforms. Thus, the conditions to social impact on policies reforms of civil society seeking to limit state interference in public communication were: international pressure and political alternation. (Segura and Waisbord, 2016)

Since December 2015, these previous favorable conditions for the impact of organizations seeking to reduce market and state power in communication significantly changed:

- Elites' division: Macri's government quickly restored the historic alliance with *Clarín* Group, the main Argentinean media group, that had characterized previous government administrations -including Néstor Kirchner's one- but which had been interrupted during the two mandates of Cristina Fernández. In addition, it also strengthened a similar alliance in the telecommunications sector with *Telefónica*. However, faced with technological convergence processes and the debate about its regulation, this double alliance does not lack conflicts that lead to contradictory political decisions (Becerra, 2017);
- Opening of state institutions to social participation: unlike the broad social debate and social participation on discussions spaces opened by the three state powers during the making process of Audiovisual Communication Services Law, *Cambiamos* government was forced to initiate pseudo-participatory processes just after April 2016, when Inter-American Commission of Human Rights convened it to give explanations to a complaint presented by the NGO *Centro de Estudios Legales y Sociales*, a community radio national

association *FARCO*, university communication careers association *Redcom*, and cooperative media because the decrees that amended the Audiovisual Law in December 2015 and January 2016 are regressive in terms of human rights. The Commission of the Convergent Communications Bill cited actors to give their opinion. More than a half of those actors were linked to the business sector of communication. The Commission dedicated only one meeting to the community sector and another to public universities (Rivero and Zanotti, 2017). In addition, it organized panels in 4 universities and an international seminar, in which those presenting alternative positions to the government one represent just the 10 percent.

- Civil society finds allied officials: Unlike the previous period in which some of the government officials were members of the *Coalición por una Radiodifusión Democrática*, the new government has close relations with media movements promoting to reduce market power in media systems, but it maintains strong links with civil society organizations seeking to reduce state interference in public communication.
- Political will to carry out a reform that reduces market power in media system there are not. On the contrary, it seeks to strengthen the power of large broadcasting and telecommunication corporations. The day after assuming, he modified by decree key aspects of the Audiovisual Communication Services Law, which had been approved with broad social participation. It extended, and in some cases eliminated, concentration limits, placed regulatory authority under Executive control, and stopped considering pay-TV as audiovisual service. It also announced that it would send a converged communications bill to Congress. On the other hand, it showed some political will to carry out reforms to reduce state interference in access to information and official advertising. At the same time, it convened organizations to discuss an access to information bill that was finally passed. The reforms related to official advertising were made without openness to citizen participation, but in any case, the organizations issued their recommendations and critics.
- Political force to reform: although the ruling party does not have control of the majority in Congress, it clearly negotiated the support of other political forces and obtained it as when the Chamber of Deputies ratified the DNU 13 and 267 that modified key aspects of Audiovisual Law, and when Access to Public Information Law was passed.

- International pressure: the government attempts to minimize the impact of intergovernmental human rights organizations in the country's politics -which reached its maximum expression in the ruling of the Supreme Court of Justice in a case on freedom of Expression in 2016 (Gil Domínguez, 2017)-. Nonetheless, the fact that they formed the commission and called for social consultation after the hearing at IACHR makes clear that the impact is not non-existent. Therefore, the Special Rapporteur on Freedom of Expression visited the country. In 2017, the IACHR held its regular session in CABA and there was a hearing asked by Observacom and AMARC to denounce the situation of community media in the region.
- Political alternation: in Argentina, such as Michener (2011) demonstrated for other countries, the access to public information decree of 2003 and the access to public information law of 2016 were passed during the first months of a new government with a political sign different from its predecessor, and that did not control the Congress. Therefore, it is evident that the new political context is crucial to understand the differences in social achievements in communication policy reforms in both periods.

Final Considerations

If we accept that communication policies are the result of complex processes involving not only political and economic elites but also social organizations, and that public policies are not completely controlled by the state, they are also influenced by dynamic relations between state, market and civic actors (Freedman, 2008), even in unfavorable contexts, human rights civil society organizations may have the opportunity to impact -at least, to resist and avoid part of the regressions- in communication policies.

What are the fundamentals of this possibility? In addition to the expected impact of CSOs on the content and implementation of new laws, there is another important contribution of CSOs' activism: strengthening civil society's institutional competencies related to the formulation of communication policies. This includes improving skills related to mobilization and advocacy: individual and organizational experience related to technical issues, policy-making process and strategic thinking. (Segura and Waisbord, 2016)

The formulation of communication policies based on the paradigm of human rights is unthinkable without civic participation. The organization, strengthening and participation

of civil society is a necessary condition to promote, enrich and contribute to broadening public debates and, above all, to collaborate in the installation of interpretative frameworks linked to the human rights approach. However, it is not a sufficient condition.

Their proposals for laws and policy reforms require state support to take place. The political will and power of the government in charge of the state remain essential for the elaboration and, even more, for the implementation of a progressive public policy.

Therefore, the political will and power of government are also crucial for the dismantling or paralysis of those policies. However, once again, social organization allows articulating resistances that hinder or force to slow down regressive reforms.

The analysis of the period 2015 to nowadays shows that with civil society, but without State support, the impact is limited. Without civil society, however, it is difficult to imagine the changes that occurred in the period 2003 to 2015, and also the obstacles to regressive reforms imposed since 2015.

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