

Violence at Workplace

Province of Santa Fe
Contributions



DEFENSORÍA DEL PUEBLO
Provincia de Santa Fe

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Provincia de Santa Fe

*On the 100th anniversary of the International labour Organization
and the 108th International Labour Conference.*

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Printed in Santa Fe, Argentina, June 2019

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Acknowledgements

This book would not have been possible without the disinterested cooperation, help and assistance of the following people, institutions and organizations: Representative from the ILO in Argentina, Pedro Furtado; Work Judge, David Marcelo Suasnâbar; Secretary from the Work Appeal Chamber, Claudia María Barrilis; Secretary of the Work Court Judicial District no.12 Diego José Romero; Silvia Levín; Trade Unions members on the Union Tradework "Violence-free Workplaces; National University of Rosario (UNR), María Antonia Belluscia; Silvina del Valle; Patricia Saez; National Councillng Office on Workplace Violence (OAVL); Ministry of Work and Social Security of Santa fe Province; teams from the Strategy and management, Victim and Witness Assistance Centers from the Ombudsman's office of Santa Fe Province.

Preface

We live in a world of accelerated changes and unique transformations, in which the previously considered fixed positions are now modified by the constant flow of social, cultural and technological advances. These changes and transformations have an impact in the working relationships where, despite the observable advances, actions or omissions that constitute power abuse are still generated and they are known as workplace violence.

However, some resistance can be expressed with intolerant manifestations and is still present. The Protective Right to Work, proposed by Alfredo Palacios would be identified as a New Right, which is under continuous evolution. The manifestations of power abuse that in the past were tolerated or could pass unnoticed, today become visible, are rejected and can even be punishable.

The complexity of the causes that are compiled in this phenomena require the construction of a juridical scaffolding to contain and approach the persistence of the problem. The fight for the Right- paraphrasing Ihering- has here a new chapter. Some of the Argentinian provinces- that constitute subnational States- resulted to be pioneers in the matter and have generated specific legislation to tackle the situations of workplace violence. In the case of the Province of Santa Fe, there is a law that gives competence in the area of public jobs to the Ombudsman's Office of Santa Fe Province, as a body in defence of Human Rights, to reception complaints, provide support to the victims and stop the harmful acts.

In this work, which is the result from the collective contribution and is considered by the interested in the topic; we would like to discuss workplace violence; the violence exercised in the working sphere on the part of an official, a hierarchical superior, a co-worker or a group of workers, both in the state spheres as well as in the private sectors; the actions that violate the rights of workers that are victims of these behaviours which are highly detrimental and seriously damage the life quality of those who suffer from violence.

The Ombudsman's Office of Santa Fe Province, counts, since 1994, on Law no. 11.202 with a Victim Assistance Center that always acted and continues to act interdisciplinarily, in which we work hard to give an answer to the numerous victims that resort to the institution asking for advice, support, protection or relief. Since 2005, the Province of Santa Fe counts on a special Law (No. 12.434) that has as main objective to prevent, control and sanction workplace violence and giving protection to workers from the public sector, victims of these actions. New mechanisms and procedures for the private sector have been established after some administrative decisions. Nowadays, the Ombudsman's Office of Santa Fe Province, the Ministry of Work of Santa Fe and the Union Network for Violence-free Environments, in an strategic alliance with the International Labour Organization (ILO), work jointly creating protocols that aim at helping workers.

We are in a long way in which we should deepen the actions, go forwards and improve the norms that adequately apply to this problem of workplace violence; that contemplates the main role of the employers and employees in the prevention of violent situations to produce a real cultural change aiming at a healthier working atmosphere.

In this book we suggest a journey that starts with the analysis of the Provincial legislation of Santa Fe and its regulatory decree. Then, we take a sociological view about violence to later present some experiences in the national and provincial spheres.

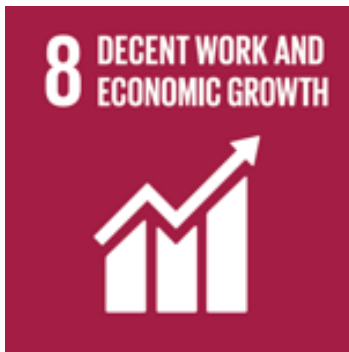
Later, the importance of the work of the Union Network is considered and we consider a reflection from the representative of the ILO in Argentina; we analyse workplace violence from a judicial level: laws, evidence and judicial situations; and, as additional information, we take an annex with a text with the complete law on workplace violence from Santa Fe Province, its regulatory decree and the resolution and protocol for the application of the union network, endorsed by the Ministry of Work of Santa Fe, the Ombudsman's Office and the ILO.

Altogether, this book aims at being a contribution from the provincial experience, pioneer in the management of workplace violence, to a problem that is current today worldwide, with the objective that, working jointly, we could all improve our approach and empower our labour in the construction of healthy and violence-free workplaces.

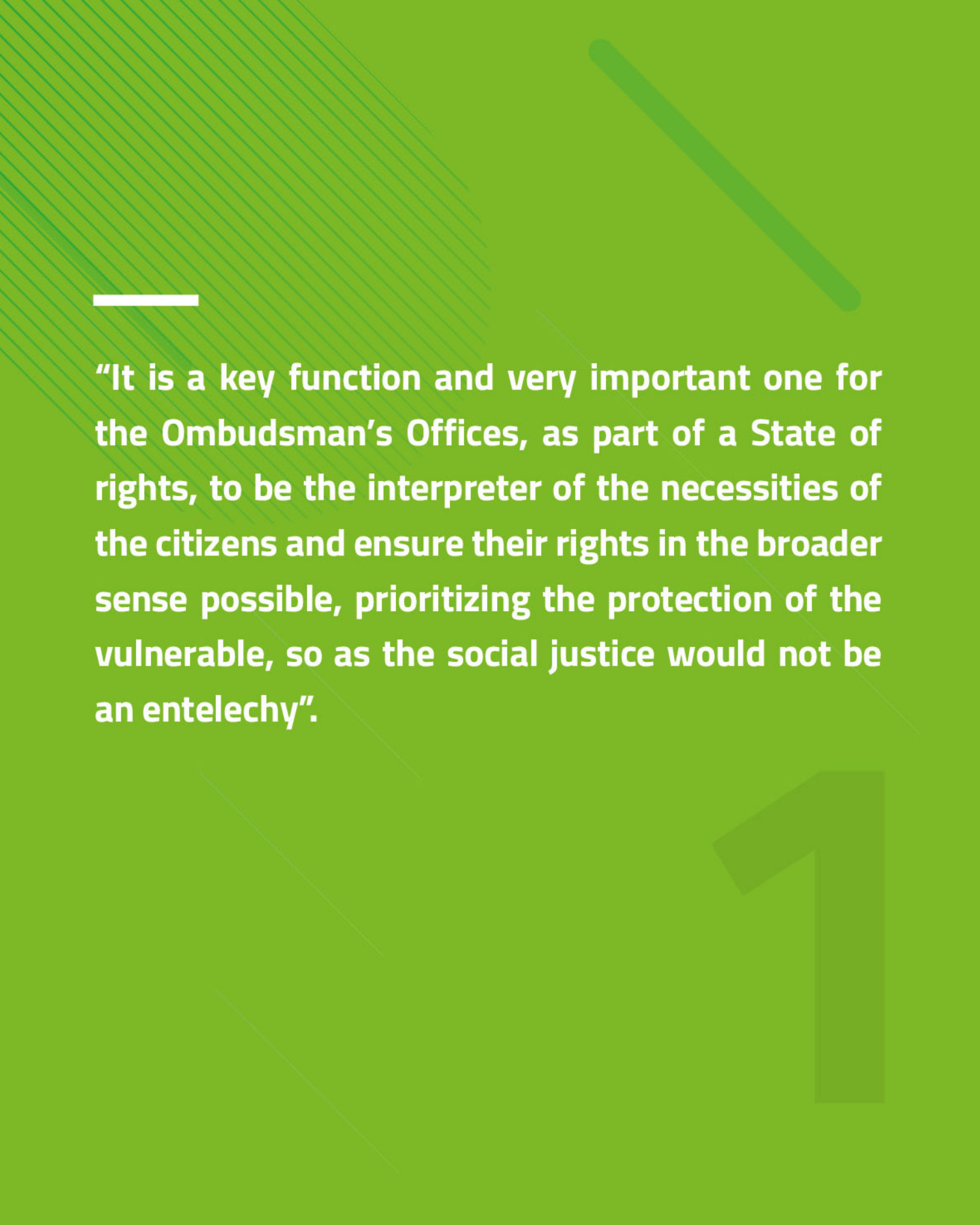
Raúl Lamberto
Ombudsman of Santa Fe Province



SUSTAINABLE DEVELOPMENT GOALS







“It is a key function and very important one for the Ombudsman’s Offices, as part of a State of rights, to be the interpreter of the necessities of the citizens and ensure their rights in the broader sense possible, prioritizing the protection of the vulnerable, so as the social justice would not be an entelechy”.

Workplace violence in Santa Fe

By Raúl Lamberto*

Nowadays and in all societies workplace violence is a scourge, a clear violation of the human and labour rights and it commits an outrage against the integrity of people because it affects their mental and physical health and their social lives, what does not comply to the norms established by the International Human Rights Law and the internal legislation of our country.

Although there is not a unanimous international legislation definition for this scourge, consulted and mentioned laws coincide in their characteristics.

Thus, among others, the Counselling Office on Workplace Violence of the Nation (OAVL, according to its Spanish acronym) defines it as: *"any action, omission or behaviour aimed at provoking, direct or indirectly, physical, psychological or moral damage to a worker, either as a threat or as a consumed act. This includes gender violence, psychological, moral or sexual harassment at workplace and may come from hierarchical higher, equal or lower levels."*¹.

The Ministry of Work and Social Security of Santa Fe province, on its side, describe it as: *"The abusive exercise of power aimed at submitting or excluding the worker from his/her workplace. It includes psychological and sexual harassment, physical aggression and gender violence. It may come from hierarchical higher, equal or lower levels and it is evident by action or omission"*².

* Ombudsman's Office of Santa Fe Province. lawyer. Ministry of Security of Santa Fe province. (2012/2015). Provincial deputy (2003/2012).

Workplace violence in the national and international spheres

Today, the countries that are part of this global world, full of inequalities and several problems that affect modern societies, are preoccupied with an increasing- or maybe now looked at- workplace violence.

The World of Work Magazine – special edition 2018- published by the International Labour Organization (ILO), highlights the themes discussed by the ILO's 107th International Labour Conference (ILC)³. As stated in the publication as introduction: *"Although a number of recent ILO standards already refer to violence and harassment, none of them define it or give guidance on how to prevent it. This is why the ILO has embarked on a standard setting process on "Violence and harassment against women and men in the world of work". This year's International Labour Conference (ILC) will therefore hold a first discussion on possible new standards to put an end to violence at work. Once there is a consensus among the ILO's members – governments, employers and workers – about what is wrong and how it should be addressed, a second discussion at a later ILC, most likely in June 2019, is expected to lead to the adoption of the agreed-upon instrument or instruments."*

That is to say, it is expected to agree on the ways of addressing the problem, the tools and norms to treat the topic adequately, coherently and comprehensively between all the people involved.

It is important to highlight, according to what has been stated by the ILO, *"Social dialogue between governments, employers' and workers' organizations will be key to shape the future of work we want: this is why the ICT will hold a further discussion on social dialogue and tripartism, under the follow-up to the ILO Declaration on Social Justice for a Fair Globalization adopted in 2008."*⁴

A recent report made in France about workplace dis-

crimination shows that discriminatory harassment at work is common in this country so it is expected to include labour harassment in the fight against discrimination. The ILO started a process aimed at establishing a new international norm "(...) trying to help governments to fight against workplace violence and harassment" Cyril Cosme, Director of the ILO Country Office for France stated *"The cases reported in our Barometer focused on France but such behaviour is not limited to one country alone."* *"The ILO has started a process aimed at establishing new global standards, in the form of a binding convention and a recommendation, in order to help governments fight workplace violence and harassment"* (Sept. 2018).⁵

The World Health Organization together with the International Council of Nurses, the International Labour Organization and the Public Service International created the **"Framework guidelines for addressing workplace violence in the health sector"** stating that *"Workplace violence — both physical or psychological — has become a global problem that crosses boundaries, work environments and professional groups. For long a "forgotten" issue, workplace violence has dramatically gained momentum in recent years and is now a priority concern in both industrialized and developing countries."*⁶

At the local level, the Argentinian International Labour Organization joins in to fight workplace violence against women. In an announcement included in the webpage of the International Labour Organization it is highlighted the job of the agency regarding the problem tackled, saying that *"as part of its institutional help, the ILO supported the production of a "Guideline of Recommendations for the elaboration of a Protocol for Prevention of Violent Situations against Women in the Organizations"*, impulsed by the National Women Institute and presented in the Ministry of Production and Work (01/11/2018). The Director of the ILO in the country emphasized that the initial problem is that there is no violence or harassment definition in the labour sphere established at an international level.

Manuela Tomei, Director of the Departamento de Condiciones de Trabajo e Igualdad de la OIT (ILO Working Conditions and Equality Department), accordingly to what is stated by the ILO's Argentinian Director, expressed in an interview held the same month as the World of Work magazine: *"it is necessary to elaborate an international norm that offers a wider comprehension of the scope of violence and harassment at work, and also of the behaviors and practices that are acceptable or unacceptable?"*

Regarding the Nation, inside the Ministerio de Producción y Trabajo (Ministry of Production and Work), the Oficina de Asesoramiento sobre Violencia Laboral (OAVL) (Office of Counselling on Workplace Violence) works and gives orientation and counselling and receives complaints about the topic. In its webpage, it establishes:

- Attention of consultations and/or receptions of complaints about workplace violence and legal advice regarding psychophysical health.
- The elaboration of conceptual, empirical, legislative and documental bases on local, national and international perspectives.
- The creation of cooperation and assistance links with the internal areas of the Ministry, other public and private, national and international agencies with similar or complementary interests.
- The elaboration and promotion of preventive tasks through sensitization, dissemination and training activities about the topic for different sectors that, in different shapes, have the intervention or are touched by this problem.

In the official webpage there is also a list with the national and provincial norm that, in a more general or specific scope- in the case of women- tackles the problem of workplace violence.⁸

The Ombudsman's Office of Buenos Aires City in report about workplace violence, made a publication where some cases that were considered in the institution

were revealed, and it is a starting point for the conclusions that were compared with specialized material.

In the introduction of this work it is considered that: *"violence constitutes one of the main iniquity discrimination, stigmatization and conflict sources in the Workplace (ILO 1998). The consequences of this phenomena go beyond the individual, organizational and social sphere, so the approach to this problem becomes a central topic from the perspective of human rights. This increasing acknowledgment of the importance of a comprehensive approach to tackle violence, so as to avoid repetitive reactions and to implement preventive measures. Under this view, the Ombudsman's Office role is clearly defined as a body in charge of the promotion, defense and guarantee of the rights and reference. In this report the results of the diagnosis of the staff in the public administrative roles are summarized, based on the analysis of the cases handled in the agency".⁹*

Projects, Paperwork and Approbation of the law in the Province of Santa Fe

a. The regulation. The prevention and eradication Law of Workplace violence in Santa Fe province passed on July 7th, 2005 by the local Legislature with the objective of "prevent, control and punish workplace violence and give protection to the victim, the complainants and/or witnesses of the acts." (art. 1). Its application sphere, defined in the second article, was limited only to the provincial public administration (central and decentralized administration, autonomous entities, companies and provincial state corporations and decentralized agencies) and the municipal public administration, subject to provincial norms.

b. Application. Differing from other constitutional systems- such as the American- in which the different States have the capacity to create norms -laws that regulate the civil, commercial, criminal and labour rights- in Argentina, the basic principle is that the "com-

mon” or basic norms are sanctioned by the National Congress (Legislative Power, made up of two Chambers- deputies and senators), while in the provinces (sub-national states) they have legislative authorities in terms of law shapes (or procedure) that orchestrate the basic norms, and they have, norms competence in the regulation of its respective provincial administrations, in compliance with the constitutional principles of the country. Workplace violence Eradication law in Santa Fe province was created, then, as an instrument for the protection of workers from the provincial state.

c. Regulation genesis: the projects. The Santa Fe Legislature is made up of two Chambers- Deputies, with 50 members elected by provincial uninominal circumscription and Senators, each of them chosen by its departmental district (19 departments). On March 13th, 2003 two projects were presented regarding the eradication of workplace violence that aimed at forbidding provincial or municipal officials or employees to carry out any form of violence against other people, and; at counting on the protection of labour rights of the workers complaining or witnesses of criminal acts or irregularities against the provincial administration.

The first project defined workplace violence as *“the actions of public officials or employees that, due to its hierarchical positions or circumstances linked to their function, carry out some behaviour that attacks the dignity, physical, sexual, psychological or social integrity of the worker, manifesting power abuse through threat, intimidation, wage inequality, harassment, physical, psychological or social mistreatment”*. Among the possible psychological or social mistreatment they mentioned the obligation to do degrading jobs for human dignity, as well as the assignation of unnecessary or non-sense tasks, the arbitrary change of workplace, the impossibility of the worker to communicate with his co-workers, the obstruction of his tasks or the repetitive blocking of his initiatives.

The project asked for a summary procedure and

warning or suspension sanctions to those who carry out these conducts.¹⁰

Meanwhile, the protection Project on the labour rights of workers who demanded or testified on the crimes or irregularities against the public administration counted on a prohibition on all types of sanctions on any type of dependent of the provincial public administration that was aiming at making an administrative or penal demand, or about to be offered as witness in some of the illicit cases mentioned previously. As in the previous project, there also was a summary procedure and sanctions of punishment or suspension for the administrative agents involved.¹¹

On March 9th, 2004, a new draft law was presented on the prevention and eradication of workplace violence. It included jointly in the same legislation, proposal actions that the other projects included separately, and it also opened the scope of the law and established new procedures to act. The main innovation on the project consisted on the extension of the norm application to all levels of the provincial state, now including the members of the Legislative and Judicial powers of Santa Fe, in which sometimes the competent authority would be a Special Commission integrated by representatives from the three powers and *“one representative from each of the more emblematic trade unions in each labour sector”*.

For the rest of the cases that occurred in the centralized or decentralized administration sphere of the province – that is to say, from the Executive power- the competent authority would be the Ombudsman’s Office, which would act according to the norms of procedure established in its creation law. However, if the Ombudsman’s Office intervention was not to be successful to solve the conflict, the affected person would present his demand to the Special Commission previously mentioned.¹²

d. Regulation genesis: the legislative paperwork at the Deputies Chamber. Not many days after the presentation



Protocol of Action in Cases of Workplace Violence presentation. May 2018

of the new project, the Deputies Chamber received from the Regional Secretary of the Public Service International a written request to evaluate as soon as possible the project on the eradication of workplace violence. Effectively, during that year, 2004, the Deputies Chamber analyzed and approved the project in a relatively a short-term lapse of time according to the legislative times: after some study of the cause, on October 14th they resolved to give treatment to the preference of the project, communicated immediately to the Rights and Guaranteed Commissions, on the one hand; and of Labour Business, Unions and Prevision, on the other hand. Both commissions decided to treat jointly the three previously mentioned projects on the third point and advised with the majority of the votes its approval by: the Rights and Guarantees commission- of which I was president- and was finally approved on October 20th there; and on November

10th, on Labour Affairs commission.¹³

e. Regulation genesis: the legislative paperwork at the Senator Chamber. Once the project entered the Upper Chamber, first of all, it went to the Legislation of Work Commission, which discussed it the following year. Once this new period of ordinary sessions started and that its approval was advised without observations on May 18th, 2005, to be lately admitted also without objections by the Constitutional Affairs Commission on July 7th, 2005; it was treated by the Chamber on the same day, and the project was approved and transformed into Law and communicated by the Executive Power.

f. Law no. 12,434 of prevention and eradication of workplace violence of Province of Santa Fe. In its definite version, then, once the Comisión de Asuntos Laborales

de Diputados (Deputies Labour Affairs Commission) was created and approved by the Legislature, the Law of workplace violence prevention and eradication acquired a simpler and shorter formulation, but at the same time, less rigorous in its specific aspects. As follows.

It defines workplace violence *“any action or omission linked to the hierarchical position or the function of the officers of public employees that exercises the action constitute an abuse of power and it can manifest itself as a threat, intimidation, wage inequality funded on gender reasons, physical abuse, psychological harassment, social mistreatment or offence that attacks the dignity, physical, psychological, sexual and/or social integrity of the worker”*

- It confirms its omni-comprehensive validity on the provincial state sphere, as its application is done on all the agencies from the three powers and for the municipal and local administrations.

- It establishes the need of an active dissemination of the prevention policies against workplace violence in charge of the provincial state and emphasizes the protections of claimants and witnesses, it also defines a simplified procedure for the denounce and the verification of the cases of workplace violence and refers to the types of sanctions in the different administrative or disciplinary regimes in each functional sphere.

Implemented policies by the Province of Santa Fe within the framework of the Law on Workplace Violence and the commitments undertaken with national and international communities.

In its website, Santa Fe government approaches the issue of Workplace violence in the provincial level on a clear and categorical way: *“the decent work is a transversal axis of the public policies regarding work for the medium and long term”* (Memorandum of understanding with the Country Office for Argentina, ILO, 2008 and 2013). Thus, actions

and programs that promote safe labour relationships that are based on equal treatment and opportunities in the world of work.

"As our main goal, we aim at giving protection to the vulnerable part, in this case, the victim that suffers the aggression or violence in a personal way. The claimant could be the person himself, or the claimants, due to the fact that in some occasions a third party can be in charge of making the violent situation public; and/or the witnesses that can state that the denounce is true, as in some cases those who support the victim can be target to future violence, just because they testified."

****Agreement Framework of Mutual Cooperation***

The provincial State of Santa Fe, through the Ministry of Work and Social Security, signed up the *Convenio Marco de Cooperación Mutua*, and with this, the National Ministry of Work, Employment and Social Security and the Provincial Ministries of Work committed with dignified violence-free work, through which they establish the creation of the Federal Network on Workplace Violence, coordinated and preceded by the OAVL from the National Ministry of Work.

The previously mentioned Federal network has as main objective to go deep in the struggle against the Workplace violence acts in all the national territory, recognizing the necessity to adopt prevention, spreading and training measures to promote work.

****Resolution no. 427, Ministry of Work and Social Security, Santa Fe Province.***

It is in that framework that the Labour career creates resolution no. 427 (24/09/2015), in which considerations include the reasons to proceed (reproducing them and not creating unnecessary repetition) and states that the instruments of intervention in public policies regarding workplace violence would be in charge of the Sub secretary of Coordination for Decent Work, creating an area for its approach aiming at the objectives of the Federal Network, enumerating the faculties with which it counts on and suggesting the writing of a *"Protocol of Intervention about Workplace Violence"*.

****Protocol of proceedings in cases of workplace violence – May 2018- created by the Ombudsman's Office Santa Fe together with the Union Network on Violence-free Workplaces and the Ministry of Work and Social Security, Santa Fe province.***

The protocol (May 2018) has ten points that guide the proceeding to carry out if a workplace violence is spotted and aims at giving clear information about the current law and the entities to which each case would be derived depending on its characteristics. It also provides tools and available resources for the attention and management of each case.

Its main objective is to generate an order in the interventions and procedures from the different agencies that tackle workplace violence, either public or private.

Their specific *objectives* consist on:

- To establish the institutional tool circuit available to all workers who require assistance on a workplace violence case.
- To allow a coordinated and joint work with the Union Network and with the State areas regarding

this matter, pinpointing the capacities in each case.

- To set clear norms to give a better access on the part of the workers in the State areas, in charge of the proceedings that correspond and the union tools available.
- To promote inter institutional articulation mechanisms for the construction and analysis of information that facilitates a better knowledge of the workplace violence problem scope in Santa Fe province.

Therefore, the protocol establishes a proceeding through which different cases would be tackled, regarding the public or private spheres, at national or provincial levels. The people interested would be provided with all the information about the topic and they would be guided regarding the legislation and the tools they count on to make their denouncement and/or complaint.

****The Ombudsman's Office role as application authority Law 12,434***

It is necessary to highlight that our Ombudsman's Office is the authority in applying the Provincial Law 12,343/05 on workplace violence and, thus, the natural receptor of denounces against officials and employees, thus, responsible of behaviour described as violent; in the public sphere, which means that they depend on the different agencies and powers of the provincial State: Executive Power, Legislative Power, Judicial Power; the central and decentralized provincial public administration, autonomous entities, companies and state societies, mixed economy societies, or with majority state shareholding, central or decentralized public administration of Municipalities or Communes, and/or any other agency or entity from the provincial, municipal or communal state, disregarding its juridical nature, denomination, special law or where it operates.

The Ombudsman's Office has the responsibility to investigate whether the behavior, act or omission denounced as wrongful or violent in the labour sphere has occurred and, in this case, stop them immediately, using the normative tools it counts on.

"Santa Fe province launched its own law in workplace violence in 2005, being a pioneer in the topic and one of the few Argentinian provinces to have its own specific legislation on this problem, according to the most modern international legislation."

Therefore, and more importantly, has the big responsibility of showing all the resources that has on its role as guarantee of the Human Rights in general and, of the workers in particular, promoting dissemination campaigns, giving advice to the citizens regarding their rights and the channels and proceedings with which they count on to enforce and respect and, coordinating efforts with the others actors involved in this topic- provincial, national and international agencies, workers, employers, officials and other interested people- with the objective of tackling the problem on an integral way.

It is necessary to highlight within the framework of the work carried out by Santa Fe government, the approach towards workplace violence is a priority. Its efforts aim at looking together with the corresponding actors, the best strategies to prevent and punish workplace violence in both, the public or private spheres.

On this way, in November 2015, in the Law University of Rosario (UNR, according to its Spanish Acronym), a session called *"Jornada Hacia una nueva Agenda de Trabajo Decente en Santa Fe: los desafíos de la formalización laboral"* (To a new decent work agenda in Santa Fe:

challenges of the labour formalization) was carried out. Organized by the Country Offices for Argentina of the ILO together with Santa Fe province government. During the session, the recent publication.

"Fortalecimiento de la institucionalidad laboral para el trabajo decente en Santa Fe" (Labour institutional enforcement for decent work in Santa Fe), created with the Argentinian Office of the ILO and the local government. This job analyzes the public policies of the provincial government to make the working relationships formal and to improve the employment conditions.

The decision of the provincial government aims at promoting social dialogue and generating formal instances, like the Tripartite Decent Work Commission, the Quadripartite Commission on the Eradication of Child Labour and the Equality of Opportunities in the Labour world.

On its turn, the Director of the Country Offices for Argentina of the ILO, Pedro Américo Furtado de Oliveira, stated: *"Santa Fe is a step forwards compared with other countries where the subnational states could not use this types of policies"*.

It is important to mention that in 2003, when Province of Santa Fe signed the second memorandum of understanding with the ILO, an agenda was established and carried out jointly to strengthen the intervention strategies referring to the challenges of labour formalization, the advances and new goals in occupational health and work safety, the measurement and evaluation of strategies of prevention and eradication of child labour and the consolidation of labour institutions for decent work.¹⁴

Contributions on the workplace violence law

Article 1.

Object. The present law has as main objective to

prevent, control and sanction workplace violence, giving protection to victim workers, claimants and witnesses of the configurative acts.

Prevention has as a goal the avoidance of future wrongful acts committed or reproduced in the work sphere. That is why awareness campaigns on this problem are very important as they give information to the involved actors in working relationships about behaviours, practices and management considered violent and that can affect the victim at work, as well as the resources and procedures for its approach and guarantees that they have. Instrumenting awareness sessions on the public administration in general is part of the prevention job.

The control and *punishment* of the behaviours considered violent in the working spheres are the tools that the law provides for the agencies in charge of determining whether the violent or wrongful act has occurred, to control, investigate and immediately stop the actions. The sanction is the result of a respectful investigation of this process, with the defense right and the guarantees that should be key in all procedure in which a person is denounced and other is victim and thus can get to the conviction of the responsibility of the denounced person.

Therefore, as our main goal, we aim at *giving protection* to the vulnerable part, in this case, the victim that suffers the aggression or violence in a personal way. The claimant could be the person himself, or **the claimants**, due to the fact that in some occasions a third party can be in charge of making the violent situation public; and/or the **witnesses** that can state that the denounce is true, as in some cases those who support the victim can be target to future violence, just because they testified.

Article 2.

Application. The present law establishes that its application in all the central and decentralized provincial public administration, autonomous entities, companies and state societies, mixed economy societies, or with

majority state shareholding, in the public central administration municipal and communal and decentralized entities, autonomous entities, companies, state societies, including also the Legislative Power and Judicial Power of the province, and any other entity of agency form the provincial state, municipal or communal; central or decentralized public administration of Municipalities or Communes, and/or any other agency or entity from the provincial, municipal or communal state, regardless of their juridical nature, denomination or special law that can apply or where they operate.

It is very important to highlight, in relation with this article, that through it, the competence of provincial Ombudsman's Office has been broadened on its Creation Law. In this legislation, the Ombudsman attributions would be extended to: *"the activity of the Provincial Public Administration which due to this law, would be subsumed the central and decentralized provincial public administration, institutional autonomous entities, state companies and state societies, mixed economy societies, state participation societies with majority state shareholding and any other agency of the Provincial State, regardless of their juridical nature, denomination or special law that can apply or where they operate. The Ombudsman's Office, the Judicial and Legislative Power are except"* (Article 22 Law 10.396).

On Law 12,434 on Workplace Violence, sanctioned after the creation of the Ombudsman's Office, the administrative competence is widened to all the powers in the provincial state, including the Communes and Municipalities, Judicial and Legislative Powers, which were excepted from institutional control.

Decree 1040/2007, which contains the regulations for the present law states, provides in this article: *"ARTICLE 2- The Sociedad Anónima Aguas Santafesinas (Aguas Santafesinas Incorporated) is clearly included within the boundaries of the application, which creation is arranged in Decree no. 193/06 and the Tribunal de Cuentas de la Provincia (Provincial State Audit Court)"*.

ARTICLE 3.

Conceptualization. This law considers workplace violence any behaviour, by action or omission, exerted at work by public officials or employees that due to their hierarchical positions or circumstances linked to their function, represents a form of abuse of power through threat, intimidation, wage inequality based on gender related reasons, physical harassment, psychological or social mistreatment or offense, that attacks the dignity, physical, sexual, psychological or social integrity of the worker.

The conceptualization provided by this law is very comprehensive, as it includes not only active actions at work but also their omission as act of violence in some cases. Regarding the possible stalkers, it targets both, actions or omissions of officials and public employees that, due to its hierarchical positions or circumstances linked to their function, behaves in a way that represents power abuse. This part of the article needs some considerations, as we believe that it could have been broader, considering as stalkers co-workers of the same hierarchical position that exercise violence in any of its forms at work, regardless their function. Several conceptualizations, among them the proposed by the Provincial Ministry of Work and Social Security, are more comprehensive in their view.

Behaviours described as harmful have in common that the person who carries them out uses his/her power over another person- it can happen because the persona belongs to a higher hierarchical level or because of his function- by abusing of this fact. The common thread is **power abuse**.

On its part, the enumeration of the possible acts and behaviours is quite descriptive and complete.

ARTICLE 4.

Dissemination and prevention. The provincial State will organize and implement programs of prevention

of workplace violence in its application phrase, dissemination and training campaigns, ways of solving conflicts, ways of developing workplace relationships with co-workers, superiors and subalterns, ways of improving social behaviours and any formation or therapeutic process that would lead to a better relationship at work and any other form that considers beneficial to establish an adequate working atmosphere, with the objective of preserving workers' mental and physical integrity. For this to happen the assistance of specialized areas in training, occupational health, mental health among other areas will be needed.

The only thing that is to be added is that it is essential to disseminate in order raise awareness on workers about their rights and prerogatives and giving information about behaviours that should or should not be tolerated at work, and the rights and procedures with which they count to have protection and redress. In a rule of law it is fundamental to organize dissemination campaigns aimed at empowering citizens regarding their fundamental rights and their use.

Regarding the problem itself, it is important spread clear information related to the following topics in order to prevent violent situations from happening:

1. The labour rights that assist workers,
2. The right to have a violence-free working atmosphere,
3. Behaviours that should or not be tolerated,
4. Place available to ask for assistance,
5. The procedures required to denounce, ask for protection and punish the responsible person.

This enumeration is only an approximation and by no means could exhaust the problem completely as to dissemination campaigns and prevention campaigns.

The regulatory decree related to this article establishes for those who are involved in the awareness and prevention campaigns on workplace violence that: *"ARTICLE 4- the*

State Secretary of Human Rights, with the cooperation of the Subsecretaría de Información Pública y Comunicación Social del Ministerio Coordinador (Undersecretary of Public Information and Social Communication from the Coordinator Ministry), the Subsecretaría de la función Pública del Ministerio de Hacienda y Finanzas (Undersecretary of Public Function from the Ministry of Treasury and Finance), the Secretaría de Estado de Trabajo y Seguridad Social (State Secretary of Work and Social Security), on their respective competences would be in charge of the prevention and awareness campaigns, the training campaign and the other points of this Law article. For this, they will encourage trade union representatives of the different sectors of the state agencies to participate. Without prejudice, all the other agencies and divisions dependent on the Executive Power would effectively and firmly collaborate for the main goals of the law, whenever it is required. The Legislative and Judicial Powers and the Provincial Court of Audit are also invited to adopt similar measures in their respective spheres of work."

Article 5.

Protection to claimants and witnesses. No worker victim of workplace violence that has denounced them or acted as witness could suffer any detriment on their jobs or any other sphere, as a reprisal for their complaint or testimony.

It is essential to count on the protection of the State in order to preserve the involved actors in a workplace violence situation by ensuring mental and physical support and by assuring that the person and the job are not at risk, both at workplace and anywhere else.

The regulatory decree, by interpreting this article, establishes: *"ARTICLE 5- It would be assumed, unless there is evidence of the contrary, that the damage suffered by the complaining worker has been in detriment of his attitude, if workers would suffer a disciplinary sanction, allegiance, function change or, in general, any detriment to his/her right to work or hierarchy at first sight seems likely to the illegitimacy of the act."*

ARTICLE 6.

Punishment. Anyone who would exert workplace violence related behaviours would be sanctioned as the respective administrative and/or disciplinary regimes entail on the application of this law, in accordance with the seriousness of each case.

In this article it is established that the punishments applied if it is assured that the alleged stalker did exert workplace violence will be those of the administrative and/or disciplinary regimes in accordance with the seriousness of each case, would determine the investigation, taking into account the existent proofs.

The regulation states: *"ARTICLE 6- To incur in configurative behaviours of workplace violence, in the conditions described by the law, will constitute the duties, to all the emergent legal effects."*

ARTICLE 7.

Complaint. The victim of workplace violence could opt between reporting the act to his employee or to the Provincial Ombudsman's Office.

The law establishes two ways of reporting workplace violence behaviours, giving the worker the possibility to make a complaint with his employee or with the Provincial Ombudsman's Office. We believe it is correct to give the option to the interested party to turn to an agency that is out of the denounced structure. In many cases, to report to a hierarchical superior may increase his/her vulnerability due to the prejudices that are firmly rooted in society, in which many of its members (such as co-workers) consider denouncing as weakness, groundless and delirious; or, in some occasions, the stalker and the victim can be part of the same functional structure, which could raise some doubts on the victim/claimants and/or witness and the person who conducts the investigation could feel lack of impartiality because of the proximity and the existing relationships with both parts.

The regulatory decree states that: *"ARTICLE 7- the presentation of a denouncement through any of the contemplated means in this article from the law would not prevent the claimant to reiterate the denounce on the other mean, if s/he considers it is appropriate as the best guarantee for the rights s/he recognizes."*

In this point it is important to highlight the possibility of denouncing twice through different means, whenever the interested party considers necessary. The possibility of a double denounce is open on the same act, although in the penal sphere this is not valid. In this point we foresee a possible problem: if both instances do not get closer at some point, a different interpretation could be generated and thus, a different or contradictory resolution could arise; which will provoke a so- called "legal scandal".

ARTICLE 8.

Initiation of the paperwork. The process on workplace violence could start through:

a) The complaint done by the victim, witness or third party knowledgeable of the act.

b) Ex officio.

This article gives the possibility to start the investigation at the request of a party or at ex officio, what is not new for the Ombudsman's Office concerns, as it counts with the initiation of ex officio acts in its own law, which states: *ARTICLE 24- the Ombudsman could start and follow at ex officio or at the request of the interested party any investigation that clarifies the actions, behaviours or omissions of the Provincial Public Administration and its agents mentioned previously in article 1.(...)"*

The innovation here is related to the broader competences, previously mentioned in the paragraphs regarding article 2, thus, we believe are already discussed. In his point we make extensive the information from article 11.

The regulatory decree of the legislation, in its interpretation and clarification of the title, amplifies its scope and states: *"ARTICLE 8- If the proceedings were started on the victim's complaint, witness or third party, the competent officials would have to perform it ex officio in order to make it substantial"*

This explanation is one of great importance as it extends the impulse responsibility, giving the officials the *duty* to do it, even if the victim/witness or third party stops doing it or had only denounced the act.

ARTICLE 9.

Accomplishment. The complaints performed should be derived to the immediate superior, who is obliged to transfer the stalker inside the established terms according to the administrative and/or disciplinary regimes that correspond. If the aggressor was the superior himself the hierarchical channel can be applied for the procedure established in the previous paragraph.

This article is aimed at guaranteeing the right to defense with which any person involved in a process or punitive procedure against himself counts on, it entails those who are supposed to intervene as responsible authorities for its prosecution, communicating the complaint to the stalker or entitled as responsible for the violent act for it to be looked and listened to and to take the arguments about it.

It is paramount that this is done for the procedure to respect the stipulated process, legality, and not to be flawed or potentially voided or considered inexistent.

In this sense, the regulatory decree states: *"ARTICLE 9- The transfer contemplated in this article of the law would understand without prejudice the fulfillment of the procedure established in the administrative and disciplinary regimes that would result in the application of each case, and whose main objective is to guarantee the right to defense and the stipulated process to the presumed infringers. The hierarchical line would be taken as states in the second paragraph of*

this article of the law. If the denounce was to any official that would be in a superior hierarchical position regarding the victim, in direct line or out of it, the receptors of the denouncement would be obliged to do the paperwork, no matter their situation regarding it."

ARTICLE 10.

Responsibilities. The official or responsible from the area or establishment in which workplace violence occurs should adopt the conducting measures to preserve the mental and physical integrity of all workers and the security of the Provincial State, under the sanctions that may correspond.

It is expected that the responsible for the area where workplace violence takes place intervene immediately, prioritizing the psychophysical health of the victims and the people involved (witnesses, claimants) and the State goods. It is imperative to make the denounced acts and/or omissions stop immediately so as to prevent more harm and unwanted consequences.

ARTICLE 11- Evidence presentation. Any complaint on workplace violence should be accompanied by a relation to the acts and the evidence contribution that supports the denouncement. If the denounce is carried out in the Ombudsman's Office, the procedure established in Law 10.396 would be applied.

At this point we spot a contradiction or discordance between the different legislations, as Law 10,396 states that if there is no initiation or administrative resolution are missing, the Ombudsman's Office, legally, is inhibited to intervene in the knowledge of the stated problem. This is due to Law 10,396 created in this Ombudsman's Office, and in the Decree no. 1040, regulation of the Workplace violence Law no. 12,434: *"The law in its article 11 contemplates that if the complaint is done in the Ombudsman's Office, the procedures form Law 10,396 would be applied, which means that it would continue with the paperwork for the complaint, on the norm of the article 34, act d) from Law*

10.396, which states: "the Ombudsman would not continue with the complaint in the following cases: a) when they are anonymous, b) when bad faith c) when there are not enough foundations, inexistent of pretension, trivial foundations. d) When due to the problem stated, the administrative or judicial resolution is still pending. (sic.)"

On the other hand, Law 12,434 gives the possibility to the victim to make a report on both instances that means to the superior and to Ombudsman's Office, if this would give better guarantees. (art. 7 regulatory decree).

The Decree 1040/07, in article 11, stats as follows: *"ARTICLE 11- the contribution of the evidence that support the denouncement would be completed when the complainant indicate, unambiguously, where that can obtain them and neither excludes they accompany in the same act."*

On this part, regarding proof, in this article they contemplate the possibility to provide evidence without legal severity and with a tendency to prove what has been stated in the complaint, making the testing process easier for the victim to avoid these types of procedures end up without effect in a system perversion.

ARTICLE 12.

Regulation. The executive Power should regulate the present Law within 60-days enacted.

Regarding this article, it was fulfilled as stated in Decree 1040/07.

Conclusions

To conclude, and aiming to give a closure to some main ideas about the developed issue throughout this work, we can state:

* Workplace violence is an issue that nowadays worries the international community in general and the States in particular, thus, these harmful incidents affect not only

the subjects that suffer from it directly, but also those who are indirectly affected by the consequences, either because they are part of this as witnesses or claimants, or because they are part of the relationships outside the labour atmosphere of the victim (family, friends, third parties).

“Ombudsman’s Office is the authority in applying the Provincial Law 12,343/05 on workplace violence and, thus, the natural receptor of denounces against officials and employees, thus, responsible of behaviour described as violent; in the public sphere.”

* There is no doubt that its approach is imposed as an integral, consensual and coordinated form between the International Community- through agencies and legislation- and the States involved, who are supposed, to their extent and even more, to apply the resolutions in their internal rights.

* It is vital, according to the objectives states by the ILO, to count on a new international norm through a linking consensus and an advice that helps governments to fight against workplace violence and labour abuse. For this, it is necessary to define among all the actors involved in this problem (ILO members, specially governments, employees and workers) the deficiencies detected and the way of changing them establishing a procedure to approach them, tools and regulations to apply.

* Argentina Republic, with its federal organization, count on the provincial states that have their own internal norms destined to regulate their respective provincial administrations, always in terms with the constitutional national principles. Law of eradication of workplace violence

in Santa Fe was created as a tool for the protection of workers, exclusively those from the provincial state.

* Santa Fe province created its own Law of Workplace Violence no. 12,434 in 2005, as pioneer and one of the first Argentinian provinces that today has a specific legislation about this topic, in consonance with the most modern international legislation.

* In this framework different strategies to tackle the problem have arose, such as training sessions about decent work- transversal axis in all the public policies on the province- aiming at the promotion of the rights of the workers, the prevention, eradication and, in its case, sanction of violent acts in the public sphere.

On its turn, a norm aimed at the objectives previously mentioned, having into account the position of the different bodies involved in the topic (union organizations, employees, employers, agencies responsible to approach workplace violence, national authorities, etc.) with the goal to eradicate violent practices in the workplace.

* The legislation in terms of Workplace Violence is the starting point of a specialized approach on the problem that started almost 15 years ago, that took the Decent Work Principles as key and that include violence-free work and from the public sphere extended to the private sphere, with the end on a Protocol of behaviour for acts of violence.

* The Ombudsman’s Office, legally, is the only institution in the administrative field in charge of taking denounces and applying Law 12,434 on Workplace Violence, and, as so, it transforms itself in the alternative way to the hierarchical complaint, with which the victim counts on in the functional structure-

* We celebrate the controlling role assigned, as since its birth it has been conceived as an institution which main objective is to promote and protect the so called citizen on

acts, facts of omission of power. In this sense, it carries out permanently dissemination campaigns aiming at raising awareness of the people's rights and the procedures for the reparation or reestablishment to the state previous to vulnerability, if attacked.

* In this sense, it counts on a Victim and Witness Center of Assistance on Crime that gives attention and integral support to the people who ask for it through a multidisciplinary approach (psychological, social, juridical attention.)

* In the cases of workplace violence, in which the interested person requires our intervention, if by legal means the Ombudsman's Office should maintain out of procedure, not to intervene or suspend its act (administrative acts existence or judicial action paperwork), personal support and assistance of professionals would still be given.

* In the workplace violence cases in the private sphere, in which the Ombudsman's Office has no competence to intervene, anyway, in its promotion function and protective of the Human rights of the community, and appealing to the protocol of intervention for cases of workplace violence signed by the Ministry of Work and Social Security from the province and the Union Framework, we would provide support, advice about their rights, behaviours and acts accepted and not accepted at workplace, procedures to follow and the agencies and places where to go for help.

Concluding, it is a key function and very important one for the Ombudsman's Offices, as part of a State of rights, to be the interpreter of the necessities of the citizens and ensure their rights in the broader sense possible, prioritizing the protection of the vulnerable, so as the social justice would not be an entelechy.

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 9. <http://www.defensoria.org.ar/wp-content/uploads/2014/08/violenciaLaboral.pdf>
 10. In the exposition of foundations that justified the presentation of the Project, the authors mentioned a report from the ILO in 1996, that reproduced the results of a survey carried out with workers from 36 countries- among them Argentina, where they verified a percentage of 11.8% workplace violence exercised on women and 6.1% on men and from where they took the following conclusions: workplace zfrontiers, the working spheres and the professional categories; it used to be more frequent in the night shifts and generally affected women. Another point justified the types of workplace violence in the public administrations with parts of different research works, between which the figure of the "bureaucratic public violence" was highlighted as a violent and arbitrary practice that went worse with the implementation of adjust policies the dismantling of the State, in the previous years in the country. They mentioned, therefore, different antecedents of projects presented in different Argentinian provinces, among which the one applied in Tucuman in 2002 as a provincial law was highlighted.
 11. In its foundations, the authors mentioned the American Act from 1989, that protects employers that reveal information about diverse cases and administrative or penal irregularities; they also made reference to the Argentinian Criminal Code and the general statute of administration, that imposed the officials and public employers to denounce illicit acts or that were a harm to the State and closed the subheadings with a reference to the Argentinian compromise in the Inter-American Convention Against Corruption, approved in law 24.759 from 1997.
 12. In its foundations, the authors of the new project conceptually defined the phenomena of workplace violence, described the violent modalities and specified the consequences of harassment for the affected worker, for the organization of work and also for the nuclear family and the whole local community. They mentioned a research carried out in the province by the "Unión del Personal Civil de la Nación", from which Madrid was the main official, and which results showed a list of testimonies on mistreatment suffered by the employers and the bosses in their daily tasks on the part of the superiors, co-workers and general public.
 13. However, the Commission on Labour Issues made significant modifications to the proposal from the rights and guarantees: the new text approved by Labour Issues did not take the technical definitions different from physical, psychological and social mistreatment from article 3, as the descriptive enunciation of types of workplace violence acts in article 4. It also simplified the more precise organization of the substantial procedures of the complaint on workplace violence and took the specific sanctions taking into account, at this point the administrative or disciplinary regimes on each application sphere.
- With these modifications, the legislative expedient went from the Constitutional Issues and General Legislation Commission – last place of paperwork on its general discussion- that on Nov 24 suggested the approval of the reformulated text on Labour Issues, even with the dissent of 4 deputies form

the Frente Progresista Cívico y Social- a party that included the Unión Cívica Radical, Socialista y Demócrata Progresista, among which the author of this chapter was included- disagreeing with the majority of the Constitutional Commissions, that have accepted the changes in the project suggested by the Guarantee Commission. The following day, on November 25th, the Deputies Chamber passes the law draft that came from the Constitutionals, and was taken to the Senators Chamber.

14. https://www.ilo.org/buenosaires/noticias/WCMS_430635/lang-es/index.htm

15. On May 17th, 2018 a fundamental step on the approach to the problem was made with the presentation of the "Protocol of Intervention about Workplace Violence", which aims at the organization of the interventions and guarantees attention and support for the victim. The members of the network, which is formed by more than 30 unions, participated from the exposition and the signature of the protocol that was in charge of the Country office Director of the ILO Pedro Furtado de Oliveira, the Provincial Minister of Work and Social Security Julio Genesini, the Ombudsman Raúl Lamberto; the responsible for the National Advice Office on Workplace Violence Patricia Sáenz; the general secretary from ATE Jorge Hoffmann and the general secretary from the CGT Claudio Girardi. <https://www.redsindical.com.ar/2018/05/18/la-provincia-cuenta-con-un-protocolo-de-actuacion-para-violencia-laboral/>

Workplace violence: current legislation and institutional approach in Santa Fe

By María Antonia Belluccia
and Silvina Del Valle***

What is workplace violence?

Workplace violence is the abusive exercise of power in order to subdue or exclude a worker from their work position. This scourge includes psychological and sexual harassment and physical abuse, among others. This tends to come from all higher, same or lower hierarchical levels and it is evident through action or omission. Also, it tends to the intimidation, hostage or abuse based on gender, ethnic or sexual orientation, among others.

Typologies

Physical abuse: Any behaviour issued directly or indirectly at causing physical damage to the worker.

Sexual harassment: Any repeated behaviour or comment with unconsented sexual connotation. This type of harassment affects and damages job performance,

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creating an intimidatory and humiliating work environment for the victim.

Psychological harassment: Situation in which a person or a group abuses another person both, verbally or nonverbally, persistently or persistently, several times in order to destabilize, exclude, destroy that person's reputation, damage his/her self-esteem and diminish his/her work capacities so as to progressively exclude the worker from his/her job post.

Cyberbullying: It implies virtual, intentional and continuous harassment against an individual or group. This is carried out by using the media such as emails, social networks, blogs, IM, text messages, phone calls and websites.

National Regulation

In Argentina there is no regulation that addresses the problem of workplace violence in general terms, but there is one that addresses the issue in particular situations. Law No 26,485 of Integral Protection also regulates workplace violence, in order to prevent, punish and eradicate violence against women in the environment where they develop their interpersonal relationships. The regulation symbolizes a new legislative intent in approaching this complex problem, which women face within the sociocultural model and dates back many years.

Precisely, violence against women at workplace is embodied in Law No. 26,485, Section 6 (c) as: "those who discriminate women in public or private areas of work and hinder their access to work, recruitment, promotion, stability or continuity in it by demanding requirements as regards marital status, maternity, age, physical appearance or the taking of a pregnancy test. The violation of the right of equal pay for equal work also constitutes violence against women. Likewise, it includes the systematic psychological harassment against a female worker with the purpose of excluding her from the job."

In its regulation workplace discrimination is considered any omission, accomplished action or threat that has as a goal or result making a distinction, exclusion or express a preference based on the motives mentioned in the regulated law or in any other motive that has the effect of canceling or altering women's equality of opportunities or treatment, job or occupation. That is to say, any requirement that is inherent to gender and is necessary for both, accessing and managing a employment contract, is found discriminatory. It is worth mentioning that in this topic there has been an adjudication on a national level, "Fundación Mujeres en Igualdad y otra c/ Freddo S.A." ("Women Equality Foundation and another with Freddo Inc."), this started after it was proved that the notified company almost exclusively hired men. This Foundation did not represent a particular person but a group of public interest: the one of women who could not compete in order to obtain a work in the ice-cream franchise.

As regards psychological harassment, the law considers as such any action, omission or behavior with the purpose of causing both direct or indirect physical, psychological or moral harm to a female worker. This can be both a threat or an accomplished action and can come from all higher, same or lower hierarchical levels.

It is established that in the case of entering into or modifying a conventional regulation within the framework of a collective work negotiation, the contracting parties will take into consideration the protective principle that for gender related reasons are established in the present legal legislation in order to assure mechanisms oriented at approaching workplace violence.

Workplace violence against women constitutes a violation to the Human Rights at a working environment and it is, at the same time, one of the power-based abuse types that is exerted in conditions of inequality in both public and private sectors. Workplace violence is aimed at intimidating, reducing, discouraging and/or depleting the victim physically, emotionally and/or intellectually



Violence situations may come from hierarchical superior, equal or inferior levels.

with a view to displacing or eliminating a woman from her job post. It can be achieved actively or by commission or omission.

The proceeding established in Law No. 26,485 is directly before a competent judge or before the Public Prosecutor's Office, orally or written. The non-disclosure of the claimant's identity is guaranteed and it foresees the possibility of taking Medidas Preventivas Urgentes (Urgent Preventive Measures) such as requesting a stay-away order from the alleged aggressor from the place of residence, work, etc., and to order the alleged aggressor to cease with the intimidation or disruption, that executes direct or indirectly against the woman, among other pertinent issues.

The guiding principle is guaranteed when a legislation is susceptible to several interpretations, in which case the one that is more beneficial for the worker must be applied. It is guaranteed gratuity, celerity as long as it is established as swift, expeditious proceeding, which means that the process should be processed and solved without delay in order to simplify the procedures. The principles of orality and immediacy are guaranteed with the necessary presence of the courts in the audience and the reception of the proofs.

Lines of work in Province of Santa Fe Public sector: Provincial Law No. 12.434

In 2005 in Santa Fe it was sanctioned an intervention law for cases of workplace violence in the framework of

public provincial central and decentralized public administration, autonomous entities, state enterprises, joint ventures and municipal and communal authorities and respective decentralized, autonomous organisms and it also includes Provincial and Municipal Judicial and Legislative Power.

The law regulates the intervention procedure which is in charge of the immediate superior who must proceed according to what is implied in the legislation, which foresees penalization should the complaint be successful. On the other hand, the claimant can be filed before the Ombudsman's Office, which has a procedure in the Law No. 10,396.

* Workplace violence in the private sector: Intervention Protocol for the addressing of workplace violence.

In Province of Santa Fe, decent work is a transverse axis of the public politics in work related issues for the medium and long term.

This commitment was embodied through the Memorandum of Understanding with the office of the Country Office for Argentina, from the International Labor Organization (ILO), 2008, 2013 and 2018.

On that basis, actions and programs that promote safe work relationships grounded on equal treatment and opportunities in the labour market were drawn up.

In fact, **Resolution 427/15** from the provincial Ministry of Work, Employment and Social Security decided to prioritize the problem of workplace violence and apply public policies on the matter. As a result, disposition No.1 of Subsecretary of Employment policies and Decent Work defined and approved the "Protocolo de Intervención para el abordaje de la violencia laboral en Santa Fe", ("Intervention Protocol for the approaching of workplace violence in Santa Fe").

The new Decent Work Agenda of Santa Fe 2017-2020 is the result of the consensus reached in the meetings that took place working meetings of the Trabajo de la Comisión Cuatripartita de Trabajo Decente del Consejo Económico y Social de la Provincia, (Provincial Quadripartite Commission of Decent Work of the Economic and Social Council) where six goals and provincial labor policy guidelines were summarized.

In this context in 2016 it was created the Economic and Social Council, which is a local government quadripartite and advisory space transformed into an enabling environment to open the debate and to generate the consensus that allowed the delimitation of new goals over the basis of already achieved goals. This organism is made up of 36 economic and productive sector institutions, workers and social organizations. Each one of these three spaces is represented on the Council by 12 member organizations coming from different parts of the provincial territory.

"In Argentina there is no regulation that addresses the problem of workplace violence in general terms, but there is one that addresses the issue in particular situations. Law No 26,485 of Integral Protection also regulates workplace violence, in order to prevent, punish and eradicate violence against women in the environment where they develop their interpersonal relationships."

The Decent Work Agenda (2017-2020) established priority objectives among which it is added:

“To reach healthy and safe working environments in order to preserve the life and the workers’ mental and physical health and to prevent risks at the working environment with specific emphasis on the addressing of workplace violence and the impact of problematic supplies at areas of work.”

Measures

In 2014 the Red Federal sobre la Violencia Laboral (Federal Network on Workplace Violence) was created.

Within this framework it was acknowledged the need to implement workplace violence prevention and care measures, which the parties hereby agree to undertake actions of prevention, spread and training and other measures that promote decent work.

Within the framework of the convention in which Santa Fe acceded to the Federal Network on Workplace Violence, the Ministry of Labor of the province decided to prioritize the implementation of public policies of prevention, intervention and pertinent training on the subject. (Resolution No. 427/15).

In 2016, the Ministry of Labour and Social Security of the province issued Disposition 13/2016 that regulates the workplace violence intervention protocols and created the Oficina de Atención y asesoramiento en Violencia Laboral (Office of care and workplace violence counseling) dependent on the Dirección Provincial de Trabajo Decente (Provincial Board of Decent Work), this is made up of an interdisciplinary team of lawyers and psychologists.

Powers

- To intervene on its own initiative or out of denunciations.
- To receive inquiries and to counsel in case of complaints.
- To summon the parties in order to produce a re-

port about the facts told by the accusing person

Functions:

- To ask the employer to address the problematic situation in the workplace.
- To offer intervention in areas of the company or organism reached by the problem.
- To summon the Undersecretaries of Gender and Diversity of the provincial Social Development to take part in the audiences in order to make observations and specific requirements.
- To establish policy of articulation with both, state organizations of different levels and workers representative entities.
- To promote training and prevention actions on workplace violence.

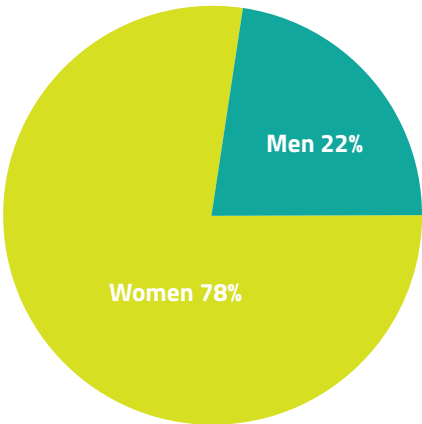
Procedures:

- In the event that what was expressed by the claimant would reveal the existence of facts and or behaviour susceptible to be qualified as workplace violence (WV), the claimant will be invited to make a formal written complaint with all the facts, situation, etc. That complaint should be signed and it should have the employer's data. The worker should authorize explicitly the Ministry of Labour and Social Security (MLSS) to intervene and summon the employer.
- Once the complaint is admitted, it will be entitled without using neither the worker's or the company's names.
- The employer will be summoned to a discovery hearing.
- Once the content of the employer's file is known, an act of summons will be drawn
- The MLSS will urge the employer to make an investigation on the facts with the purpose of safeguarding the workers' health and well-being and of assuring a continuity in their job posts.
- The employer should commit him/herself not

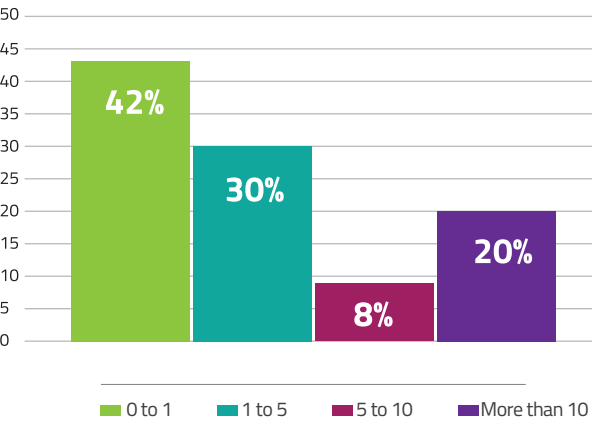
to take action against the claimant, such as sanctions and/or dismissal.

- The complaint will be settled on an internal record and will remain confidential for 2 years.
- Likewise, the MLSS will be able to request the employer to give a plan of action with measures tending to solve the particular case and to prevent future cases.
- Once the proceedings have been exhausted, it will remain confidential for 30 days, after that period have been expired, it will be closed.
- According to statistical sources collected by the Provincial board of Decent Work of the Ministry of labor and Social Security, most of the complaints are made by women and those workers with the longest seniority.

Claimants by sex

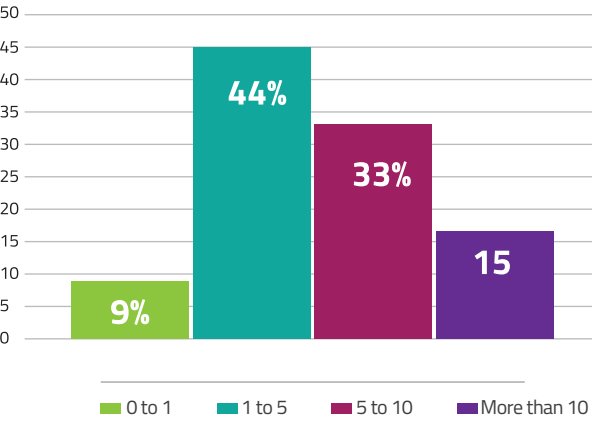


Seniority in the organization (years)



As regards the relationship between the stalker and the harassment victim, it was discovered that in most cases the situation involves people of the same sex, men harassing women and people of higher hierarchical levels.

Stalker's position



Importance of dissemination and training

From 2018 until today, the workplace violence care team technical crew served its purpose and conducted dissemination activities and trainings aimed at public (state and provincial) workers.

Some training experiences:

- Training aimed at telephone operators of the National Line No.144 (Buenos Aires.)
- Training aimed at MTE and SS (Ministry of Labour, Employment and Social Security), Rosario, Santa Fe, Venado Tuerto delegation, trade unions and organization workers.

Towards an integral legislation against workplace violence


In Argentina, several provinces passed laws that consider the issue of workplace harassment. Those regulations govern in the public and private administration area, but with a management approach, while the dictation of a national legislation reserved exclusively to the National Congress (art. 75 National Constitution) is an outstanding issue, despite the existence of several projects related to this.

So, it is important to address a comprehensive legislation and to pay attention to the different ways of appointing and conceptualizing in order to cover any situation that contains behaviours classified as psychological harassment - worldwide known as mobbing-, behaviours such as physical harassment, sexual harassment and discrimination inside a public institution, among others are also described and determined as being behaviors that deserve to be suctioned for continuing ways of violence against the worker.

There is no doubt that workplace violence, in all its forms, is a great scourge that can destroy workers' life.

So much so that it was already noted the importance of the passing and enactment of a National Law for the Eradication of workplace violence. Unfortunately, the mentioned projects will not be submitted to Parliament and that is why we finish this work awaiting the passing and enactment of that legislation for the protection of the Human Rights in the work environment that covers every facet of the problem: the prevention and sanction of all types of harassment and discrimination that a worker might suffer in both, the private and public sector.

It is also necessary that it foresees the right of economic compensation for the victim for damages, with special consideration for the incapacities that the harassment might have caused, along with a compensation for the victimization that was suffered. Besides, we hope this law protects those who complain or testify about discrimination actions, only in this way we will be able to move towards a more inclusive, equal society with its focus on social peace.



“Since the World Conference on Human Rights held in Vienna in 1993, violence against women, just for being women (gender violence), constitute one on the most relevant topics of the international agenda on Human Rights and the multilateral, regional and national efforts for its treatment and resolution”.

3

Workplace violence and the challenges of rights in Santa Fe province

By Silvia Levín*

"The right and its expansion, like arena of disputes of the society, is a central avenue in the path of history; maybe is not capable of transforming by itself the current order, but it questions and calls an ethical deliberation to give birth to new sensitivities" (Segato, 2010)

Introduction

Violence in all its types and forms is a consequence of structural conditions of inequality and discrimination entrenched in societies. Sometimes it corresponds to the area in which it is produced (workplace, education, health, etc.); in other cases, it is added to the violence people bring from other sectors (including family and/or affective). In order to treat and intervene, to prevent, sanction and/or eradicate using norms and/or institutions it is also necessary to revise, at the same time, the causes that produce violence in the field we want to intervene. This means, if there is workplace violence in Santa Fe

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province, either in the public or private fields, it is necessary to revise the conditions in which the labor policy is developed in the province. As long as we only consider the consequences of this problem (workplace violence) and we do not cater for its causes (labor policy), probably we will not get the expected and sufficient results to stop this human rights violation.

This is our main argument, the guiding line that organizes the rest of the points we will discuss in this text.

Firstly, we will explain the nature of the main structural conditions that entrench violence, based on extensive international, regional and national literature that cleared the path from systematic research and measurements. Secondly, we will retake the concept of violence used and that regulates the problem in the international instruments of human rights that operate in the national and provincial current legislations. Throughout this work, we aim at clarifying the type of obligations and responsibilities of the State, which are compelled in terms of human rights, as well as spotting the responsibilities of other actors. Thirdly, we will work on the implications of the notion of democracy of rights, regarding content and scope, not only for the labor policy, but also for workplace violence. Finally, to round up, we will try to illustrate, taking into account some evidence of human rights in the public workplace in Santa Fe province, if there are improvements and, if that is the case, to show the tendencies that show equality and non-discrimination.

Structural conditions of violence

The improvements that transform the inequalities and the structural discriminations in equalities are complex and progressive processes and, generally, they take time. It has been proved (ECLAC, ILO, UN, UNICEF, OAS, UNDP, etc.) that these inequalities and discriminations are the result of an orderly coexistence throughout centuries worldwide, according to cultural mandates that give

power only to those who respond to an unique consistent vision and stereotype: men, heterosexuals, white, wealthy, living in the urban centers, educated people. However, we learnt from Human Rights the main global agreement accomplished in our history of social struggle: that the time for transformations is not only chronological, but it should also be followed by hard cultural work that is political, institutional and normative. All the States that are committed to human rights, like Argentina, and the people who live there are involved and obliged, in different levels of responsibility, to meet and take up this democratic challenge in the 21st century.

The human rights guide and indicate, as a first step, how to build an individual and collective consciousness to always accept and respect people in the public and private sphere as equals- women, men, and diverse sexual orientations, disabled, indigenous, poor or vulnerable people, from the city or from the countryside, with different ideologies or religions. We all are human beings and we have the right to adopt a diversity of ways of being in this world; and this diversity is part of the same registry of humanity we belong to, which can only be exercised if we recognize ourselves in that way, in everyday basis, equals in dignity and rights.

To recognize and exercise equality implies acting and treating people like equals with rights in the public and private spheres. This means, exercising equality and exercising human rights in everyday life, which requires two main conditions:

- Depriving ourselves from prejudice (unique and consistent mandates) about the individual attributes that are free choices of each person, about the diverse ways of choosing to be in life and accepting that each choice has the same human value. Not accepting means not considering them human beings.
- Respecting, without any right to impose through abuse of power, personal perceptions about the

unique and consistent vision of the world. Humanity discarded and condemned for a long time, in the twentieth century, with the validity of human rights, a unique and consistent vision of being in the world with cruelty and suffering provoked and proved.

As a second step, we need to institutionalize these transformations regarding violence as a debt from democracy and shift hierarchies of power and unique visions of the world that are entrenched and that provoke serious injustices in the life of people, such as being expelled from the common registry of equal human dignity (structural poverty, structural unemployment, and structural violence). The change of patterns in life functioning -individual and collective- should be reflected in norms, protocols, institutional organizations, behaviors, procedures, treatment, cohabitation rules, participation, representation, policies, etc.

All the State powers (executive, legislative and judicial) have this obligation and all the institutions that depend on these powers have responsibilities for its fulfillment. At the same time, they engage the institution agents at any level of authority and make them take responsibility. The main responsible for the fulfillment of human rights is the State both in the public and private spheres. However, the State is not the only responsible: in the working sphere the trade unions, the companies, the private sectors and workers are also responsible. To take action to fight against discrimination is the only obligation of human rights that the State should accomplish immediately, whether they are produced in the public or private spheres. We cannot accept, at any point and with no excuses, a delay in its action. That is the reason why there are many instances of denouncement, advice, assistance and escort in judicial institutions, State administrations, police, social organizations and ombudsman's offices, among others.

Inequality and discrimination are not synonym terms

regarding the right to a violence-free life, although we can consider they come from the same family. The State and involved actors should take legislative and political measures at any type and mode of violence, as this is considered and obligation to be accomplished immediately.

As a third step it is necessary to take into account that the State policies against violence require they guarantee the fulfillment of the care policies as well. To ensure the exercise of a violence-free life it is necessary to guarantee other rights as well, directly linked to the previous one, and if they are not recognized and guaranteed at the same time, it will be difficult and likely to hinder the protection against violence. This interdependence of rights proposed by this approach considers that the public policies connect their protections to ensure the rights that people need. Therefore, the human right to care in its three dimensions (self-care, to care, to be cared) most of the times is not linked or considered as part of the exercise of the violence-free right.

However, it has been proved (Colanzi, 2018) that in cases where women are victims of violence and they stay at shelter houses and/or they need to make a public denunciation at institutions, they also have to take care of their children at the same time. This responsibility, at this time, makes it extremely difficult and prevents them to go for the pursuit of justice. This also affects the human rights of children, such as physical and emotional integrity, among others.

For instance, in Santa Fe province, from August to December 2018, 257 women entered the *Red de Casas de Protección y Fortalecimiento para mujeres víctimas de violencias* (Network of Houses for Protection and Empowerment for women in situations of violence) and with them, 489 children (Report of the *Observatorio de violencias contra las Mujeres* (Observatory of Violence against Women), August / December 2018, *Subsecretaría de Políticas de Género* (Sub secretary of Gender Policies). Admitting children in the institutions that are prepared to give

shelter to women victims of violence would require, at the same time, to count on spaces prepared to guarantee the educational and emotional development of childhood.

The feminist movement claims to the State care policies that allow exercising this human right: the premise is *"cuidar y criar también es trabajar"* ("caring and raising is also working") (International Women Strike 8M, 2019). The basis that links the right to care to the right to work, which is the domestic and reproductive work, which is not, paid work but it is paid with affections and virtue. While productive work is paid with money and is part of the formal economy (Fraser, 2018: 49). However, the big contradiction in this division is that there is no capitalism in the world that can generate productivity and wellness if the social reproduction is not guaranteed, points Fraser. If the State does not recognize and guarantee the right to care and productive work, capitalist societies will not survive. (Fraser, 2018)

The conception and regulation of violence in the instruments of human rights in the national and provincial legislation

Since the World Conference on Human Rights held in Vienna in 1993, violence against women, just for being women (gender violence), constitute one on the most relevant topics of the international agenda on Human Rights and the multilateral, regional and national efforts for its treatment and resolution. However, two decades after this event, women continue being object to gender violence in the world, which makes this problem systemic and structural. The Economic Commission for Latin America and the Caribbean (ECLAC) understands that violence in all its types and forms is the most extreme manifestation of discrimination against women and has its origins in the unequal relationships of power between men and women (ECLAC 2007). The culture of inequality allows violence and has its roots in the inequities in life opportunities, access to justice resources and services, asymmetric distribution of power and of the

use of time between females and males, in the wage and work discrimination, among others.

The 2030 Agenda and the UN Sustainable Development Goals clearly state in Goal no. 5: 'Achieve gender equality and empower all women and girls'. Point 5.1 states: 'End all forms of discrimination against all women and girls around the world'; point 5.2 states: 'Eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual exploitation and other types of exploitation'.

Therefore, gender inequality go hand in hand with agency inequalities, understood as the capacity to decide upon their own existence (individual autonomy) and the capacity to influence in the collective decisions of society (political power). Violence takes both, as underlie to the processes of exploitation, submission, capacity and opportunity hoarding that violate the autonomy in all its dimensions and in the exercise of the rights (ECLAC, 2016). Thus, women are not exposed to violence accidentally, naturally or because they are a biologically vulnerable sector. Violence is the result to a structural discrimination, inherent to the hierarchical patriarchal system with status norms naturalized that the State must treat (Segato, 2010; 2013). To prevent, sanction and eradicate violence, then, are juridical and moral obligations of human rights that require legislative, political and institutional measures.

A violence-free life is a guarantee for the Human Rights to be fully exercised. There has been a great advance by considerably raising awareness on the problem in the public, the media and the government agendas. Since Ni Una Menos (no one less) in 2015, there has been a point of inflection regarding public policies. Gender violence is not only installed in the public, national and provincial agendas, but also at regional and worldwide levels. Therefore, it is also found in governmental agendas and the agendas of the State Powers. In this sense, the Judicial Power of the Nation started in 2015 the Registro Nacional de Femicidios (National Registry of Femicides)

and, at the same time, it develops training in gender as a judicial institutional policy, which is aimed at all the actors of the Judicial Power from the hierarchies and justice agents from all the provinces in the country.

The progresses in the national institutionalization of the legislative initiatives, structures and procedures that make the exercise of rights possible are also important. For instance, through the access to the State, the instrumentation of the public policies, the new instances of social participation and action, the access to justice and to public information.

The declarations and formulations of the States, symbolically important, are by themselves not enough. It is precise that apart from using rhetoric of human rights, we could consolidate a democratic public institution with incidence and transformation capacities.

“The state, in all its jurisdictional levels is the main responsible to guarantee the human rights to all the citizens, in this case, the right to a violence-free life”.

The system of human rights offers a group of juridical symbolic representations as one of the ways to overcome violence. Symbolization promotes reflection, and reflection, at the same time, promotes transformations in the models of social interaction. The juridical criticism is one of the privileged and legitimate forms of auto-representation discourse production of a society. (Segato, 2010: 256)

The reform of the National Constitution in 1994 broadened its corpus of rights by giving constitutional hierarchy to international norms of human rights in the terms established by article 75 section 22. The Inter-American Convention on the Prevention, Punishment

and Eradication of Violence Against Women, also known as Convention of Belem Do Pará, was approved in 1994. Argentina was one of the signing countries in this convention, which was not included in the constitutional text because it was signed the same year the constitutional reform was made. Finally, it was confirmed in 1996 through the National Law 24.632, but it does not count on constitutional hierarchy yet.

In the legislative sphere, both national and provincial, the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women was applied relatively recently. Since 2009, with National Law 26.485/2009 regarding integral protection to prevent, sanction and eradicate violence against women in the fields where they develop their interpersonal relationships, the measures are implemented legislatively. Santa Fe province sticks to this National measure through Law 13.348/2013 and its regulatory decree 4028/2013.

Also, some provincial Decrees and Resolutions take measures of the Convention, such as the Provincial Decree 177/2015, which adopts the *“Programa de Protección Integral contra la Violencia de Género”* (“Integral Protection Program against Gender Violence”); the Provincial Decree 1.219/2016, which creates the Provincial Registry of Situations of Violence against Women: (RUVIM, according to its Spanish acronym) and the Resolution 001/2012, which establishes protective measures to women who are victims of family violence and discrimination based on gender and sex-affective choices.

The Constitution of Santa Fe province in 1962 shows a structural flaw in the democratic system and provincial institutions, due to the fact that after 14 years of the National Constitutional Reform in 1994, it was not reformed yet and does not take the corpus of human rights. Santa Fe and Mendoza provinces are the only provinces in the country that have not made changes in their constitutions since democracy reconstruction.



Violence against women constitute one of the most important topics in the international agenda on Human Rights.

It is important to mention that, at a local level, Rosario city has been a pioneer in the reception of human rights through Ordinance no. 8.027/2006, which takes its actions from Convention of Belem Do Pará.

The main innovation of the National Law 26.485 related to the convention is the notion of integral protection that involves and assumes a change in the paradigm about how to tackle violence. In this sense, the law shows a change not only at the conceptual level, but also as a guarantee of a broader protection. It includes types and modalities of violence that have not been looked at, which constitute progress regarding the convention:

it conceptualizes violence broadly as adding the "omission" as well as the action and other behavior, and by considering both, direct and indirect violence. What is more, it also takes other types of violence apart from the physical, sexual or psychological; it includes economical and patrimonial violence and symbolic violence. It also presents some diverse ways of violence against women: domestic, institutional, working, against reproductive freedom, obstetric and media violence.

Until Law 26.485 was passed in our country, the norms about violence were gathered around civil and penal concepts. The civil ones were sanctioned in provincial

jurisdictions (family or domestic violence), the penal ones, as part of the Criminal Code of the Nation, took into account the behavior that constitute the crimes through different forms of violence (murder, injuries, deprivation of liberty, harassments, etc.). That National Law coexists with diverse norms of local application in the different provinces of the country. (Gherardi, Durán and Cartabia, 2012: 54).

Regarding the specific legislation about different forms of violence, both at the national and provincial level, it is broad and it includes populations of women and diverse situations, which take into account the protection of victims through varied mechanisms and guarantees. Either at the national and provincial level, in general terms the legislation is recent- as it was launched in the last decade.

“ The government of the province of Santa Fe, in charge of Frente Progresista Cívico y Social (Progressive, Civic and Social Front) (FPCyS according to its Spanish acronym for) since 2007, has showed systematic and sustained samples of its political compromise with equality and non-discrimination”.

Regarding the provincial governmental management, in 2018 and the beginning of 2019, simply and generally, we can mention some initiatives that promote gender equality, as an advance of collected evidence and as the result of an evaluation work of progress in terms of social policies and human rights in the province of Santa Fe, made by the Ombudsman Office.

It is important to clarify that, according to evidence,

this vision is present in some areas of several ministries; that is to say, not the total number of the provincial State manages according to the perspective and action regarding gender equality as a guarantee of political advances and towards the different expressed structural inequalities.

The government of the province of Santa Fe, in charge of *Frente Progresista Cívico y Social* (Progressive, Civic and Social Front) (FPCyS according to its Spanish acronym for) since 2007, has showed systematic and sustained samples of its political compromise with equality and non-discrimination. Since its starting points in 2007 (Hermes Binner, first Socialist Governor in the country) and also in 2011-2015 with Antonio Bonfatti, when the *Dirección de Políticas de Género* (Gender Policies Direction) is created and the Santa Fe *Plan de Igualdad de Oportunidades y Derechos* (Equality of Opportunities and Rights Plan) is created in 2013; until present days, with Miguel Lifschitz since 2015- 2019.

The present government management, in charge of this Front with Miguel Lifschitz as its head governor, has developed huge progresses that confirm the sensitivity and compromise held with gender equality in this political project. Mainly conducted by the *Subsecretaría de Políticas de género* (Under-secretariat on Gender Policies), created by this government. These manifestations are evidence, for instance, through the decisions made on the renovation of the *Plan de Igualdad de Oportunidades y Derechos* (Equality of Opportunities and Rights Plan) (PIOD, according to its Spanish acronym) in 2013 (impulse, actualization and expansion of the plan); an increase in the budget for the institutional structure in charge of the leaders in gender of this government; hierarchical organization of the institutional structures regarding gender (from the direction to the Under-secretariat on Gender Policies) and the marked territorial expansion of this perspective through the creation of gender structures (Women Areas) in the commune and local levels in the province (about 15 towns specified agreements with the

provincial government in 2015; the number increased to 85 towns in 2017 and to 135 in 2018); the *Registro Único de Violencia contra las Mujeres* (Provincial Registry of Situations of Violence against Women) (RUVIM, according to its Spanish acronym) started to work as public information systems; as well as systematic monitoring and following mechanisms on violence, such as the *Observatorio de violencia de género* (gender violence Observatory), which operates in the Under-secretariat, etc. (Social Policies and Human Rights Evaluation Team, Ombudsman's Office of Santa Fe Province, UNR, 2019).

It is also necessary to consider that this cultural transformation requires a firm and sustained political determination to create a deep crosscutting change. This determination should be followed by progressive ownership of this new vision of reality by officials and government agents involved in the provincial management. There is an involving tool with this potential power, such as the PIOD 2013, with inter-ministerial, inter-sectorial and inter-organizational coordination, at a long and short term.

More resources are also needed, strong political decisions inside the different governmental structures and action orientations of the State and government policies which should be sustained in time and that should have an accumulative effect. Nowadays, apart from the provincial State efforts, the conception of gender equality that rules could not still overcome the institutional assistance and sectors.

The institutional culture of rights is still a challenge.

The crosscutting governmental perspective of gender equality, as a procedure with the capacity to be implemented through the existent governmental instruments, such as the PIOD, and that at the program level aims at concreting a progressive equality and integrity, presents many difficulties in its practice. Some of the deficits arise from the evidence, they show main problems: on

the one hand, the minimal participation of the ministries on the Boards organized by the *Subsecretaría de políticas de género* (Under-secretariat on Gender Policies) (regularly formed functional governmental instances, aimed at the construction of consensus and collective decision-making). On the other hand, the lack of answers to the under-secretariat from some of the ministries about the year report (2018) regarding the development of its actions oriented to gender equality, with a compromise to the management of a governmental political coordination asked by the PIOD and as a goal for the provincial State. Thus, from a total of fourteen ministries and two State secretariats, during 2018 until today, only seven have answered to the request for information on the part of the under-secretariat (Management report, Under-secretariat on Gender Policies, 2019). The rest of the seven ministries did not answer and did not give any possible explanation.

Generally, in the provincial management we can spot gender violence as a responsibility of the area, with specific dedication on this topic as responsibility and compromise of government management to be spread to particular areas or structures (Under-secretariat on Gender Policies, 2018).

Labour policy and violence at work in the democracy of rights.

Our bet, together with the one from other provincial actors, is to aim at the democracy of rights in the province of Santa Fe. We understand it as group of cultural, political and institutional initiatives that are lined to and towards human rights, with an affective and progressive way of creating sensitivities and shape actions to transform unjust realities, particularly of vulnerable sectors.

We affirm that inequalities and gender discriminations in the social relationships is the general norm that the society creates as a coexistence mandate and where equalities are the exception to the rule. These norms if

inequalities are disseminated and regulate all the internships that we produce in any area of our lives (work, family, institution), either public or private. If this is this way, we are unable to treat the consequences of inequality and discrimination (workplace violence), either in public or private spheres, if we do not consider at the same time the causes in this area. The provincial labour policy is a management instrument that regulates working life and is a key resource to understand this reality.

Firstly, the labour policy and the relationships and exchanges in its functioning is one of the factors that is urgent to look at, from which some instances of violence can arise. Other factors that we can add are the career and personal experiences about violence that each person has experienced in their lives beforehand, either directly or indirectly. That is to say, if somebody suffered from this experience and, because of that, can reflect and be conscious of his/her rights. Lastly, there are some kinds of violence that can be spotted at trade unions, associated with political actors in terms of the union rights to be exercised.

The State, in any of its jurisdictional levels, is the main responsible to guarantee the human rights of all the population, in this case, the right to a violence-free life. Its obligations (juridical, political and ethical) are to *guarantee* the exercise of the rights to all the population, to respect the exercise of people's rights and do not interfere in their fulfilment, and lastly, to protect people from third parties that impede or make it difficult to exercise human rights.

From these dispositions clearly arises the fact that the State is the main authority to guarantee the exercise of human rights, by action or omission (non-interference) by them or by others. If this happens, the protection from this third party would be part of the private sector and the provincial State has also the obligation to guarantee. The protection in terms of workplace violence in the private

sector in the responsibility of the State. Other actors can also take part of the protection of the violence-free right, such as the trade unions.

In the corpus of human rights that applies in the region, the Additional Protocol to the American Convention on Human Rights in the area Of Economic, Social and Cultural, "Protocol of San Salvador" from 1999, regulates the Right to Work and Trade Union Rights in its articles numbers 6, 7 and 8. They state that "everyone has the right to work, which includes the opportunity to secure the means for living a dignified and decent existence by performing a freely elected or accepted lawful activity (...). The States Parties also undertake to implement and strengthen programs that help to ensure suitable family care, so that women may enjoy a real opportunity to exercise the right to work (...)" (Article 6); establishes the obligation of the State Parties to guarantee a fair, equitable and satisfactory work. (Article 7).

The ILO contributions in terms of gender and non-discrimination at work are substantive, not only in conceptual but also in operative terms, as they bring orientations, establish priorities and influence in the production of the labour policies in the country and the region. For instance, it understands that "decent work is productive, adequately paid work, undertaken in conditions of freedom, equity, security and without any type of discrimination and able to guarantee a decent life for all persons who depend on this work."

In the Labor Overview 2011, the ILO spots inequalities in gender in the working sphere in Latin America and the Caribbean and states: "Women have an unemployment rate of 8.3%, higher than 5.9% of men. The female participation rate was 49.5% in 2011, still below the male ratio of 71.3%."

To mention some of the criteria for protecting the right to work and the union rights established by the Protocol of San Salvador in order to measure its

implementation on the part of the State Parties, we are able to identify some of the main aspects that a labour policy should contemplate to guarantee human rights (either if they are economic, civil and political rights); among them equality and non-discrimination as the main vectors to prevent violence.

These parameters have the capacity to start processes of democratic labour transformation regarding the rights and, at the same time, they facilitate the prevention in workplace violence as they concretely cater for discrimination and gender inequalities.

These are:

1. To understand work as a human right connected topic and to link it with State structures, in the public policies and their results.
2. To foresee in the provincial Constitution the right to non-discrimination as part of the exercise of the people's right to work (disables, gender, ethnic origin, etc.)
3. To compile public statistic information with a view on rights disregarded of sex, age, educational level or work situation.
4. To promote the creation of anti-discriminatory Programmes in terms of gender, ethnic, racial, social status, etc.
5. To impulse the positive action measures in terms of gender, for instance, oriented to disabled, ethnic, elderly people, etc.
6. To reflect on the financial decisions the compromise with the rights.
7. To impulse sensitive and formed capacities (administrative, technical political and institutional) in terms of State to guarantee the right to work linked with other human rights.
8. To foresee penal or civil sanctions of juridical labour order due to discrimination.
9. To impulse quick administrative or judicial mechanisms and procedures to tackle labour

abuse.

10. To impulse gender quotas in public or private labour areas, or other positive actions with legislative link.

11. To promote anti-discriminatory programmes in the Ministry of Work in unions and other related ministries with gender perspective and diverse populations (women, young people, elderly, disabled, diverse identity people, etc.)

12. To create care spaces for workers in the workplace that guarantee the exercise of the right to work and at the same time to recognize and guarantee the right to care in its three dimensions: self-care, to care, to be cared

A government tool for equality: Santa Fe province Equality of Opportunities and Rights Plan.

The *Plan de Igualdad de Oportunidades y Derechos* (Santa Fe Equality of Opportunities and Rights Plan) 2013, is based on the Strategic Provincial Plan- vision 2030, and constitutes its first collective project that takes a look on gender problems. It represents a pioneer experience in the country in terms of planning transversal gender and participative policies.

The Santa Fe Government assumes with PIOD the challenge of gender equality as a government compromise from the State agents, the ones in charge of creating and guaranteeing the necessary and sufficient conditions for all the people to access rights of equality and to exercise them without violence or discrimination (PIOD, 2013:11). It takes the approach of gender as a political task that includes all the actors that constitute and manage the different areas of the provincial government and not only women. It implies a collaborative and systematic task intended to produce the necessary transformations to eradicate, progressively the inequalities and discrimination regarding gender in society.

It makes emphasis on the idea that the political

objective of equality is key to the society progress as a fairer and more democratic one and, at the same time, considers it as the line for cultural change. Through this line it states that the public renovation can be gained through equality, as the vision is amplified and moved to the political practice of the State.

“The ILO contributions in terms of gender and non-discrimination at work are substantive, not only in conceptual but also in operative terms, as they bring orientations, establish priorities and influence in the production of the labour policies in the country and the region”.

It foresees an inter-sectorial coordination, from an executive board called Inter-sectorial Commission for Equality (today called *Mesas por la Igualdad* (Boards for Equality)) formed by members from the hierarchy of all the ministries and leaders of the State Secretaries from the provincial government. The keys for its effective functioning of the Boards for Equality, as pointed, are the political compromise in the hierarchical levels, clear political directions and a strategic process, due to the fact that this is an instance with the capacity to plan and manage inter-sectors and for the systematization of the process and the results (PIOD, 2013: 19).

Since 2015, with *Ni Una Menos* and the successive national and international women strikes 8M onwards and backwards, many crowds of social participation were linked with the human right to equality and non-discrimination (free of violence life, right to decide, right to care, among others). The population of Santa Fe, together with others from the country, took the right to equality and non-discrimination; installed it in the public

agenda and asked for it in the government agendas.

The data about inequalities and discrimination we can see now, general and incipient, not only shows reality, but also acts as a mirror of injustice. Here is some data to illustrate the tendencies and orientations regarding workplace in the province according to the path we compromised with and that we are heading at, if we have to revise the way, that is to say, checking if we took the right way. This advance quantification is necessary not only to get to equality and non-discrimination in time, but also not to make any mistake that could have important consequences that do not contribute to transform inequalities and discriminations, but that crystalize them, i.e. produce a contrary effect.

We are going to take a look to provincial information linked to the right to live a violence-free life and right to equality and non-discrimination. The first data that we present comes from a quantification made by the *Subsecretaría de Políticas de Género* (Under-secretary of Gender Policies) of Santa Fe province, based on the Women Participation Indicator (IPM, according to its Spanish acronym). This tool was inspired on this indicator designed in 2011 by the Latin American Justice and Gender Team (ELA, according to its Spanish acronym) from Buenos Aires city as a result from different research and investigations carried out. It is important to mention that ELA is an institution with national, regional and international academic prestige, which is part of a group of Argentinian social institutions that check the human right exercise in the country and reports their progress to international institutions (UN and OAS). This report is made, through a Universal Periodic Review (UPR), created by the Human Rights Council (HRC) to monitor the exercise of human rights in the 193 members of the UN. The UPR can only be held by accredited social institutions in the UN.

The IPM indicates the number of women in hierarchical charges, with public recognition, in public or private institutions and agencies in the three spheres

of power: politics, economy and society. The number would be from 0 to 10, when it gets closer to 5-point of equality of gender- we get closer to a fairer and more equal society between males and females. (ELA, 2011).

According to the IPM (participation of women index) applied by the Under-secretary in all the province for the first time in 2017 and actualized in 2018 to reveal the key participation of women in Santa Fe province, and according to the provincial State, the result showed the following information. The data covers hierarchical decisive positions in the Executive, Legislative and Judicial level. We will concentrate on the Executive level only.

“Since *Ni Una Menos* (no one less) in 2015, there has been a point of inflection regarding public policies. Gender violence is not only installed in the public, national and provincial agendas, but also at regional and worldwide levels. Therefore, it is also found in governmental agendas and the agendas of the State Powers”.

The maximum authorities of the provincial government, Governor and Vice-governor are males since 2011 until today (2019), the IPM is 0%. The government of the province is made up of fourteen ministries and two State secretaries. By the end of 2016, 12 ministerial positions were in charge of men and only two, of women (Ministry of Culture and Ministry of Education); since mid-2018, five women are in charge of ministries (Ministry of Production, Health, Science, Technology and Productive Innovation).

The ministries with less women participation between the end of 2016 and 2018 were Infrastructure

and Public Works (7.89%); Security (12%); Environment (12.5%), Economy (16,6%) y Work (13.6%). (Report on the participation of women in hierarchical and decision-making positions Government of Santa Fe province, Under-secretary of Gender Policies, 2019).

The IPM in hierarchical and political decision-making positions in the province leave evidence on the existing gap between formal equality promoted by the rights and real equality in concrete political decision-making. With the Women Quota Act in 1991 (first legislative initiative in Latin America) the same goal is aimed at, and due to this culturally-resisted opening, the agenda of gender equality was installed in public, governmental and private life spheres of people and their families.

On the other hand, the IPM gives us the possibility to interpret and get to another important conclusion that illustrates the structural difficulties of inequalities and discrimination. The provincial ministries with more women participation in the decision-making positions (Ministry of Education 55.3%; Ministry of Health 45%; Ministry of Innovation and Culture 34% y Ministry of Social Development 34%) are those whose activities and tasks are connected to social wellbeing. That is the reason why, according to investigations and reports, have been historically considered by literature and official reports of international organization as “typically female” according to the sexual division of work existing.

This patterns are also present in hierarchical and decision-making positions in municipalities of Santa Fe. In mid-2018, from a total number of 363 towns in the province, the average IPM was 7.7%. In the municipalities, particularly, the IPM was 15.6% (18 local governments from a total of 50 towns); and in the municipalities, the IPM was 6.4% (20 communal presidents from a total number of 312), according to report 2019, Under-secretary of Gender Policies of Santa Fe province.

On the other hand some registers of advances in

the management held by the under-secretary, relative to the progress made by the ministries in 2018 through the implementation of actions under PIOD, they show answers and actions of only seven provincial ministries (Government and State Reform; Economic and Social Council actions and of the APRECOD (prevention on the consumption of drugs and integral treatment agency) ; Ministry of Health, of Production; of Justice and Human Rights; of Security and of Infrastructure and Transportation, Water and Hygiene); the other seven did not respond to the information request until today (2019), between them the Ministry of Work and Social Security.

From all the previously mentioned actions done by the Government of Santa Fe province until 2019 we can observe a considerable gap between what we want to achieve and what we already have. The challenge is big and the political determination exists. Apart from that, we need persistence, rigorous management and coherence in action. The human rights do not constitute only a normative proposal, on the contrary, they give a political and institutional frame and a platform that guides the political management and the actions of all the involved actors.

The consolidation of our democracy and the human development can only be possible hand in hand with human rights.

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“In 2007 by the resolution MTEySS (Ministry of Labour, Employment and Social Security) No. 05/07 the Oficina de Asesoramiento sobre Violencia Laboral (OAVL) (Office of Counselling on Workplace Violence) was created in the Ministry of Labour, Employment and Social Security. This aimed at promoting public policies focussed on prevention, dissemination and intervention before workplace violence situations in both public and private environments all along the country”.

Experience of the Counselling Office on Workplace Violence

*By the Ombudsman's Office Counselling team
on Workplace violence**

In 2004 we were aware of the problem that surrounded us so we undertook an everyday progress path that made it possible for us today to recognize the social scourge of workplace violence, defined as **one form of abusive exercise of power that occurs under conditions of inequality**. It was not easy to do so, as its manifestations were too rooted in the social fabric, such as authoritative behaviours, the use of force, coercion, arbitrariness, excesses, explicit or implicit threat, discrimination, mocking, bullying or humiliation.

Denigration, underestimation, moral and sexual harassment in both public and private spheres. Generally involve unintentional witnesses that might become silent accomplices due to their own work dependency. And fear which is the real enemy in this type of offences and outrages. When workplace violence becomes a daily regular behaviour, it is naturalised as it would not affect daily wellbeing and alter the victims' lives.

First of all, we had to recognize that this existed and that it was of great relevance, not only for those who are direct victims of it, but also for labour organisations

* National Ministry of Production and Work.

and society itself. So we identified it as a violation to human and labour rights and we understood that for us to face and prevent it, collective commitment is needed because silence begins to be part of it and being part of it means being an accomplice.

All these ideas allowed this topic to be part of our country's socio political agenda and they guided strategic lines of an active public policy that gave a solution to the specific demands of thousands of workers who suffered harassment in their workplace and would go the Ministry of Labour awaiting for intervention against this. It is in those situations that we have worked not only by applying an innovative procedure before the claims, but also involving trade unions, business organisations, public and private organisms in raising awareness of workplace violence and its treatment. We all agreed on saying that mutual respect at work is essential in a worthwhile performance.

But there was more: the scourge had to be framed within the judicial universe, encouraging the legislation of local laws on workplace violence, the passing of national bills and the addition of the topic in collective labour agreements. That is how the jurisprudence began to inform that workplace harassment damages the victim both physical and psychologically and that it might even be irreversible.

“Workplace violence, defined as one form of abusive exercise of power that occurs under conditions of inequality”.

Let's see. It all begins suddenly with an abrupt change in the relationship between the stalker and the from now on object of harassment, and object is not a randomly chosen word.

The until then neutral or even positive relationship

turns into a negative one which produces a state of confusion in the victim, who wonders over and over again why them, until they inevitably begin to feel guilt and embarrassment, a dire combination for anyone's psyche.

“This behavior -says Iñaki Piñuel y Zavala- causes immediate damage to the victim's trust in themselves and in their working skills and then begins a slow and continuous process of loss and destruction of their self-esteem.”¹

This is the first battle the stalker won.

This is the first battle the victim lost.

Then a long path towards the solution of a harassment process begins, where several factors will intervene, such as ego-strength and the victim's means of defence, the support the victim finds in their social and family circles and the supportive institutional networks.

This is the picture we should always remember because it does not only hurt the victim, but society itself: it is the beginning of impunity before the setting of the law of the jungle for cooperation and social solidarity. Ultimately, we have learnt that working is also living together and we all write the cohabitation rules together, they are not written on the basis of subjugation and harassment, but of mutual agreement.

The need to approach workplace violence problem had its antecedent in the agreement reached on this matter in the heart of the **Comisión Tripartita de Igualdad de Trato y Oportunidades entre Varones y Mujeres en el Mundo Laboral (CTIO) (Tripartite Commission of Equal Treatment and Opportunity among men and women in the labor world)**, made up of union, corporate and government sector representatives. It was there during the first debates that absenteeism and their consequences in the organization and the workers' lives began to be seen as a concerning issue and harassment came up as one of the major reasons.

In 2007 by the resolution MTEySS (Ministry of Labour, Employment and Social Security) No. 05/07 the **Oficina de Asesoramiento sobre Violencia Laboral** (OAVL) (Office of Counselling on Workplace Violence) was created in the Ministry of Labour, Employment and Social Security. This aimed at promoting public policies focussed on prevention, dissemination and intervention before workplace violence situations in both public and private environments all along the country. Meanwhile, the growing workers' demand for assistance before the MTEySS was fundamental in creating an specific area with executive and management competences.

In the face of this, we began organizing seminars on the juridical aspects and effects on mental and physical health. We summoned the unions, prepared training materials for the representatives, handbooks for the organizations, a newspaper with the latest news and we began making and tracking bill on the subject.

The Red Nacional Contra la Violencia Laboral (National Network against Workplace Violence) was created with currently more than 150 trade unions. Employers were also summoned and more than 70 business organisations, chambers and federations took part in a preventive dissemination campaign under the slogan " 'Yes' to decent work, 'no' to workplace violence in all its forms". Plus, there were clauses added in collective labour agreements in order to develop procedures inside the organizations.

We have also worked on customized attention by specialized professionals aimed at guiding the victims and avoiding victimizations through an empathic listening that allows the rationalization of the problem as a starting point for framing the problem and reducing involved effects. We have to make emphasis on the interventions, meaning, to summon the employer in order to give theoretical and technical tools that allow the overcoming of obstacles and paving the way for the resolution of the problem.

The formation of interdisciplinary teams allowed us to have a comprehensive approach of the phenomenon, which allows us not only to see it from different perspectives, but also to have dynamic office duties of constant actualization.

Along with the training supplied by the OAVL, we have approached almost the whole country, delivering training to workers' organizations and business sectors, provincial states and national organisms. This training is aimed at getting to know the phenomenon: what is workplace violence, how it manifests itself and which are the consequences for the worker and the whole organization. With the passing of years we have successfully adapted this training focussing its content to the specific requests of each petitioning organization, which allows us to reach everyone.

"We have learnt that working is also living together and we all write the cohabitation rules together, they are not written on the basis of subjugation and harassment, but of mutual agreement."

In the Consejo Federal de Trabajo (Federal Council of Work) our office developed areas of attention with different levels of development - nowadays the same OAVL's proceeding is carried out in 14 provinces.

Since the beginning of our approach There was a need for systematizing data that came up from customized attention to workers in order to have an information system that enhances the understanding of existing realities, problems and potentialities, so as to public policies.

Currently, we are developing the Observatorio Sobre Violencia Laboral de la OAVL (OAVL's Observatory of



The OAVL promotes public policies oriented towards the prevention, dissemination and intervention on situations of abuse of power.

Workplace Violence) which functions as a knowledge centre and statistics register for the tracking, guidance and strength of the policies to be implemented by the State and by the OAVL in particular.

Also, we have been developing periodic statics reports which are a source of reference from academic circles, state organisms, media, trade unions, business organizations and international organisms. Besides, analyzed and systematized information is an important part of the training and workshops offered by our area. Nowadays, we are in the middle of the process of building an observatory of national scope in combination with those provinces that assist **some cases personally**.

The idea is to develop workshops in order to unify criteria and guidelines among the team works of the **Oficina de Asesoramiento sobre la Violencia Laboral del Ministerio y la Red Federal (Ministry Office of Counselling on Workplace Violence and Federal Network)** for the production and systematization of statics data that will allow us develop diagnosis, identify needs, prioritize lines of action, elaborate programs and sustainable projects in order to make progress in eradicating workplace violence.

The National Observatory is a still a goal our office is looking forward to achieving.

Lastly, it is important to mention the OAVL participa-

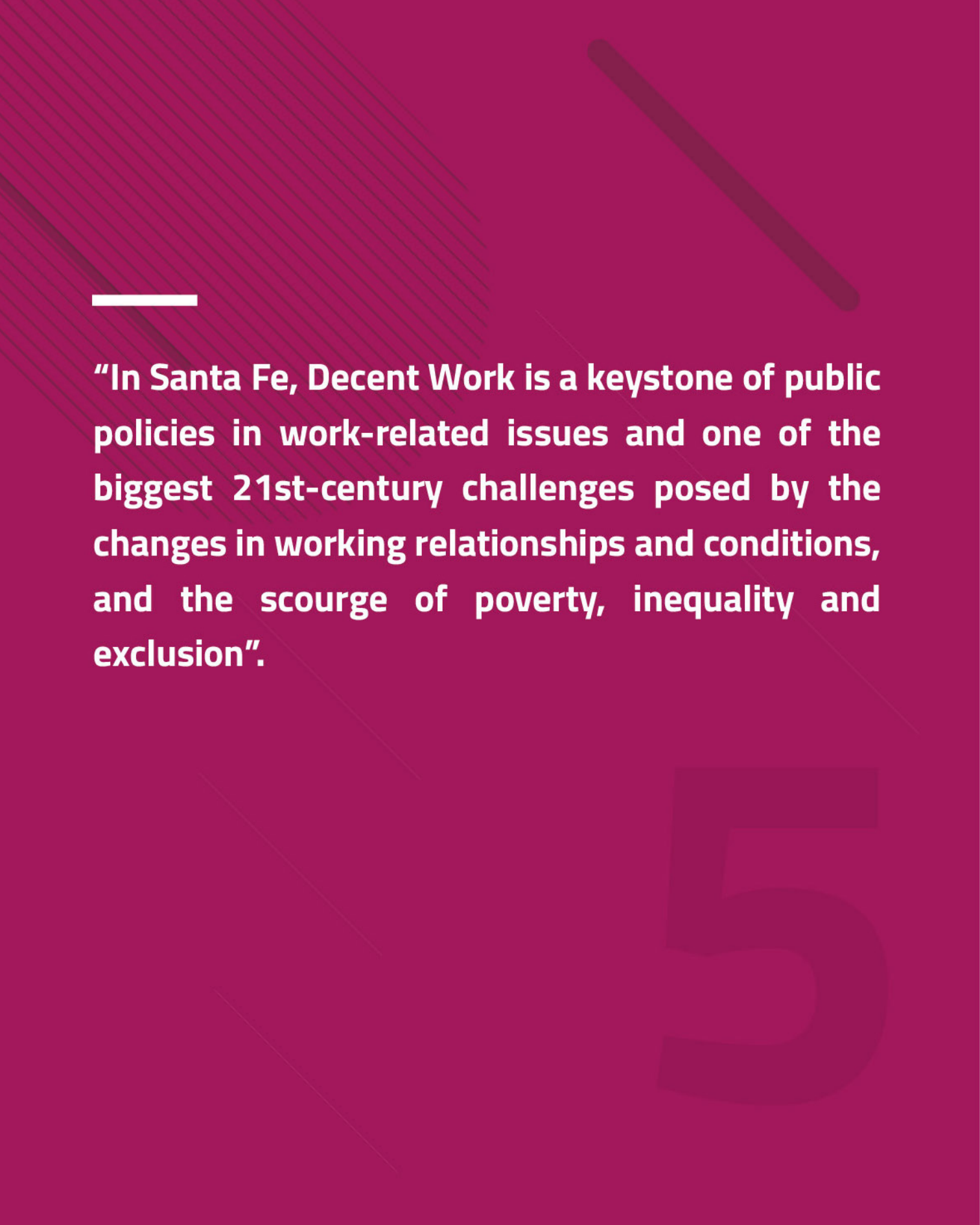
tion in international events. The work deployed through the years have given us national renounce expressed through invitations to participate and present/show on several international forums and congresses. The last call is for exposing Argentinian experience on the "V Congreso Iberoamericano Sobre VIOLENCIA Laboral" (5th Iberoamerican Congress on Workplace Violence) to be held at La Habana, Cuba, at the end of 2019.

However in spite of the triumphs, we are aware that more challenges await us. In everyday tasks we will keep on working as we consider that the actors of the world of work must participate in the search for a solution to this scourge.

Finally, we will keep on fighting for a national law against workplace violence, working next to trade unions, business organizations, and the **legislative power**.

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“In Santa Fe, Decent Work is a keystone of public policies in work-related issues and one of the biggest 21st-century challenges posed by the changes in working relationships and conditions, and the scourge of poverty, inequality and exclusion”.

5

Ministry of Work and Social Security of Santa Fe Province

By the Provincial Decent Work Direction

In Santa Fe, Decent Work is a keystone of public policies in work-related issues and one of the biggest 21st-century challenges posed by the changes in working relationships and conditions, and the scourge of poverty, inequality and exclusion.

The Ministry of Labour and Social Security of Santa Fe Province in line with the Sustainable Development Goals set by the United Nations and with the guidelines of the International Labour Organization (ILO), interprets Decent Work as the one which is carried out in conditions of freedom, equity, security and dignity, and which offers participation, respect of rights, adequate remuneration and social protection.

Based on this, major objectives are established on the Decent Work Agenda of Santa Fe 2017-2020, in order to achieve the implementation of actions and programs, which promote safe working relationships based on equal treatment and opportunities within the world of work.

*Subsecretary of Employment Policies and Decent Work,
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Background

From 2007 onwards, along with the creation of the Ministry of Labour and Social Security, Santa Fe has channeled enormous efforts into strengthening cooperation areas related to productive, social and economic development. This has been carried out together with international organisms, the local and national government, civil society organizations, and leaders of the economic-productive sectors and of the world of work.

On this matter, in 2008, an unprecedented feat in the Argentina took place: the first Memorandum of Understanding with the ILO was signed, which sets out the commitment on promoting decent work as an integrating and fundamental element in the search of social justice and the creation of representative tripartite areas of participation.

As a result of this collective work, the Provincial Decent Work Agenda of Santa Fe was presented in 2009 with ILO's support, involving actively and decisively the recently created Decent Work Tripartite Committee (presided over by the Ministry of Labour and Social Security) in its development.

On this first agenda five major objectives are enumerated in order to promote opportunities and to improve the working conditions of Santa Fe workers within the framework of social dialogue, broader participation and agreement.

After four years of developing and monitoring these objectives, in 2013 Santa Fe renewed the commitment on decent work promotion in all the provincial territory and signed, along with the ILO, a new Memorandum of Understanding, whose purposes are revising and updating the structuring notions of the 2009 Agenda and implementing a new Provincial Decent Work Agenda.

As regards Workplace Violence specifically, Santa Fe Province's goal is to design its own approach strategy,

inspired by the human and labour rights unrestricted recognition, by the mental and physical well-being protection and people's dignity, and by the objectives of the Provincial Decent Work Agenda. In this way, in October 2014, Santa Fe became a member of the Federal Network of Workplace Violence.

This network has as main purpose to delve into the fight against workplace harassment in the whole national territory. Its incorporation document refers to the need to take measures for prevention and attention of workplace violence, the commitment on carrying out actions of prevention, dissemination and training, and other measures that promote work.

A few months later, by means of the Ministry of Labour and Social Security Resolution No. 427/15, the implementation of public policies of intervention in matters of Workplace Violence was established in the *Subsecretaría de Políticas de Empleo y Trabajo Decente* (Undersecretary of Employment and Decent Work Policies), in order to fulfill the Federal Network's objectives.

In this resolution Workplace Violence is defined as "the abusive exercise of power in order to subdue or exclude a worker from their work position. This scourge includes psychological and sexual harassment and physical abuse, among others. This tends to come from all higher, same or lower hierarchical levels and it is evident through action or omission."

The recently created article is entitled "to intervene on its own initiative or out of denunciations and to summon employers and/or employees, according to what is established by the Provincial Law No. 10,468 and further related regulations. It can order the controversial parties to immediately cease any act, action or omission that shapes some kind of workplace violence, without prejudice to impose the measures thought to be appropriate and necessary according to the seriousness of the facts. It can also request the appearance in court of other areas of the Ministry of Labour and Social Security, and of the

administrative, jurisdictional and/or provincial public organisms competent in this field.”

Likewise, the Undersecretary of Employment and Decent Work Policies was required to draw up the Intervention Protocol on Workplace Violence, stating the actions aimed at solving cases occurred in private sectors of the provincial territory.

"The Ministry of Labour and Social Security Workplace Violence Sector of the Santa Fe Province works within the scope of the Provincial Board of Decent Work, dependant on Undersecretary of Employment and Decent Work Policies. There, workplace violence victims who work in the private sector find counseling, guidance and training. This sector works in coordination with trade unions and companies' representatives as well as with other areas of the provincial government if needed".

By means of the Undersecretary of Employment and Decent Work Policies Disposition No. 0013/16, the new protocol was passed, which lays the foundations of the approach to Workplace Violence and guides the interdisciplinary teams' work.

Facing the need to incorporate a perspective coordinated with the approach to Workplace Violence in the public sector, whose application area is the Ombudsman's Office of Santa Fe Province dependent on the Legislature (Provincial Law No. 12,434/2005), in 2016 the already

mentioned organism and the Ministry of Labour and Social Security signed an Agreement on Institutional Cooperation, which seeks to develop more effective tools to protect workers in both public and private sectors and to strengthen not only the training and prevention aimed at the members of the legislative and executive branches, but also the awareness and cooperation with the labour unions and private sectors.

In the same way, in 2017-2018 the cooperation with the labour unions was strengthened through the development organization of the *Protocolo de Actuación de la Red Sindical de Ambientes de Trabajo Libres de Violencia* (Intervention Protocol of the Union Network of Free-violence Workplaces), presented in May 2018.

Decent Work Agenda of Santa Fe 2017-2020

In the face of this background and since the Santa Fe's government took up the commitment in the Memorandum of Understanding with the ILO in 2013, the Decent Work Agenda of Santa Fe 2017-2020 was presented as part of the Economic and Social Council in 2017.

The Economic and Social Council of Santa Fe is a participation area created by the governor Eng. Miguel Lifschitz in April 2016, and it expresses the social dialogue will as keystone of the provincial government and aims to offer the executive branch permanent advice in economic, social, working and productive matters. Its set task is to build a strategic space of deliberation, enquiry and collective agreement in pursuit of reaching a province with an integrated territory, social quality and an economy aimed at developing.

In turn, different committees work within the Council and their goal is to study and debate about specific matters from a comprehensive approach, in order to help the executive branch in determining new and existing public policies. One of them, the Decent Work Committee,

which is quadripartite, laid the foundations of the development of this agenda and set six major objectives, raising awareness of workplace violence problems and contributing to the focused approach to the health service and safety within the working environment.

“A preliminary generic and qualitative assessment of the received inquiries shows that people generally go to interviews feeling stressed and worried about losing their jobs and this scenario has worsened in the last year. Inquiries help them put things in order and recognize their alternatives”.

2nd objective (Decent Work Agenda of Santa Fe 2017-2020)

>> "To reach healthy and safe working environments in order to preserve the workers' life and mental and physical health and prevent the risks of work, with special emphasis on the approach to workplace violence and on the impact of problematic consumptions in working environments."

Current Normative Framework

National level

- Labour and human dignity rights acknowledged by the National Constitution, international treaties, the Civil Code and the Law of Labour Contracts.
- **Law 23,592/1988:** measures for those who impede arbitrarily the full exercise of the fundamental rights and guarantees acknowledged in the National Constitution.
- **Law 26,485/2009 and Regulatory Decree**

1,011/2010: law of comprehensive protection of women, in order to prevent, penalize and eradicate violence.

Provincial level (Santa Fe)

- **Provincial Law No. 12,434/05 and Decree No. 1040/07:** to prevent, control and punish workplace violence in the public administration sphere.
- **Decree No. 510/08** creates the Comisión Interinstitucional para la Igualdad de Oportunidades y de (Trato Interinstitucional Committee on Equal Opportunities and Treatment) in the world of work.
- **Provincial Law No. 12,913/08:** creation of the *Comité Mixto de Salud y Seguridad en el Trabajo* (Joint Committee on Occupational Health and Security in Spanish)
- **Provincial Law No. 13,348/13:** comprehensive protection to prevent, punish and eradicate violence against women.
- **Ministry of Labour and Social Security Resolution No. 427/15** disposes the implementation of public policies of intervention in workplace violence.
- **Undersecretary of Employment and Decent Work Policies Disposition No. 0013/16** approves the Intervention Protocol on Workplace Violence
- **Ombudsman's Office Resolution 159/16 - *Convenio de Cooperación Institucional Defensoría del Pueblo*** (Covenant on Institutional Cooperation, Ombudsman's Office), Ministry of Labour and Social Security.
- **Decent Work Agenda 2017-2020. 4th objective:** to reach healthy and safe working environments in order to preserve the workers' lives and mental and physical health and to prevent risks at work, with special emphasis on the approaching or workplace violence and the impact of problematic supplies in work environments.
- **Decree No. 0008/19** approves the **Action Protocol for Prevention and Care before Gender-related Workplace Violence.**



In Santa Fe province, Decent Work is a transversal axis of the public policies regarding labour.

Workplace Violence Approach in the Ministry of Labour and Social Security in Santa Fe Province

The Ministry of Labour and Social Security Workplace Violence Sector of the Santa Fe Province works within the scope of the Provincial Board of Decent Work, dependant on Undersecretary of Employment and Decent Work Policies. There, workplace violence victims who work in the private sector find counseling, guidance and training. This sector works in coordination with trade unions and companies' representatives as well as with other areas of the provincial government if needed.

The point of view from which the problem is approached considers workplace violence as "the abusive exercise of power in order to subdue or exclude a worker from their work position. This scourge includes psychological and sexual harassment and physical abuse, among others. This tends to come from all higher, same or lower hierarchical levels and it is evident through action or omission." (Resolution No. 427/15.)

Intervention Methodology

The Workplace Violence Sector promotes a precautionary

view on the approaching of this problem, it encourages companies and trade unions to create spaces for dialogue and awareness-raising campaigns on the matter.

In order to do that, the Ministry of Labour and Social Security team creates and joins actions focused on raising awareness among workers and employers about both people's rights and guarantees and the benefits of having violence and harassment-free workplace environments.

For their part, claimants can ask for counselling and/or for personal, telephonic or electronic intervention of the Provincial Board of Decent Work. In each case issues will be dealt according to what is established in the Intervention Protocol on Workplace Violence (Undersecretary of Employment and Decent Work Policies Provision No. 0013/16.)

This protocol is one of internal implementation in the Ministry of Labour and Social Security, promoting a strict organization among the different involved areas.

Also, it foresees an interdisciplinary approach to the problem adopted by the interdisciplinary team of the sector, counseling and helping the claimant in a comprehensively. Plus, it establishes the necessary non-disclosure agreements of both the victim's information and the alleged facts.

The strategy is oriented towards the construction of private and safe spaces of dialogue in order to provide the claimants, the trade unions and the companies with different alternatives of intervention according to their needs and possibilities.

The essential goals of this approach are:

- To safeguard the workers' physical and mental integrity
- To keep their job posts.
- To reset both the working environment and, if possible, the relationship between the parties.

Claims and inquiries analysis

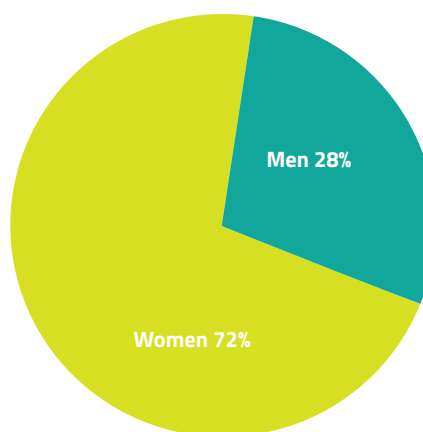
According to the information collected from inquiries and inquiries from private sector workers in 2018 before the Provincial Board of Decent Work, there are elements that contribute to the cases analysis and approaching strategies.

A preliminary generic and qualitative assessment of the received inquiries shows that people generally go to interviews feeling stressed and worried about losing their jobs and this scenario has worsened in the last year. Inquiries help them put things in order and recognize their alternatives.

Claimants' profiles

As regards age, the average age of those who make inquiries is between 35 and 37 years old, with a relatively similar distribution between 22 and 50 years old, although it shows certain supremacy in the youngest.

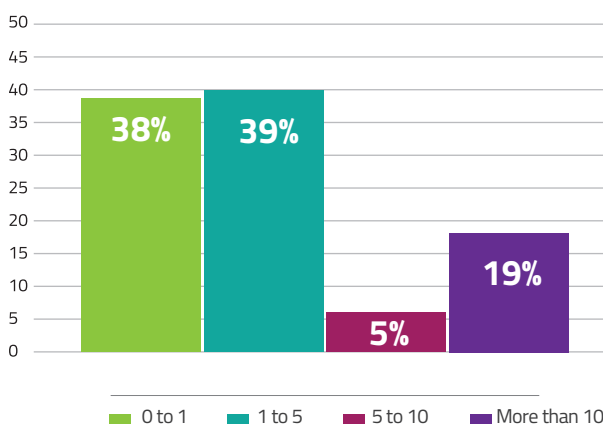
Claimants according to sex



Source: Ombudsman's Office.

As regards sex, even though workplace violence affects everyone, most claimants are women and they make more than 70% of the inquiries. This situation is related to our socio cultural patterns that put women in a more vulnerable situation in power relationships in spite of the reached progresses in gender equality in the last years.

Labour seniority (Years)



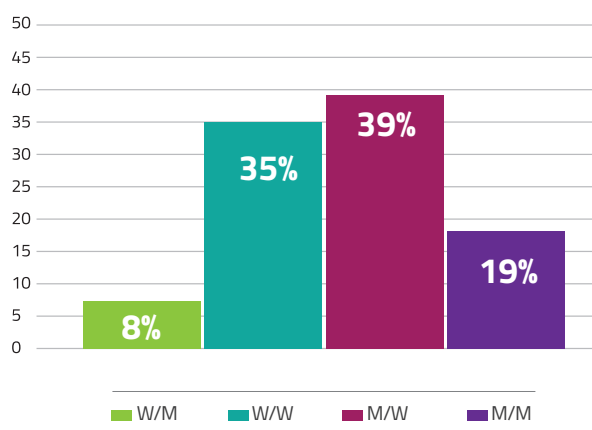
Source: Ombudsman's Office.

In terms of labour seniority, 80% of the inquiries come from workers who are in their first years in their jobs (38% have less than one year seniority, while 39% have been working in their jobs for between 2 and 5 years.) This might represent a greater degree of exposure to violence or harassment situations for people that begin their careers in a company, while it looks like this happens in a lower degree as the worker manages to become established in their job posts.

Stalker's profile

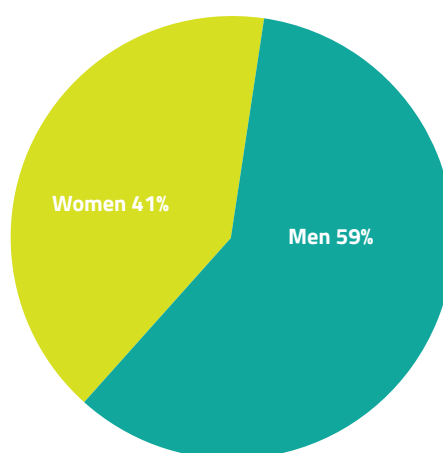
In relation with the stalker's profile, contrary to the case of claimants, there is more equality as regards sex as the 59% are men and 41% are women.

Stalker-victim relationship



Source: Ombudsman's Office.

In contrast we can see that as regards the relationship between stalker and victim, both sexes exert harassment (however, men do it in a greater degree).

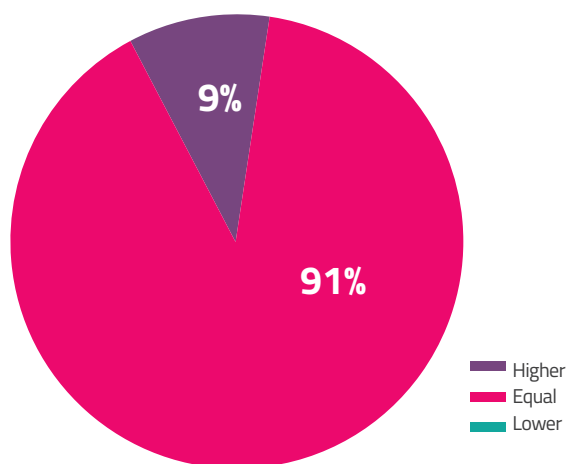


Source: Ombudsman's Office.

The gathered information -again- proves the prevalence of women as victims in the analyzed cases. However, we can notice that harassment is carried out by both men (39%) and women (35%). Contrary to this, when men are harassed, the cases in which harassment is exerted by men (19%) double the cases in which a woman does it (8%).

As regards the position of the stalker in the hierarchical structure of the organizations, we find several situations in which workplace violence may manifest:

- Vertical upward direction: from a person in lower level to one in a higher one.
- Vertical downward direction: from a person in higher level to one in a lower one.
- Horizontal direction: from one person to another of an equal level.



Source: Ombudsman's Office.

In most of the inquiries (91%) stalkers come from a higher hierarchical level than the victim -vertical downward

direction-, while in very few cases (9%) there are cases of violence exerted by equals -Horizontal Direction-. There has not been cases of violence in vertical upward direction.

This information shows a relationship the logics of power that pass through organizations and the harassment relationships between their members, strengthening the approach to this problem in Province of Santa Fe, which considered workplace violence as "the abusive exercise of power that is aimed at subduing or excluding a worker from their work position."

Towards a Provincial Law for the approaching and prevention of workplace violence and harassment

The greater difficulty found by the area of workplace violence intervention has to do with the absence of a legislation -in both, a national and provincial level- that establishes a regulatory framework for assisting the private sector workers problem.

By acknowledging this situation, towards the end of 2018, the Ministerio de Trabajo y Seguridad Social de la Provincia de Santa Fe summoned the first meeting of the multipartite round-table for a Law of Approaching and Prevention of workplace violence and abuse.

Drawn from a proposal originated in the heart of the Comisión de Trabajo Decente del Consejo Económico y Social (CEyS) (Committee of Decent Work of the Economic and Social Council) of the Province of Santa Fe, the meeting had the participation of union trade representatives.

In the meeting it was discussed the need to strengthen prevention and to give greater tools to the areas of workplace violence approach in private spheres in order to accompany the workers. Moreover, a debate framework that allows the lay out of the foundations for a future law was established, and finally, deadlines and a meeting schedule were defined for 2019.

Thus, Province of Santa Fe might be the first one in the country to count with a tool of this nature that has been created from a cooperative process aimed at promoting violence free workplace environments in the private sector.

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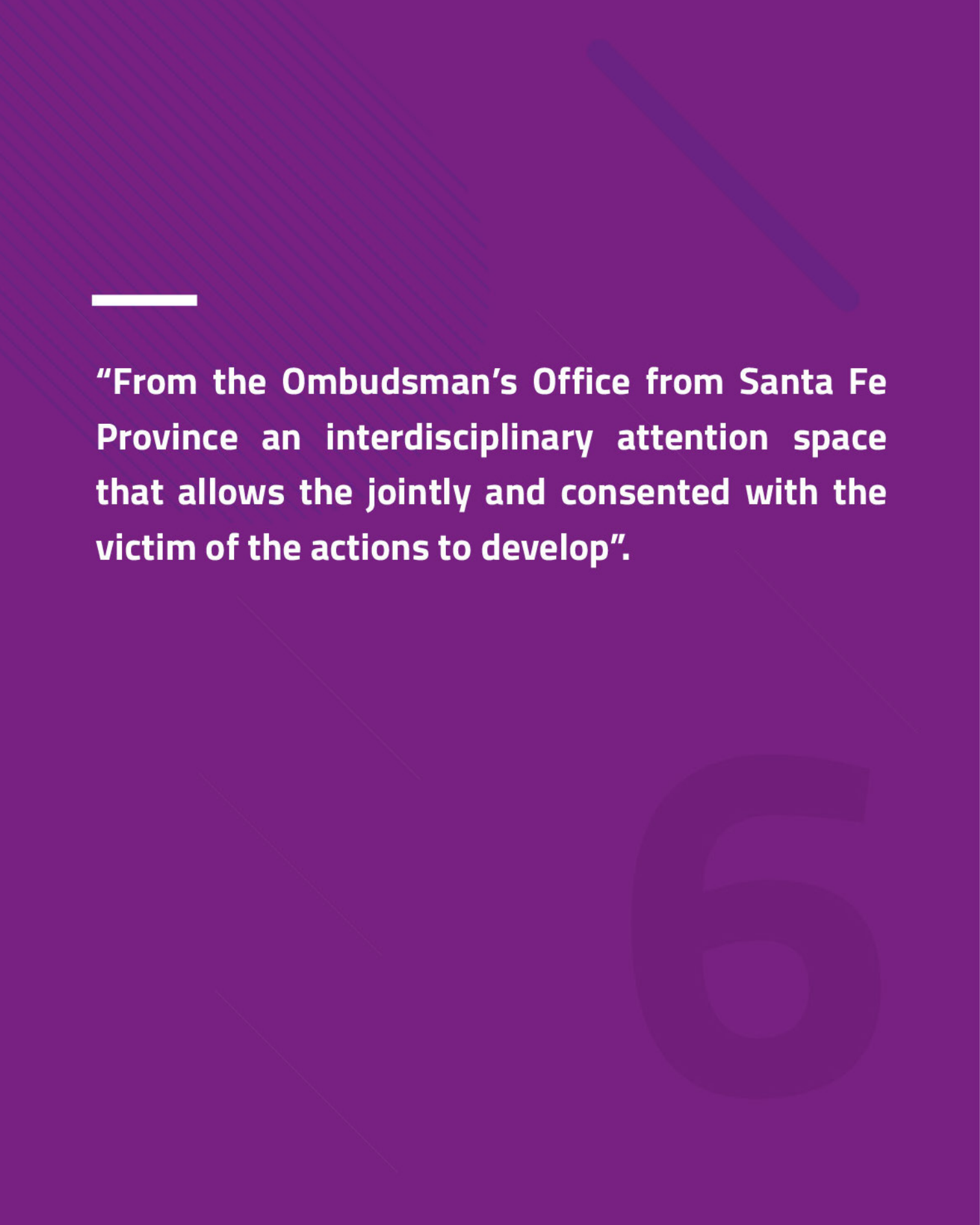
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“From the Ombudsman’s Office from Santa Fe Province an interdisciplinary attention space that allows the jointly and consented with the victim of the actions to develop”.

An approach from human rights and gender perspective

By Carlos Nallim, Eleonora Avilés** and Romina Carrara****

To initiate this description with the birth of the Ombudsman's Office from Santa Fe Province- created by Law 10.396 and with more than 25 years of trajectory, we become aware of the importance of the changes and social transformations of which is has been part a referent body of Human Rights.

In their first steps, the main mission was to protect the rights and interests of individual people and the community towards actions or omissions of the provincial public administration and their agents towards a discriminatory, abusive, irregular or arbitrary exercise. Throughout the years it added specific areas to their competences in order to provide answers and meet different demands, especially the necessities of vulnerable groups. On this way the Mediation Centers, the Environment, Health

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*** Member of the Ombudman's Office of Santa Fe in the Union Network for Violence-free workplaces.



The Ombudsman's Office of Santa Fe province actively participates in the Union Network Violence-Free working places.

and Disability Directions, the Assistance to the Victim and Criminal Witness Center- the last one under law 11.202/94 and the Ombudsman's Office for Children and adolescents, Law 12.967.

In societies pierced by inequality, violence and discrimination, these situations lead to consequences that go beyond the individual, organizational and social levels, so, its approach is a central topic from the institutional perspective of human rights, which origins are recent in the public policy.

That is why, a probable approximation is revising recent history until the end of the 20th century.

The 90s seemed a promise from three hints: the

neoliberal capitalism, the representative government and the human rights.

In this atmosphere, in Vienna, Austria, the II World Conference on Human Rights was held on June 1993. One of the central elements of the Declaration and Programme of Action of the Convention was the need to establish public policies programmes on Human Rights.

For this, it was recommended to establish a global program of United Nations, with technical and financial assistance to the States as a method to reinforce their national structures and with the objective of making a direct impact in the observation of the Human Rights, elaborating national action plans to improve the promotion and protection of them and establishing the

necessity to create a system of indicators to measure the advances of the Economic, Social and Cultural Rights (ESCR).

Regarding the effectiveness and enjoyment of Human Rights in the context of global progress and the instrumentation of the goals and objectives of the sustainable development, they constitute an institutional horizon.

The 2030 Agenda of UN is an assumed compromise by the State members of the UN in the World Summit for Sustainable Development, held on September 2015, and that developed 17 Sustainable Development Goals (SDG) to end poverty, fight against inequality, injustice and face climate changes. In this context, the local governments, and the Ombudsman's Offices around the world, are called to be evaluators of the advances of the institutional arrangements in this challenge.

To go deeper into this problem of violence in the world of work, its relationships and consequences, put special emphasis in the objectives #8 and #12 of the agenda.

Goal #8 states: *"Promote inclusive and sustainable economic growth, employment and decent work for all (...), achieve full and productive employment and decent work for all women and men, including for young people and persons with disabilities, and equal pay for work of equal value"*.

Therefore, goal #12 on responsible consumption and production, complements this idea, stating: *"Sustainable consumption and production is about promoting resource and energy efficiency, sustainable infrastructure, and providing access to basic services, green and decent well paid jobs and a better quality of life for all. Its implementation helps to achieve overall development plans, reduce future economic, environmental and social costs, strengthen economic competitiveness and reduce poverty."*

By looking this way, the role of the Ombudsman's Office from Santa Fe Province is clearly defined: it is a promotion, defence and guarantee of the rights agency and a referent in cases of violation of the rights connected with workplace violence.

Under this framework that allows us to see the reference of the institution, we can state that workplace violence, recently spotted, is part of a problem that entails "recurrent acts and behaviours, not episodic or unique"¹ To analyse this approach and its treatment allows us to take a closer look to the strategies and action plans.

"Those who exercise violence in places of power are both men and women (50% women, 50% men)."

It is necessary to mention that Santa Fe province enacted in 2005 Law no. 12.434 which main objective is to prevent, control and sanction workplace violence and to give protection to the victim workers, the claimants and the witnesses of the acts. (See analysis in the article of the Ombudsman from Santa Fe Province, Raúl Lamberto.)

This legislative framework defines, in article no.3, workplace violence and in article no.7 the role of the Ombudsman's Office as an administrative body of denouncement for the victim.

The legislation is a very important tool that instruments the protection of the rights that, accompanied by the institutional compromise of the actors from governmental, union and non- governmental organizations, makes this law active and shows transformations and, in some cases, the reality of the world of work, where there are definitely violent situations.

The Union Network integration

Inside the institutional compromises to strengthen and give major consistency to the current legislation it is important to highlight, as a key point in the development of the analysis and practice of the stated topics, that since December 2016, the Ombudsman's Office from Santa Fe Province started to form the Union Network. According to what is mentioned in its webpage², it is about a horizontal space of which the trade unions from the public and private spheres are part, and where the National Secretary of Work, the Ministry of Work of Santa Fe Province, the Ombudsman's Office from Santa Fe Province and the ILO take active part.

The network has as main objective the organization, training, debate and construction of joint actions related to this type of violence. In the practice, the inter-union network displays its activities with monthly meetings that are developed in the different locations on the intervening organizations. Previous to these meetings, the agenda topics are proposed, some of them are analysed in the commissions, such as child labour, unstable labour and discrimination, among others. Then, the proposals, conclusions and questions were socialized in order to establish documents that could make history in the process of the life of the network.

One of the results of this joint work was the design and approval of an Action protocol for workplace violence, presented on May 2018, in the auditorium of the *Asociación de Trabajadores del Estado* (State Workers Association) (ATE, according to its Spanish Acronym), in Santa Fe province where the Director of the Argentinian Office from the ILO, Pedro Furtado de Oliveira was present.

The Protocol is based on three axis: the claimant's right to information and about how he will be assisted; the coordination of the network work between the institutional actors involved in the topic and the co-construction of

an interdisciplinary team with the worker regarding the stipulated actions to the State organisms about a denounced situation.

How we tackle the violent workplace situations: victim's attention and administrative paperwork

From the Ombudsman's Office from Santa Fe Province an interdisciplinary attention space that allows the jointly and consented with the victim of the actions to develop.

The victim's idea is linked to the appearance of the concept of violence that require complex approaches from a paradigm of Human Rights, gender and inter-disciplines.

About the perspective of Human Rights we believe it is appropriate to include the concept of gender *"(...) it pretends to evidence the fact that the feminine and masculine roles are not characterized by their sex (i.e. biological characteristics), but that they evolve according to different cultural, social, economic situations. The gender relations, thus, have a cultural basis; it is the society that define the activities, the status and the individual characteristics..."*³

That is to say, it is about sociological categories that are inconsistent with a time and space, with a collective unconscious that establish roles, stereotypes for each one and, thus, differences between the diverse collective unconscious or gender groups. *"(...) gender identity has to do with the subjective perspective of an individual about himself regarding his own gender. It can correlate or not with his sexual characteristics; this can be considered the psychological or physical sex and it is constituted in one of the three elements in the sexual identity together with the sexual orientation and the gender role, in close relationship with "the idea-affective outline of gender belonging", so it would be an individual expression of gender"*⁴

In relation to the interdisciplinary approach in the victim attention, we should say that it is a product of the convergence of different knowledge and implies

to integrate the understanding. *"(...) the problems are not presented like objects but as complex demands that give place to social practices interconnected in diverse conceptual bodies. Articulated conceptual fields in practices around problematic situations. It is from this movement what we are talking about when discussing the interdisciplinary".⁵*

"There is a denounce on workplace violence every 36 hours."

The common characteristic of those who have been or are in a violent situation (of any kind) is the fear to reprisals or aggression resurgence.

From the violence forms existent, the one that is key is the psychological, difficult to prove in administrative and judicial instances and is degrading regarding subjectivity of the worker who, in many occasions, has the alternative of psychiatric licence, not being the adequate type to the pathology he is suffering and, in this sense, being a victim again in the situation.

From the psychological aspect, the deep effects on the subjectivity, which produces insecurity, confusion, sleeping problems, asking oneself which was my mistake, guilt and anxiety symptoms, among others.

On a second term, we can find workplace violence of the sexual and physical types.

Among the acts of mistreatment that embody the workplace violence- frequently denounced- we can mention:

- Continuous and repeated hostility in the form of insults, psychological harassment, scorn and criticism or threats.
- Not assigning tasks.
- Transferring from the habitual workplace to

other agency without verifying objective antecedents to base this measure.

- Discrimination
- Obstruction of tasks: by action or omission that make it difficult or impede the normal performing of tasks of the specific job position.
- Sexual harassment
- Modification of the working conditions: alteration of the section for the tasks development, physical developing sphere, usual working timetable and/or assigned tasks.

Workplace violence situations affect the health of the workers- at any grade- produce a physical and psychological detriment and generate a significant increase in the number of medical prescriptions and illness licences.

A similar journey was taken to tackle gender-based violent situations where women have to hide the true situation they suffer even leaving their jobs and funding their leave on psychiatric pathologies which, in occasion can lead to damages in their professional careers.

In effect, an advance in the rights of victims of gender violence was the sanction of the Provincial Law 13.696/2018 of promotion and grantee of Labour rights for the workers in situation of gender violence, which has as objective to promote and guarantee the rights in the working sphere and to recognize as a cause of licence "Gender Violence" for the workers of the Provincial State on its three Powers, autonomous agencies, decentralized bodies and State companies, including those that credit the registrable rectification of sex due to National Law 26743.

This antecedent could be one of the foundations to legitimate in workplace violence the right to take a licence that allows the affected workers to justify their absence on a quick and immediate way.

“From the violence forms existent, the one that is key is the psychological, difficult to prove in administrative and judicial instances and is degrading regarding subjectivity of the worker who, in many occasions, has the alternative of psychiatric licence, not being the adequate type to the pathology he is suffering and, in this sense, being a victim again in the situation”.

To work the suffering of the victims of violence implies to re-signify, reinterpret the reality, empower the victims, making them trust again on the same capacities and reconstruct the subjectivity of the worker.

Gender-based workplace violence

The 2030 Agenda in goal #5 states that Gender equality is not only a fundamental human right, but a necessary foundation for a peaceful, prosperous and sustainable world. The equal access to the world market continues to be analysed as an aspect that represent inequalities and difficulties of development on the same conditions between men and women. At this point it is key to think about the words of Rigat Pfaum (2018): *“the equality of opportunities in the world of work was one of the strategies that the state and institutions, for instance, the EU, started to implement to achieve more equality among genders. However, the concrete measures and recommendations for the state members that have been done at that moment did not throw the expected results. The work market did not change, but did become more flexible with women, who, by not counting the focusing policies regarding gender in the*

*institutions, and with no perspective that complies diverse aspects of the work market, had to conform with a “narrow” vision of the quality policies, achieving a broader number incorporation to the work market, although with characteristics that showed that things were different. The positions of leadership in the companies, the full-time jobs with equal opportunities, the wage equality, the elimination of the harassment or mistreatment at workplace, could not be effective if there is no gradual transformation of other aspects of the market, such as the perspective and institutional functioning as the company as well as the state level”.*⁶

Thus, the data makes us think and tackle workplace violence with a gender-based perspective, being clear with the statistical data: 7 out of 10 claimants are women.

We can say, thus, that in the world of work there is a predominant value for the masculine and that there are sexist prejudices when evaluating work done by women, which implies discrimination and, thus, promotes situations of power inequality.

In this sense, the report *“Women in the World of Work”*, in its part *“Women in the work market”*, state: *“during the last decades, the participation number of women in the work market in Argentina has grown significantly: from 36.8 % in 1990 to 48.1 % in the first three months of 2017. Although women represent half of the population, its employment rate is still lower than the one of men: 43.1% for women and 66.3% for men, according to the Permanent Survey of Households (EPH, according to its Spanish acronym) in 2017. It is a large number of houses where women are the main financial support, either because of being single-parent family or because of being the main income, on an unemployed man or underemployed or in houses where both incomes are essential for surviving.”*⁸. On the other hand, the *“characteristics of participation of women in the world of work determine their access and permanence in the occupations and reflect the differences of income between men and women. According to INDEC data, women are mainly in the group with less income.”*⁹

“The data makes us think and tackle workplace violence with a gender-based perspective, being clear with the statistical data: 7 out of 10 claimants are women”.

In our country there have been an incorporation of international treaties of protection of women, such as the Convention de Belém Do Pará and the Convention on the Elimination of All Forms of Discrimination against Women (Cedaw) that allowed National Law no. 26.485 of integral protection to prevent, sanction and eradicate violence against women in the interpersonal relationships development spheres. Such law, in its article no.6 states: *“to the effects of this law we understand as modalities the forms in which different types of violence against women are manifested in the different sectors, specially between the following: c)workplace violence against women: the one that discriminates women in the public or private spaces and is an obstacle for the access to employment, contracts, promotion, stability or staying in the same place, requiring a certain marital status, maternity, age, physical appearance or pregnancy test. Constitute also workplace violence against women to violate the right to equal pay for work of equal value. Therefore, it includes systematic psychological harassment on a specific worker until excluding her from work.”*

Our province adhere to this law through Provincial law no. 13.348 to “integral protection to prevent, sanction and eradication of violence against women”

As Diana Maffia states, *“violence does not affect on the same way all the subjects. It is an abuse of the strong subjects over the weak ones, a discipline and an accommodation when they try to avoid the subordination. It is necessary to go back to the rules (or lack of rules) that benefit ones above others.”*¹⁰

Going back to the administrative paperwork in the public sphere, part of the competence of the Ombudsman’s Office regarding workplace violence (Law 12.434/05), it presents a multiplicity of instances that intervene on a situation of conflict, juridical or hierarchical order, the complexity of labour and human relationships, the interests and the union participation.

One of the objectives of the intervention is to stop harassment or abuse that the victim suffers and the possibility to use, in some cases, tools to re-establish the labour relationship that would arise every time the agreement between the consultant and the interdisciplinary team.

The experience shows that one of the main working discomfort are the problems and interferences of communication. With the consent of the worker we offer a space for dialogue, which may be a mediation or facilitation of the word, in which confidentiality and determination on the intervening parts are essential requisites to participate. In these cases, the derivation of the case is done to the mediation center of the Ombudsman’s Office.

“Communication about topics that are important to us is very hard to tackle for many people and, generally, it ends in destructive debates that may lead to even worst divisions and sometimes, violence. People have different perceptions about the same situations or memories, as each one has individual memories, experiences or interpretations of personal or community character, as well as their own interpretation of facts or events people in conflict rarely make questions or listen to what others have to say. In situations of conflict or disputes, communication is based on fear, prejudice and competence”. This text is part of the experienced carried out in Rosario in 2018, wanting to share the training lead by the Nansen Center for Peace and Dialogue, created in 1995 in Lillehammer, Norway. Today it is an international reference space for communication work.¹¹

In the practice, always taking into account the cruel situation lived by the victim, there are options for workplace violence:

- Asking for transfer of some of the involved actors in the violent situation- either who carries out the acts of violence or the claimant/victim.
- The change in the physical space where to perform the tasks,
- Some sanction- from calling their attention to suspensions.

We are convinced that one of the most efficient forms to revert the violent situations is through continuous training, the production and transmission of qualified information and with solid foundations on the part of the professionals and specialized on the topic, in order to promote rights and, through it, to prevent, handle, contain and eradicate workplace violence situations with violation of rights.

Final reflexions

Our journey shows that when there are communication problems, there will be a solid ground for violence, harassment and power abuse to arise. On the contrary, when between the workers they can establish equitable limits and clarify misunderstandings, it is possible to achieve violence-free workplaces, peaceful and that promote health of everyone.

It is fundamental and a priority to join efforts in order to promote the integral health of the workers from a rights perspective with inclusion and social justice, as well as promoting from the interested sectors and implementing from the state policies with gender perspective and human rights perspective, transversal to all the institutions as an ambitious proposal to get equality of opportunities.

The Ombudsman's Offices, as promoting institutions of human rights, are summoned to work on the *citizen*

empowering throughout the knowledge, diffusion and the rights promotion, so as to develop a better confidence in its own capacities and decision making.

"It is fundamental and a priority to join efforts in order to promote the integral health of the workers from a rights perspective with inclusion and social justice, as well as promoting from the interested sectors and implementing from the state policies with gender perspective and human rights perspective, transversal to all the institutions as an ambitious proposal to get equality of opportunities".

To promote the training and practice of the Citizen Right to Information it is a political-institutional decision backed by the Participative Democracy, the communities' development and the collective construction of the solutions.

It is important and extremely necessary to establish in the public agenda the intolerance of any type of violence, especially workplace violence and reinforcing strategies so as not to naturalize it: from there the importance of sensitization of the actors in the world of work.

We should assume as a compromise for the immediate future to foster meetings among the different social actors of our America as, therefore, to consolidate what we think is possible and necessary: to dream, advance and reach a world of work without humiliations, violent acts and authoritarianism.

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"In 2016, the Asociación Trabajadores del Estado (State Employees Associations) (ATE-according to its Spanish acronym) from Santa Fe organized its first International Trade Union Congress "Work Environments Free of Violence", where there were representatives, experts and speakers from Argentina, Brasil, Columbia and Cuba, thus starting a training course based on prevention through dissemination".

Consequences of workplace violence: changing to improve life quality of the workers

*By Marcelo Delfor**

Inside trade unions, the problem regarding Workplace Violence and Harassment has been absent or invisible, even though its extensive and painful scope was known. It was the recognition of gender violence- that scourge- and the remarkable persistence and militancy of its affiliates what has raised awareness of the suffering of many people at their workplace. However, the provincial State reaction did not take long: Santa Fe, always a forerunner and innovative province, has developed one of the most active and permanent experiences known to promote violence-free work environments.

In fact, since 2005 Santa Fe province relies on Law 12.434, which aims at preventing, controlling and punishing workplace violence and protecting workers in the public sector who are victims. This action is defined as "any active or illegal behaviour exercised at workplace by officials

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Societies that aim at equality as a fundamental value will have much healthier working places.

or public employees who -by making use of their hierarchical position or other circumstances related to their role- carry out some form of abuse of power, embodied in threatening, intimidation, gender-based wage inequality, physical, psychological and/or social harassment or offense that may impinge on a person's dignity, physical, sexual, psychological or social integrity."

In parallel to the provincial State action with the support of intermediate organizations, another great impulse regarding this problem's approach was the constitution of the *Red Sindical por Ambientes de Trabajo Libres de Violencia* (Trade Union Network by Violence-free Work Environments) (www.redsindical.com.ar). Today, there are more than 35 trade union organizations from the trade union centres of the province.

To have a quick impact some training, teaching,

counting and participation was needed. In 2016, the *Asociación Trabajadores del Estado* (State Employees Associations) (ATE- according to its Spanish acronym) from Santa Fe organized its first International Trade Union Congress "Work Environments Free of Violence", where there were representatives, experts and speakers from Argentina, Brasil, Columbia and Cuba, thus starting a training course based on prevention through dissemination. The event was intended for delegates of the organizer union. However, as the event was open call, there was massive attendance: about 1000 delegates from more than 20 unions.

Why a Trade Union Network?

The answer to this question is simple: there was a huge need to tackle the problem jointly. Accordingly,

since the end of 2016, a number of unions coming from different working centres, signed the constitutive act of the *Red Sindical por Ambientes de Trabajo Libres de Violencia de la Provincia de Santa Fe* (Trade Union Network by Violence-free Work Environments of Santa Fe Province), that has as main goals:

- Adopting prevention and care measures to Workplace Violence to promote awareness of this problem.
- Condemning any type of workplace violence.
- Developing measures to promote decent work.
- Elaborating a code of behaviour to intervene in cases of workplace violence.
- Promoting legislations to amplify the rights to workers.
- Fostering the coordinated negotiation as a key instrument to establish prevention and treatment policies at workplaces.
- Articulating with public agencies interventions and policies related to the subject, especially with the Oficina de Asesoramiento sobre Violencia Laboral (Office of Advice on Labour Violence) from the National Ministry of Labour, Employment and Social Security.
- Inviting other union organizations to take part of the Trade Union Network and to sign in to be part of it.

10 new points have been added to the protocol, which are related to the procedure to be followed if a situation related to workplace violence occurs:

- Any person asking information about the topic will be given clear, concrete and specific information regarding the ongoing legislation, as well as tools and resources for their support and management.
- Private sector cases could be lead to the Ministry of Labour and the public sector cases, to the Ombudsman's Office.
- Each union in the network will have an institutional

email to take cases and will admit the possibility of a face-to-face presentation.

- The interviews will be held in each union.
- At least one entitled member of the network should be present for the reception and attention of each case
- In all the cases, the stipulated complaint reception form should be used.
- If necessary, the worker could be derived to the interdisciplinary team working for the network.
- This team will be integrated by professionals from different areas related to the topic and also by union delegates.
- Besides, the team will articulate with provincial agencies to carry out the suitable procedures in each case.
- If the complaints are made in public agencies, the network will be disseminated, so that those who need it, may count on the supportive space.

Another point to highlight is the formation of a Quadripartite Commission of Work (Comisión de Trabajo Cuatripartita)- Provincial State of Santa Fe, employees, unions and members of the civil society- for the elaboration of a Law of Workplace Violence in the province, which should expand the scope of the existent law and which is an extension to the public area. It works at the Santa Fe Province Economic and Social Council.

This commission's main objective is to create a new norm that embraces the total number of workers at Province of Santa Fe and counts on the help of the technical team of the ILO (OIT, according to its Spanish acronym). This is closely related to the fact that it will take place next June during the International Labour Conference to be held in Ginebra and which aims at creating the instrument related to violence and harassment in the world of work to men and women.

The commission held its first discussion in the Assembly in 2018 and adopted the proposed conclusions

for the creation of instruments in the form of conventions complemented by a recommendation, text attached to this one (Blue report). We consider that the conclusions proposed constitute satisfactory bases to start the second round of negotiations.

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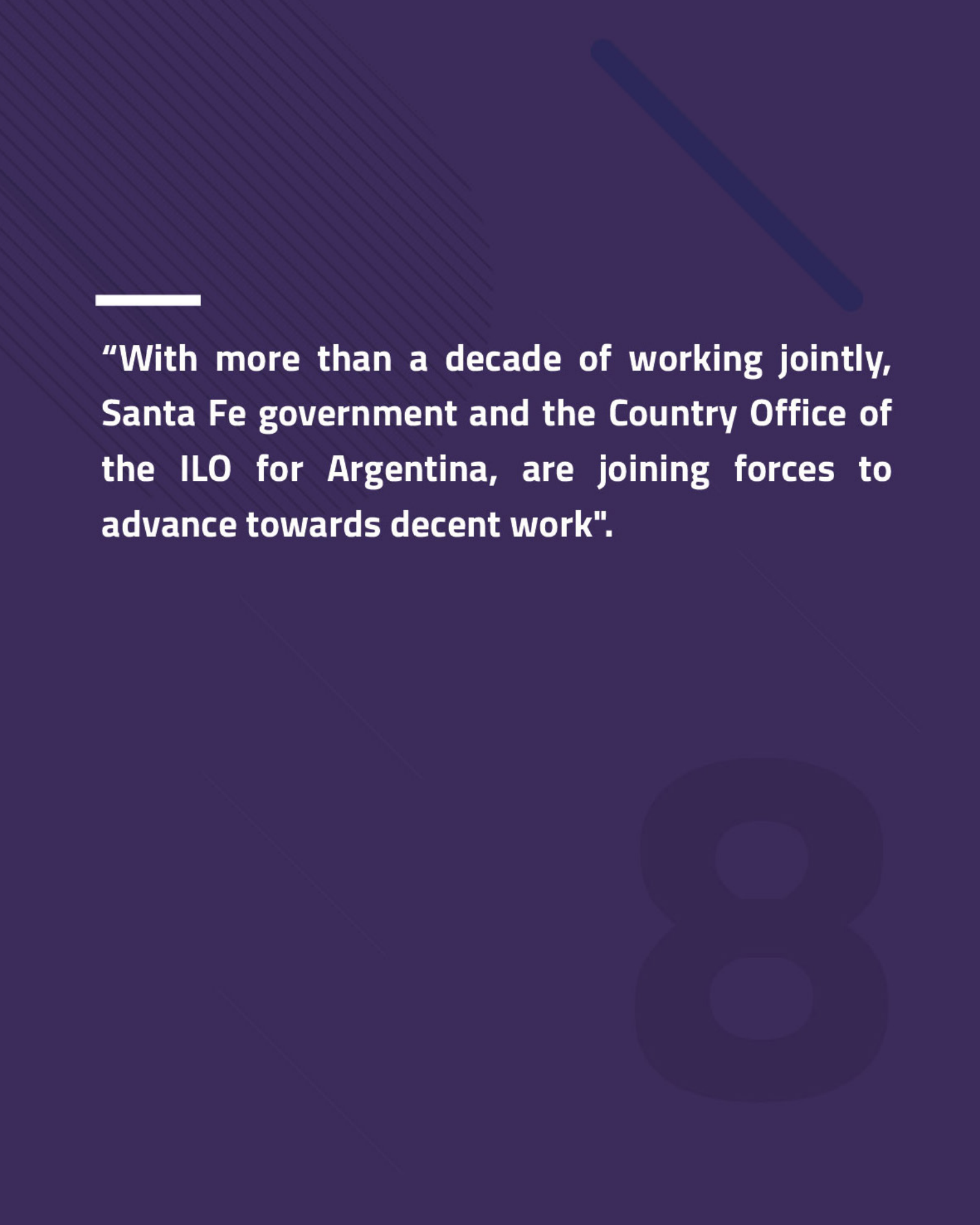
We believe in this model of transformation of society where unions, States in all their powers and levels, civil organizations and employees groups join forces to think about the complexity of this phenomena of violence in all areas, particularly in the world of work. As an institution, we believe that the possibility to solve this problem of workplace violence does not finish in the previously mentioned tiers and, therefore, the approach and attention networks, as well as the creation of all type of actions taking into account life and dignity of people should be amplified and revised permanently.

The unions should generously build together with all the social sectors, but mainly with union organizations, creating close confidence bonds and having as action aim the main motive: the necessity of workers and the warranty of their rights.

Violence and harassment at workplace are based on the exercise of power. All societies and political systems in favour of equality as main value will surely have healthier workplaces than those who take the man/woman as a commodity.

The ideological aspect, the conception and the look upon the world is of vital importance from the worker’s perspective. To understand themselves as “class” is to have a feeling of belonging and interests in common and the relationship with others will have a solidary and fraternal sense. Working constantly with a trade union look positioned as “working class” with the limelight each should assume when a violent situation is spotted, is the key to create a future work with healthy conditions for everyone.

Workplace violence is highly costly for societies, decrease in life quality, health and everyday conditions of wellbeing, which are considered fundamental rights of the workers. That is why they should be at the spotlight, to raise awareness and deepen in the condemnation of naturalized and materialized practices in our everyday working contexts. The compromise of unions should be constant and also the design of policies above leaders and their personal will. There is a revolutionary act in all this and it is actually making all these instruments work to definitely change the lives of all those who suffer having a working day.



"With more than a decade of working jointly, Santa Fe government and the Country Office of the ILO for Argentina, are joining forces to advance towards decent work".



To the end of workplace violence: strategies, learning and contributions from the ILO and Argentina

By Pedro Américo Furtado de Oliveira, Javier Cicciaro**
and Pablo Maria Sorondo****

En In June 1944, the ILO Conference was held in the American city of Philadelphia due to the war on the other shores of the Atlantic. There, the representatives of 41 member States met and during 22 hardworking sessions of negotiations and debates, a message that still persists was agreed. Even 75 years after the signature of the Declaration of Philadelphia- initiated by President Franklin Delano Roosevelt in the White House and then annexed to the ILO Constitution- document that is still a “polar star” that guides humanity towards a horizon of true peace and social justice.

This metaphor comes from Edward Phelan, who, by that time was the temporary director of the organization and main author of the declaration that by almost a century broadened and determined the ILO fundamental principles, contributed to establishing the social and

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economic policies foundations after World War II and inspired the Universal Declaration of Human Rights. Even today, already in the 21st century, the declaration spirit is of indisputable relevance: "All the human beings, regardless their ethnic, religion or sex, has the right to pursuing their material wellbeing and spiritual development in their freedom and dignity conditions, of economic security and equality of opportunities."²

In its 100 years of history, the ILO made significant efforts as part of their fight for securing justice, equity and the worker's rights. Although it has faced diverse challenges and has achieved innumerable results recognized worldwide, this task is not still finished. In the center of inequality and injustice there is one of the biggest obstacle for decent work: workplace violence. It is an oppressive, extended and dehumanizing phenomena, that apart from causing anxiety, harm and suffering on people, it generates big loses in companies due to its impact in productivity, among other "loses".

If the Declaration of Philadelphia was the star that for more than seven decades guided national and international political actors, now it is high time for the ILO, in this new century, empowers itself again as a global lighthouse and leads the way towards the endo of workplace violence. In this context, as part of the agenda of the 108th of the International Labour Conference (ILC), which is going to be held on its centenary year of the oldest agency from the UN- as representatives of the governments and employees and workers organizations from 187 countries. They will discuss the specific regulations that proposes a common legal framework to tackle the problem of workplace violence and harassment.

Nowadays, even though several regulatory documents from the ILO explicitly mention these problems, in no case precise and unequivocal descriptions are offered about its meanings and how to answer. Far from the national legislations, there is no

worldwide consensus about how to define workplace violence or harassment. According to studies carried out by the ILO, generally the available definitions refer to different terms. In other cases, different words refer to the same phenomena. In this context, it is necessary to foster the development of an international norm to design the adequate policies.

In the basic diagnose for this construction there are six fundamental affirmations:

- Workplace violence and harassment are a violation of the human rights,
- They are incompatible with decent work,
- They affect productivity and corporate reputation,
- They are an obstacle for the effective functioning of the job market,
- They affect psychological, physical and sexual health of people, their dignity and family and social environment,
- They disproportionately affect women and girls.

And this is how in 2015, the ILO Governing Body proposed that the ILC from 2018 would give room to the elaboration of a document Violence and Harassment against Women and Men in the World of Work. In that opportunity, the representatives of the three parts worldwide agreed that both violence and harassment in the world of work are so dominant as well as unacceptable. Besides, they gave a majority support to go towards the elaboration of an agreement and a complementary recommendation, with the aim of finding balance between the flexibility and effectiveness of the regulation for it to have a scope of adaptability to each country. On the same way, the heads of the ILO agreed that this tool should have an inclusive focus, integrated and respectful towards gender considerations. In fact, during the ILC 2018, the terminology "gender-based violence", defined as "gender-based or sex-based violence and harassment towards a person that disproportionately affects people of a determined sex or gender, and included sexual

abuse". This definition hierarchized the gender-based approach in the discussion.

The formal mechanisms were implemented. Questionnaires were elaborated, technical comments were incorporated in more than 80 member States and the ILO elaborated a draft for a potential new agreement and a recommendation. These same texts would be the base to discuss and – if there is a consensus – to adopt a global norm about workplace violence and harassment in the ILC on June 2019.

The debate places on the table a number of complexities that should be deeply discussed with the objective of shaping the regulatory instrument. One of the key points would be, precisely, the approach of the regulation. Where does the world of work start and end? Is it extended further from the location of the worker? What happens with cyberbullying, which is out of any special and temporary mark? In general, focusing exclusively on the physical aspect of work is not enough to secure an adequate protection.

With the leadership of the present Ministry of Work and Production, together with the employers' organizations and workers organizations, apart from the provincial authorities of the different departments of employment and work, Argentina also participated of this international process of tripartite consulting. It is appropriate to highlight, one more time, the social dialogue the country has as a key exercise.

The Argentinian participation in this process should be inscribed inside a broader context. The problems of this nature have a global mark. The conclusions published in September 2018 in the Barometer on discrimination in the workplace 3, elaborated in France by the Rights Defender's Office and the ILO Office of that country, indicate that one out of four people claimed to be victims of gender-based workplace harassment, due to sexual orientation, ethnic, religion, handicap or health situation.

According to the research, although both men and women have been equally affected by degrading acts or language at workplace, hundreds of social groups are more vulnerable on some words or actions. For instance, a 54% of non-Caucasian women between the age of 18 and 44, and a 43% of handicapped women claimed to be victim of degrading actions or language.

Canada's Centre for Occupational Health and Safety list includes rumours, swearing, pranks, vandalism, pushing, psychological trauma, rape and murder as examples of workplace violence⁴. This institution points out that workplace violence is not limited to incidents that occur within a traditional workplace, but can occur at off-site events such as conferences or work-related social events, and in clients' homes and even threatening phone calls, which makes this problem even more complex.

In this framework, while the discussion tackles all the social groups that can be subject to workplace violence, some population segments represent very particular realities. This is the case of the migrant workers, ethnic minorities, and handicapped, rural and domestic workers, among others, who suffer from gender-based workplace violence and harassment. According the ILO global estimations, seven out of ten women suffered from physical or psychological abuse at some point in their working career.

Due to the generalized lack of empirical evidence and the lack of international agreed definitions about violence and harassment, it is not easy to carry out consistent comparative researches. Today, there are some difficulties to quantify the types of violence and harassment and to monitor its increase or decrease on sectors or in a generalized way. However, it is possible to refer to some tendencies that reflect much more than a time spirit, a movement or an extended preoccupation. It is, thus, a sign of a deep process of social change. In the massive demonstrations of the collective that is known by the "Ni Una Menos" (not one less), that appeared in

2015 as an answer to the femicides in Argentina- and the extended echoes of the #MeToo movement- that showed numerous cases of harassment in a multiplicity of sectors, from the cinema sphere to the textile industry, the global community had to accept how frequent were the violent situations and how much they affected women's working careers or lives. As part of this trend, some inspiring effect that encourages and empowers the victims, took the discussion into an awareness campaign, practices revisions and behaviours entrenched and a particular attention of the means of communication. Thus, placed in a more central area of the international political agenda, the topic gains a great opportunity to achieve significant and concrete advances.

“The debate places on the table a number of complexities that should be deeply discussed with the objective of shaping the regulatory instrument. One of the key points would be, precisely, the approach of the regulation. Where does the world of work start and end? Is it extended further from the location of the worker? What happens with *cyberbullying*, which is out of any special and temporary mark? In general, focusing exclusively on the physical aspect of work is not enough to secure an adequate protection”.

The ILO is convinced that the moral imperative of ending with the forms of violence and harassment is enough to generate unity, without necessity to point

out a never-ending number of business costs from absences to litigations. That is why it is necessary to advance towards a gender-based integrated answer and an approach from occupational security and health, that promotes a prevention policy and culture to make a positive mark in the future.

The international instrument the ILO would debate in the next International Labour Conference aims at this. Naturally, even with the support of many countries with the idea of including prevention and protection measures for the victims, it is not possible to predict the results that these discussions will have. A concept, though, is clear: it would not be possible to construct a more equitable world without tackling seriously the problem of workplace violence and harassment, a problem that requires that the governments, working jointly with the business and unions sectors, taking audacious actions.

The Agreement spirit and the Recommendation

Even though the proposal will be submitted to be approved on the Conference and will probably be modified as part of the discussion process, from there some texts will come out that will allow to identify the broad lines behind the main agreements on the topic. These particularities tackle central points as the definitions, the application spheres, the main principles, and aspects of protection and prevention, ways of repairing and assisting, the orientation, training and sensitization, among other concepts that will feed the debate in Geneva.

Regarding the first point, the difficulty of agreeing in definitions about workplace violence and harassment, was already mentioned. The vast amount of academic disciplines, cultures, nations and linguistic traditions, as expressed by Chappell y Di Martino (2006), “The variety of behaviours which may be covered under the general rubric of violence at work is so large, the borderline with acceptable behaviours is often so vague, and the

perception in different contexts and cultures of what constitutes violence is so diverse, that it becomes a significant challenge to both describe and define this phenomena.”⁵ Following a report from the ILO (Lippel, 2016), numerous articles distinguish violence from aggression, mobbing, bullying, harassment and sexual violence, as it recalls that “An overview of the literature makes it clear that there are no absolute, cross-cutting, universal definitions for all terms relating to occupational violence, in all languages”.⁶

In this context, the Convention project defines “violence and harassment” in the world of work as “a group of unacceptable behaviours and practices, either manifested punctually or recurrently, that have as main objective, cause or are susceptible to cause a physical, psychological, sexual or economic damage and includes gender-based violence and harassment” (ILO, 2019.) Therefore, the proposal gives relevance to the gender approach. The project includes the concept of “gender-based violence and harassment” which is defined as the violence and harassments “aimed against people based on their sex or gender, or that disproportionately affects people of a determined sex or gender, and includes sexual abuse” (ILO, 2019). The text establishes that these concepts could be defined in the regulation as a unique concept or as separate ones.

Regarding the application, the proposal is extended. Regarding the subject, it entails unpaid workers and any person that works, disregarded their contract situation, as well as people in training, interns, apprentice, fired, volunteers, those looking for a job, etc. That is to say, it entails all the economic sectors, formal and informal, urban or rural.

According to a research carried out by the ILO (Lippel, 2016), between the sectors with more prevalence of workplace violence we can spot health, education, domestic work, public attention and security. The first three, with a large volume of employment,

predominantly represent women sectors, as they entail reproductive roles and the sexual division of work to the business market. To approach workplace violence it is key to tackle gender violence.

Regarding the place where the violence and harassment is carried out, the proposal of the Agreement is again extent and tackles violence and harassment exercised at workplace, they payment place, the relaxing place or the dining place, work trips, working communications, shelter provided by the employer and in the commute towards or back from work, “as far as it is reasonable and possible”. This extent definition explains the introduction to the concept “world of work” and the title proposed for the Agreement and Recommendation, as it goes beyond the physical space where they work.

Regarding the involved actors, the project considers that both employers and workers, as well as third parties could be considered victims or authors of violence or harassment (clients, service providers, users, patients, etc).

Regarding the fundamental principles, the proposal of the Agreement establishes that violence and harassment must be prohibited by law and that would veal for the topic to be tackled with the corresponding policies. At the same time, the document aims at adopting an integral strategy to apply measures to prevent and fight against violence and harassment. On the same level, it suggests establishing control mechanisms for its application and tracking or strengthening the existing mechanisms. On the same line, the proposal considers that the countries should secure that the victims have resources and reparation tools, as well as support. Lastly, to aim at preventing sanctions, developing tools and training and sensitization activities, guaranteeing effective methods for inspection and investigation of the violent and abusive cases through the inspection of work and other competent bodies.

On the other side, the regulation proposed clarifies that there should be recognized the complementary functions and attributions of the governments, of employers and of workers, as well as their organizations, according to their nature and the scope of their respective responsibilities.

Regarding the prevalence of violent situations in some sectors, the proposal claims that a legislation should be adopted and policies that guarantee the right to equality and non-discrimination at work and the employment for those workers that are disproportionately affected. Respectively, in the Recommendation a reference to the agreement 100 and recommendation 90 about wage equality are mentioned, apart from agreement 111 and the recommendation 111 about discrimination (work and employment) among other instruments.

"The conclusions published in September 2018 in the Barometer on discrimination in the workplace, elaborated in France by the Rights Defender's Office and the ILO Office of that country, indicate that one out of four people claimed to be victims of gender-based workplace harassment, due to sexual orientation, ethnic, religion, handicap or health situation".

The proposal recommendation extended some of the measures to be taken into account for the collective negotiation. For instance, fostering the collective negotiation to all its levels as a way of preventing and tackling violence and harassment in the world of work and treating the effects of domestic violence in the world of work. On the same way, it suggests to support such collective negotiation through the compilation and

information dissemination about the tendencies and good practices regarding the negotiation process and the content of the collective agreements.

The text of the Agreement proposal also tackles topics related to the protection and prevention, on which they establish they should adopt appropriate measures to prevent violence and harassment in the world of work. Particularly, these measures should identify, consulting with the interested employee and workers organizations and by other means, which are the sectors, occupations and modalities for work in which the workers and other concerned people are more exposed to violence and harassment. It is necessary that these people are lovely protected. The proposal of Recommendation refers to some sections already mentioned and thus adds: night shifts, isolated work, services, health sector work, emergency work, domestic work, transportation, education and leisure. Therefore, the transition in the informal to formal economy is prevented.

The text of the proposal agreement deepens in a number of specific responsibilities for the employers, among them:

- a. Adopting and applying, consulting the workers and their representatives, a policy of the workplace regarding violence and harassment;
- b. Having into account violence and harassment, and the psychosocial risks linked, in the workplace safety and health;
- c. Identifying the dangers and evaluating the risks of violence and harassments, with the participation of the workers and their representatives, adopting measures to prevent and control such dangers and risks.
- d. Giving the workers and other people concerned the information and training about the dangers and risks of violence and harassment identified, as well as the corresponding prevention and protection measures.

At the same time, the proposed text of recommendation details the content of the policy of the workplace for the prevention of violence and harassment and establishes that the policy should:

- a. Affirm that violence and harassment are not to be tolerated;
- b. Establishing prevention programs for violence and harassment, with measurable objectives;
- c. Defining the rights and obligations of workers and employers;
- d. Containing information about the presentation procedures for complaints and investigation;
- e. Guaranteeing that all the internal and external communications related to violence and harassment are taken into account and adopting the corresponding measures.

Regarding vulnerable groups, the project of recommendation takes the migrant workers but amplifies to other groups:

- a. Young people and elderly,
- b. Pregnant women or nursing mothers and people with family responsibilities,
- c. Handicapped people
- d. HIV living people,
- e. The migrants,
- f. Indigenous and tribal people,
- g. Ethnic or religious minorities
- h. Caste system affected people,
- i. Lesbians, gays, bisexuals, transsexuals, intersexual and non-gender people.

It is important to take into account that as it is a global instrument, agreeing on the gender identities is not an easy job.

The Agreement and Recommendation proposal establishes that every member should guarantee that the workers and other interested people have an easy access to resources and reparation ways, such as the readmission of the worker, compensation, the end of the action and the payment for the legal assistance.

Therefore, the text aims at the State responsibility to protect the privacy of interested people, foresee sanctions, guarantee the victims have an effective access to the mechanisms to solve problems and assistance, guarantee that every worker has the right to evade a working situation without suffering consequences and ensure working inspections and other pertinent authorities to be trained to act in case of violence and harassment.

A relevant item is that employers and workers can carry out the approach to domestic violence from work. The text establishes some measures such as a paid licence for the victims of domestic violence; flexible working hours; the temporary or permanent transfer to other working places; a temporal protection towards unemployment, an evaluation of the risks at workplace, a system of references to public measures destined to mitigate domestic violence and the sensitization about its effects.

Regarding orientation, training and sensitization, the text states that the members, consulting with employers' and workers representative organizations, should make an effort to guarantee the topic of violence and harassment at the world of work is tackled in the national policies that correspond, such as the security and health, equality and non-discrimination, migration ones, providing orientation, resources, training and other tools about violence and harassment in the world of work, particularly, about gender-based violence and harassment, to the employers and their respective organizations, competent authorities, with initiatives, inclusion and sensitization campaigns.

Santa Fe province and the ILO, allies against workplace violence

With more than a decade of working jointly, Santa Fe government and the Country Office of the ILO for Argentina, are joining forces to advance towards decent



Santa Fe province and the ILO work together to promote decent work in all the territory.

work. This articulation started on March 2008, when the first Memorandum of Understanding for the elaboration and implementation of a provincial Agenda of Decent Work was written. This compromise was renewed in November 2013 with a second memorandum and in 2014, the ILO and the government, throughout its Ministry of Work and Social Security (MYTSS, according to its Spanish acronym), agreed on a plan to continue going deep in the actions destined to promote decent work in all the provincial territory.

Together with the agreements and decent work agendas carried out with the ILO, Santa Fe province developed a framework where social dialogue and decent work have been prioritized to the highest level. The creation of the Economic and Social Council of Santa

Fe (CEyS, according to its Spanish acronym), with the participation of a number of actors from the economical, productive, working and social civil organizations spheres, with respect for the social dialogue to discuss at a high level the economic, working and social provincial challenges should be mentioned. Taking into account the dialogic culture of the province, this space for discussion of public policies promises to stay as a permanent forum of social dialogue and also, to be the place to discuss the future challenges of work and invigorate the social contract. It is important to highlight the provincial institutional labour lined with the decent work and social justice pattern promoted by the ILO, so in the interior of the Council a quadripartite Commission of Decent Work was created, unique in Argentina.

In 2017, on such Commission and with the technical support of the ILO, a new Provincial Agenda of Decent Work was designed for the 2017-2020 period. Here, the six main objectives⁷ were discussed and elaborated. The second of these objectives is “to create healthy and secure workplaces to preserve the life and the psychophysical health of workers and to prevent the risks at work, with special emphasis in workplace violence and the impact of problematic consumptions at workplace”. This entails that workplace violence has been privileged by the actors around the world of work in the province and by the ILO as a priority axis for the next years’ job.

The province already has a relevant regulatory development in the approach of this problem. Law 12.434 passed in 2005 has as main objectives to prevent, control and sanction workplace violence and to give protection to the workers victims of this violence, the claimants and witnesses of the acts. Its authority of application is the Ombudsman’s Office of the province and it is thought for the workers of the public sector. In 2018, a Protocol of behaviours to complement this law was created. In this context, the Ombudsman’s Office has a key role and is constituted as a key and proactive actor for the eradication of workplace violence in the public sector and an ally in the promotion of decent work in the province.

Therefore, the private sector is tackled by the resolution 427/15, created in 2015 which has an authority the Ministry of Work and Social security, and in its interior, the Sub Secretary of Coordination for Decent Work. This was dictated in the adhesion agreement of Santa Fe province to the Federal Network on Workplace Violence, created in 2014.

The Union sector of Santa Fe has also showed to be dynamic and vanguard in the approach to this problem. In 2016 a Union Network about Violence-free Workplaces was created, conformed by a group

of unions from different working centers “decided to develop actions to face violence at workplaces”⁸. This experience results to be unique as a mark of our alliance which does not consider political paths or different union models towards a common objective as the eradication of workplace violence.

“We have to take into account that tackling workplace violence from a gender perspective, as proposed by the regulatory instruments that will be discussed in Geneva in June 2019, involves discussing structural inequalities that exist between men and women in the world of work (and outside it)”.

The recent incorporation of the employer sector to the discussion for the improvement and actualization of the provincial regulation on workplace violence in the framework of the Decent Work Commission in the interior of the CEyS and, thus, the possibility to incorporate a tripartite look to this problem and re possible answers, creates a good space for the province to continue being an example of compromise with the decent work promotion in Argentina and, particularly, for the violence-free workplaces.

In this line, the Initiative Spotlight is particularly interesting, a global program financed by The European Union (EU) and carried out by the United Nations (UN) which has as main focus eliminating all forms of violence against women and girls. In the case of Latin America, it is instrumented in Argentina, Guatemala, Honduras, El Salvador and México, and the main focus is on preventing, tackling and sanctioning violence against

women and girls in its most extreme manifestation: femicides. In Argentina, the project counts on the participation of the office of the Resident Coordinator, the UNDP, UN women, UNFPA, UNICEF and the ILO.

The ILO's job would be aimed at the sensitization and training of the actions of the world of work in workplace violence prevention and eradication, the elaboration of diagnosis of the critical sectors, systematizing good practices. Therefore, the Office will provide the experience exchange regarding promotion of the economic autonomy for the victims of gender-based violence and would accompany working insertion initiatives. As its relative taxes and absolute values of femicides, in a first phase of the project it would be implemented in the provinces of Salta, Jujuy and Buenos Aires. The Santa Fe path could be of significant importance for the rest of the provinces.

At the same time, the ILO has been working intensely with the employers organizations to promote gender equality. In this task we highlight the program Win-Win, from UN Women, also financed by the EU. Argentina is one of the countries from Latin America that is part of this program, together with Chile and Costa Rica.

We have to take into account that tackling workplace violence from a gender perspective, as proposed by the regulatory instruments that will be discussed in Geneva in June 2019, involves discussing structural inequalities that exist between men and women in the world of work (and outside it).

Regarding this, in September 2017, the General Assembly of the UN established the creation of an Equal Pay International Coalition (EPIC), and initiative lead by the ILO in which the UN Women and the Organization for Economic Co-operation and Development (OCDE). In this case, the main objective is to articulate governments, employer and worker organizations in a global, national and local level to reduce the wage differences between

men and women and taking the principle of equal pay for work of equal value, established in the 100th convention in 1951, ratified by more than 170 State members from the ILO. These principles could be reflected on the UN Agenda 2030 Sustainable Development Goals, adopted by the General Assembly in 2015, specifically in goal 8.5.

At the same time, as a complement to this goal, number 5.2, targets to eliminate all forms of violence against all women and girls. The impossibility to fulfill this compromise expressed in Convention 100th, can be also be thought as a form of workplace violence, as it is supposed to be a continuity of inequalities that, in this particular case, violates working women's rights. According to the Global Wage Report of the ILO in 2018/2019, the wage is a 20% in favour of men.

Therefore, the Country Office of the ILO for Argentina has an increasing Agenda for the promotion of gender equality at workplaces, with the promotion of a public policy of care that fosters more working participation of women, the labour formalization in highly feminine sectors as the domestic jobs and the development of sensitization campaigns to illustrate the gender differences in the working fields (regarding wages, job quality, sub employment, activity bias and retirements).

Because of all these considerations, we can understand that independently of how negotiations develop during the ILC in June 2019, the discussion about the Agreement and Recommendation towards workplace violence, the representatives of the government, the employers, the workers from Argentina in general and from Santa Fe in particular count on the tools and institutional conditions to design, discuss, formalize and implement integral programs to efficiently tackle these problems. With the compromise of all the involved actors and in a social dialogue framework it would be possible to advance in public policies in the long term to provide solutions to eliminate violence and harassment in the world of work.

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“We can affirm that until mid-century, workplace violence was mainly physical and man-like, such as quarrels, brawls or disputes between co-workers or between workers and superiors within workplace that lead to layoffs and ended up in court”.



Discrimination and *mobbing*: a look from the labour jurisdiction of Santa Fe

By David Marcelo Suasnábar, Claudia María Barrilis**
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It is not appropriate to start a discussion about the workplace problem without clarifying beforehand that we are part of a society penetrated by an ancestral authoritarianism, that, until little time ago did not weaken explicit rejection or social resistance. This is due to the cultural pattern that is firmly established in Argentinian generations that reflect, for instance, in the government presidential system that was once adopted by the country, as a consequence of the organizational structure that used to privilege the caudillo, which supposed the continuity of the notion of power that takes it as unipersonal, unrestricted and therefore undisputed, and does not admit questioning or qualms.

This common characteristic to the countries of the region does not circumscribe the political aspects, but we find them in the diverse individual and group manifestations of our society, from the family as the

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original cell, to those collective representatives of common interests such as unions, intermediate bands such as clubs, educative centres –schools, universities– and also the company, where the authoritative culture is linked to the idea of property. To be owner of material and immaterial means of productions gives you –non-deliberately– the power to vindicate your will without restrictions, consultations or dialogue, without limits. And if the employer in his company is so discreet that it exceeds the final objectives of them, it is not weird to interpret suggestions, alternative ideas, dissent, complaints or oppositions of the staff as disobedience and rebelliousness that end up being *“dignified behaviours of reprobation or sanction”*.

In a system of capitalist production, there is no other way of managing a company if there is not an authority to which the group owes some obedience. There, both the direction and organization, as well as the disciplinary power that the employer holds are legal. (Art. 64/5 y 67/8 LCT). This supposes a subordination of the workers to commands and instructions under warnings of sanction and, thus, submission to the hierarchical powers of the employer, which they are not total, but they recognize its limited exercise with functional criteria, i.e., useful to objective interests of production and not as capricious supremacy. But day to day and inside the company, these limits depend on the look and aim of its owner, as firstly, there is no other control but of himself. Thus the employer’s contempt, even if unconscious, towards the labour legislation, as it has as a main objective to set limits and levelling positions for a balanced co-existence and the mental and physical protection of the worker.

It is not an easy task to avoid the atmosphere of tension installed, even involuntarily, in the working relationships that, because of their natural asymmetry, presuppose discrimination. It is that, in exchange of wage, a person yields not only his work results, but also his freedom in areas where one person gives commands and others, obey; where a violent situation can arise at any time. And it is impossible

not to look at the importance of a main actor. It concretely appeals to the delegate, the activist or the union manager, who, acting as interlocutor representing the subordinates, is frowned upon by the company owners. This is an activity that involves a high exposition level regarding the anti-union employer policies, but they count on the support of a specific norm– Law 23.551– that gives protection to those who have been given a directive or representative position in the unions or associations with union representatives (Article 52 Law 23.551: *“they may not be suspended, fired or modified in its labour conditions during the term and one more year”*). The protection has also extended from the National Court (CSJN, according to its Spanish acronym) to the union association members enrolled, without union representatives, who are active but with a minor level of representation. However, the activists who do not count on a formal representation, victims from persecution on the part of the employer, keep outside the protection system, only having on their side the national law against discrimination no. 23.592– of ample and diverse case study application.

Checking bibliography about sentences passed from mid-1990 and the jurisprudence of higher courts, we can affirm that until mid-century, workplace violence was mainly physical and man-like, such as quarrels, brawls or disputes between co-workers or between workers and superiors within workplace that lead to layoffs and ended up in court, with unique doctrines: *“the aggression to a coworker (slapped), within the workplace and during working hours, is a fair layoff cause... this behaviour, disrupting the good working conditions and discipline, cannot be appreciated or tolerated gently, because they undermine violent attitudes that can lead in tragic consequences”*,¹ (...) *“the appreciations showed by the appellant about the co-existence and avoiding quarrels in a company with many workers seems correct to me, and I believe, in this context... it maintains a policy that consists on firing anyone who intervenes on a fight... but one thing is the*

*policy adopted by the company in terms of the dimensions... and the other is the right of all workers not to be sanctioned or fired without any cause. The employer can fire a worker... if it is convenient for his own interests, but in that case, he should comply with the obligations that the law established for the arbitrary layoffs."*²

It is also included within the workplace violence from those years, verbal aggression through serious insults or severe epithets towards co-workers, superiors or representatives of the company, in behaviour where, although in a lower scale, women were already part.

Although with some non-substantial differences, these were the paradigmatic cases in which workplace violence was identified, linked with order disturbing episodes inside the company or non-compliance or transgression of the workers behaviour. However, although in extreme cases, there were no episodes that compromise the health or mental and physical integrity; at least at first sight, because the symptoms existed but were naturalized or resisted by not talking about them, so as to be able to identify them, another perspective and new look was required.

And it is what, incipiently, gradually but sustained over time, has started to emerge in our society until unveiling an omnipresent problem that was covered by cultural norms that today, by its visualization, are in reverse and going through a process of change, apparently, of no return. We refer to discrimination as a form of violence, that, by many reasons, has taken hold of different stages in society, presenting itself more intensely and frequently on the sphere of work –public or private– where violence assumes different manifestations: mobbing, moral or sexual harassment, layoff, changes in the contracts, etc. They could be horizontal (between co-workers) or vertical (ascendant or descendent). This subtle violence in the workplace, where the male are predominantly valued in terms of stereotypes and a sociocultural and historical construction is shared by men and women, has

taken women as the main addressees and victims. This is because, after this pervert proposal, this situation has been accepted as natural, and repeated with a regular and prolonged frequency over time, they conduct women to be alone in a way in which at the minimal mistake, and they can lose their jobs, their health or even their dignity. It is not casual that this problem is installed in the national agenda, but it is a logic consequence of the increasing protagonism of feminism that is manifesting its deep demands and, thus, non negotiable ones.

This social phenomena that today nobody doubts about considering a pathology, was considered by the Spanish Dazza, Pérez Bilbao y López García³ as *"that situation in which a person or group of people exercise extreme psychological violence during a period of time in a systematic way on other person inside the workplace"*. In fact, the psychiatrist Heinz Leymann published the first study of psychological violence in 1984 and he called the phenomena mobbing in a presentation in 1990 (from the term to mob: attack), describing forty five hostile behaviors that illustrate it- in Leymann's inventory another fifteen were added.

The inventory, at the same time, includes five groups, and they facilitate a deeper comprehension of the topic:

- 1.** Abusive activities to reduce the possibilities of the victim to communicate with others.
- 2.** Abusive activities to avoid the victim to have the possibility to maintain social contact with others.
- 3.** Abusive activities aimed to discredit or impede the victim to maintain his/her personal or working reputation with calumnies, mocking, false rumors, and sexual harassment with gestures, insinuations or proposals accompanied by blackmailing and in general, ignored or not looked at.
- 4.** Abusive activities aimed at reducing the victim's occupation and his/her employment

through professional discredits, imposing tasks not connected with the ones entitled to, until layoffs.

5. Abusive activities, obliging the victim to perform dangerous or harmful jobs for his/her health.

Besides, in line with the ones added by the *Instituto de Psicoterapia e investigación psicosomática* from Madrid, the activities that cause damage in the belongings or vehicles of the victim, manipulation or subtraction of their belongings, documents or working tools; people are asked to stay away from them, they do not put calls through or neglect them, they lose or forget the errands, they remain silent or minimize their efforts, achievements or accomplishments, their mistakes are exaggerated, they neglect or deny the permissions they have rights they are entitled.

To sum up, these forms of workplace violence burst into scene in a provocation to the victim, whose self-esteem is undermined until its destruction, until being caught in a labyrinth without escape and in a state of vulnerability, it can even end up in suicide.

As a problem, it affects the personal rights and it has a high impact in terms of working spaces and mental and physical integrity of the worker. It has been studied by Scandinavian countries whose legislation was the first to apply it in 1994. Sweden, as well as Finland and Norway guarantee to workers the right to maintain themselves physically and mentally healthy, considering mobbing as a crime. In similar it has been established in France, where, apart from a fine, this behaviour is punished with prison and its Working Code establishes that any worker can be under repetitive actions of moral harassment. *"Having complained, testified or talked about such behaviour cannot, by any chance, conduct to any sanction, layoff, direct or indirect discriminatory measure"*. Accordingly, in 2002, the Belgian norm defined

moral harassment at workplace as *"(...) abusive and reiterate behaviour of any origin (...) that are manifested specially by behaviours, words, intimidations, actions, gestures, unilateral writing that aim to infringe upon the personality, dignity or physical or psychical integrity of a worker (...) jeopardizing his/her employment or creating an intimidating, hostile, degrading, humiliating and offensive working atmosphere, corresponding to ambiance abuse"*. Finally, in Spain, the topic has been placed at Criminal Law of Work.

"Under the label *Ni una menos*, the feminist obtained Law 27.499, sanctioned at the beginning of this year, also known as Law Micaela, as a tribute to a young activist on social movements, victim of femicide. The National Programme on Gender and Violence against women was created, with the objective of training and sensitizing all the employees and officials of all the three State Powers"

In the Argentinian juridical order, the caution against workplace violence and discrimination is seen in articles 14 bis and 16 of the National Constitution (CN, according to its Spanish acronym), as they establish the *"dignified and equitable working conditions"* and *"all the inhabitants are equal for the law and admissible in every employment without any other condition but suitability"*, besides, they operate the different international agreements and conventions in article 75 section 22 CN, that have to do with the integrity of men in his special condition of worker, namely: Universal declaration of Human Rights (art 23), American Declaration of the Rights and Duties of Man (arts. 5 and 14), Pact of San José de Costa Rica (art. 5), the International Covenant on Civil and Political

Rights (art.26), Convention on the Elimination of all Forms of Discrimination Against Women (art. 11). At the National Public Employment – Law no. 25.164- under the Decree 214/06 that homologates the Collective Agreement of General Work for the activity, that imposes to the employee some obligations that have to do with generating a good working atmosphere-*violence-free* (art. 33 section i); it defines the typical behaviours, which are seriously sanctioned (art. 124), and that could be demanded on a superior or to the Commission on the Equal Opportunities and Treatment (CIOT, art. 125), created to promote preventive actions and eradicate workplace violence and, in cases of gender violence, to count on a paid leave (art. 147 bis). In Santa Fe province, in 2005, the Law on Prevention and Eradication of Workplace Violence was created –no. 12.434- and its regulatory decree- 1040/07- that, differing from its national equal, entitles people in the three State Powers (art 2), and includes protection not only for workplace violence victim workers, but also informants and/or witnesses of these acts (arts 1 and 5). However, it has to do only with the behaviours that constitute an “abuse of power manifesto” without including a specific sanction for their author or responsible- taking the respective disciplinary regimes, art 6- and empowering the complaints against these acts in front of the employee or a hierarchical superior or even the Ombudsman’s Office of the Province (art.7).

Under Law of Work Contract – law 20.744- the employer has the generic duty of security that not only implies not harming, but also to preventing all type of harm, including the material one and even the one caused by third parties connected to the job. Accordingly, article 75 states that the employee must guard the mental and physical integrity and the dignity of all workers, taking into account hygiene norms and safety at workplace, and respecting the pauses and limitations during the shifts. Besides, article 78 talks about the duty of the employer to guarantee an effective occupation to the worker connected with the task of their category or that have to do with their professional qualifications.

In articles 64/66, as we have already stated, the limits regarding the organization faculties and direction of the employer are stated, based on their exercise for the objective goals of the company. Lastly, article 81 regulates the topic of treatment equality in situations, considering that inequality on the part of the employer towards workers exists, with arbitrary discriminations founded on sex, religion or ethnic, nationality, politics, regarding trade unions or age, established in article 17.

There is not much more to do regarding the national right to work connected with discrimination between individual parties.

According to the law deficit, there is no other resource than to appeal to general law no. 23.592 from 1998, as stated in the National Supreme Court of Justice (CSJN) “(...) it directly regulates the principle of equality in article 16 of the CN and should be understood as an ‘example’ or ‘reflection’ of the ‘international demand’ on the State part to do ‘positive actions aiming at avoiding discrimination’, which can also be done by law courts.

According to different authors, the law privileges the prevention and terminates the discriminatory act: impede it if it seems imminent, cease its effects (terminate it) in case of committing it and then, to repair the harmful consequences of the discriminatory act. This generic norm at the moment of its writing did not take into account the workplace problems, but it was functional due to the scope of discriminatory behaviours to be sanctioned: “*whoever arbitrarily impedes, obstructs, restrings or damages whilst having equitable basis of the rights and fundamental guarantees recognized in the CN, would be obliged, according to the victim’s demand, to overrule the discriminatory act or to stop doing it and repair the moral and material damage...*” This precept- asked by the superior, pursued by its union activity as for the woman at work is a victim of sexual harassment- that had covered the spectrum of protection of people’s dignity in general and for workers in particular, today is not enough.

Although it has penalties and establishes not only the end of the situation but also the return of the situation to its original state and/or to damage repair, it has been overwhelmed by a cause that during the last years has been intensified, activating the social alarm. According to different statements of society- legislators, organizations of human rights, lawyers, etc.- they presented in the National Congress several drafts where they make emphasis: some in the penal, others in the human rights perspective, but all with the clear idea that an specific law sanction, that has dignity as a juridical protected asset, the personal rights and the eradication of workplace violence, as imperatives.

In this sense, we find at a national level a precedent: Law no. 26.485 of integral protection to prevent, sanction and eradicate violence against women, from 2009, taking into account the international agreements - CEDAW, Convention Belém do Pará- that established in article 6 *“modalities: c) Workplace violence against women: it discriminates women in the public or private workplaces and impedes their access to work, contracts, promotion, stability, permanence in the job, asking for requisites about marital status, maternity, age, physical appearance or pregnancy tests. It also constitutes workplace violence to manipulate their right to equal wages for the same task or position. Thus, it includes systematic psychological harassment with the same worker aiming at her labour exclusion”*. With this clear precept in a moment where the abusive behaviour and gender violence are extreme under the label *“Ni una menos”*, the feminist obtained Law 27.499, sanctioned at the beginning of this year, also known as Law Micaela, as a tribute to a young activist on social movements, victim of femicide. The National Programme on Gender and Violence against women was created, with the objective of training and sensitizing all the employees and officials of all the three State Powers. Once included in the Judicial Power of Santa Fe, the workshops implemented revealed prejudices and gender stereotypes that the judicial workers naturally assumed, as they have been taught as children through education and raising, difficult

to prevent them from reappearing in a daily basis and being necessary to overcome.

So, once that workplace violence is taken to.

Work Courts, a new scenario of maximum exigency for the jurisdictional body is opened, as we are in presence of undercover violence, that comes, generally, of paranoid, psychopath, narcissist personalities, that use subtle strategies that do not leave any trace and, thus, become difficult to prove. As it is known that the proof is the key factor in the judicial process, it implies a considerable challenge, as it is the unique proof the parts have to give credit to their affirmations, and the judge, to analyze, and decide consequently. We have to take into account that, to be autonomous, the Criminal Procedural Law counts on juridical principles of its own: procedural economy, speed, simplification of paperwork, using less papers and proximity, that would be a guide in the sentence when the proof is not clear and decisive as it happens in cases of workplace violence, where the fact occurs, generally, indoors and without direct witnesses. If we think of harassment or mobbing cases, for instance where there are no traces or visible marks, thus there is no physical violence, and the bully manipulates, using language as his/her way of harassment. Or other cases in which violence is on the part of a superior or a directive position and the rest of the staff either because of indifference or fear, stays passive, or even in complicity, a taunt appears or they turn a blind eye and act as nothing happened, leaving the victim alone and without witnesses. These smooth repetitive practices throughout time have generated a sense of lawlessness in the labour community, until negation or rejection of the affected person to the possibility to claim for justice.

Conceptually, and agreeing with Palacios, we can affirm that a proof is *“the procedural activity... aiming to create the judicial conviction about the existence or*

nonexistence of the facts stated by the parts as fundament for their demands.”⁴, and the classical proposition in the processes, can be synthetized in the norm stated in article 377 of the Code of Civil and Commercial Procedure:

“The burden of proof shall lie with the party that affirms the existence of a controversial fact or a legal precept that the judge or the court does not have the duty to know.”

“Although it seems improbable the registration of the documents of illicit acts that could have criminal consequences, forensic psychology has studied that the bully presents a psychological imbalance that sometimes makes him leave a trace or proof of his obsessive idea for the victim (mail, e-mails, WhatsApp chats, etc.).”

As Arazi⁵ affirms, this must not at all result in a contrarily outcome to the demand of claiming for a fair decision. And this is extremely important in a violence-related process, where the possibilities of crediting abuse, prosecution and/or discrimination, are uncertain to the actors. It is possible to highlight that aiming at the truth and an adjusted judicial decision accordingly, the processes today go forwards the limits of the rigid and formal shape and resorting to principles like the reality, the judge can disregard formalities, or consider the pro worker, in case of doubts of proof, to favour the worker (art. 9 law 20744). The right should compensate the hyper-competence of the people who go to work only with the mental and physical force to make it available, in front of the employer, who, at the same time, counts on the means to produce a vast number of evidence on his position (videos, registries, documents, accountants,

controllers, guards, etc.).

The Inter-American Court of Human Rights stated that *“the process is a tool to guarantee, in the best possible way, the fair solution to a controversy and, to reach their objectives, the process must recognize and solve the real inequitable factors of those who are taken to court. The presence of real inequitable conditions obliges to adopt compensation measures that contribute to reducing or eliminating obstacles and deficiencies that impede or reduce the effectiveness of their own interests. If these compensation means, which are highly recognized in different procedures, did not exist, it will be difficult to have a real access to justice.”*⁶ This is how the equality principle is understood on the behalf of the law, courts and the prohibition of discrimination (American Declaration of the Rights and Duties of Man, conf. art. II and XVIII; Universal Declaration of Human Rights arts. 7 and 10; the International Covenant on Civil and Political Rights arts. 2.1 and 3a and 26; CEDAW 2° and 15°; International Convention on the Elimination of all Forms of Racial Discrimination 2°,5° and 7°; American Convention on Human Rights 1°,8° and 24°).

In our position and aiming at being on the behalf of those under an inferior condition, some principles in favour (favor probationis) and theories (tests leviores) appeared, between then the Dynamic Probatory Burdens. These last change the rigid criteria of the burden of proving whoever affirms a specific action, to put it into the head of those who are in better conditions to contribute to the cause the evidence for the judge to clarify the debate. Peyrano exposed this doctrine more clearly: *“on this facts that could not been demonstrated throughout the process, the unfavourable consequences of the doubtful remains must be charged by the judge as they, being in better technical, professional or factual conditions to clarify, omitted doing it independently of his position as an actor or demanded and that has to do with constitutive, impeditive, amending or extinctive facts.”*⁷ This faculty of the judge to attribute invaluable consequences to those

who could collaborate with the evidence and did not, is transcendental in the violence processes, every time the employer is in general better conditions to accredit: as it was the labour atmosphere where the offended worker used to perform; which was the relationship with his co-workers, how he asked for help of that requiring indemnity, which measures were adopted to avoid it and to stop the harassment or the sexual abuse, etc. It is worth mentioning that we cannot start from an absolute principle of equality on the proof, as it is not so, and if the aim is gaining justice we have to start from reality and not from juridical fiction. *Equality is not the starting point but the end. Thus, our courts stated that: "the probatory burden imposed to the employer in the cases where they allege discrimination does not imply to unknown the principle of article 337 from the Procedural Code, not the specifically stated in law 23.592, as the person considered as affected by any of the foreseen causes they should demonstrate that they have (...) the indications of the objective act, leaving on the head of the employee to credit that the layoff had a different motivation, excluded of the alleged animosity"*⁸

To illustrate: the doctrine of the dynamic probatory burdens in scientific spheres in the 80s has been spotted in several Procedure Codes of the Provinces (Santiago del Estero, Chaco, Tierra del Fuego, La Pampa, Corrientes, San Juan y Santa Fe) and in norms (art.53 law 24.240, regarding family; art. 710 of the Civil and Commercial Code, of Civil Responsibility art. 1735 from Civil and Commercial code). In the Procedure Labour Code of Santa Fe, the new law 13.039 expressly included in its article 59 section a, second paragraph): *"the judge or tribunal, with opportunity to fail, could exceptionally evaluate the distribution of the probatory effort derived from this rule when the particular circumstances of the cause determine that one of the parts was in better factual, technical or professional conditions to produce such evidence."* On its part, the Supreme Court of Justice of the nation, in cars "Pellicori c. Colegio Público de Abogados" (lawyers team) was in charge of showing

the procedural means on which they based their decision in cases that were difficult to prove but that had foundations in the protection of the fundamental human rights. The lack of evidence should not be an obstacle to a fair sentence and, thus, the most valuable solution will always be that which impedes that the accused benefits with impunity.

A tool to overcome the obstacle of the direct proof of the violent act are the *"presunciones hominis"*, that will be constituted through indicators: intertwining, relating and adding acts that at first sight seem harmless, but that evaluated in their number, seriousness, precision and concordance the principles of reality, protection and reason, permit the reconstruction of the demanded situation. In Alsina's words, the indicator is *"any registry, trace, footprint, circumstance and, in general, any susceptible act known that through inference can lead us to another unknown act."* In the Commercial Civil Procedure Code of the Nation, article 163, section 3° and also in the Labour Procedure Code of Santa Fe, article 58: *"means: the presumptions or traces (...) will be admitted" it is worth clarifying that the CPL refers – it seems- in an indistinct way to the presumptions and traces . They are not the same. The judge starts from a trace to constitute a hominis presumption, that implies a "logical trial because of which, in its merit, it becomes as true or probable a fact that, based on rules or experience maxims, that tells which is the normal form in which the things happen."* (Carnelutti). From there, the onus probandi was shifted to the other part, who would have to give convincing elements that exclude the reproached types or would suffer the juridical consequences of this presumption.

As a guide for the litigant or sentencing, we transcribed some steps systematized by Sebastian Copoletta⁹:

1. Firstly, the probatory burden is in the head of the actor;
2. This probatory burden is not satisfied with a simple declaration of the discriminatory act.



Actually, workplace violence is translated into a provocation to the victim that harms his self-esteem and makes him vulnerable.

3. The actor, to satisfy his probatory burden, should bring “a reasonable trace” of the act that the employer is motivated in a discriminatory act.

4. This “reasonable trace” about the discriminatory motive that the actor should show, must be enough to create in the judge a rational belief about the existence of the reported act.

5. The satisfaction of the probatory act of the actor, creates a judicial presumption regarding the existence of the discriminatory act that, because of the presumptions, reverts the probatory burden to the demanded.

6. The demanded should probe the real motives of his decision are different to the denounced

discrimination.

7. The motives of the employer decision should be objective, reasonable and proportioned in terms of the justification of his reasons for the layoff.

Regarding the other probatory means, the Labour Procedural Code of Santa Fe, at the time it included the traditional: confession, testimony, document, expertise and report, declared the admission of any other with the only condition of appropriateness. This last detail is not minor, as the proofs are related with procedures or digital or technological support, that have not been planned in the Procedural Codes. Regarding sexual harassment, for

instance, it would be fundamental to include, wherever possible, WhatsApp chats, comments on social media, videos, audios or any other digital information at hand.

It is true that the testimony of those who integrate the labour community and share the working day and workplace with the involved parties is difficult to discard a proof, because at first sight there is no higher aptitude when it is time to reconstruct details of the systematic, subtle, invisible and silent behaviours of the abusers. But we would have to agree that in many occasions, in fear of retaliation to be the next victim or losing the job, the same co-workers do not backup the victim and isolate them, when not convincing of their fault, if the abuser is a hierarchical superior. In any case, once offered, the means for the witness to appear should be used- even with the public force- and making a statement, not being- a priori- a cause to void, or being linked to some type of abuse, or claim or trial that could attempt against the company. We should highlight that this proof is the success of several causes in which jurisprudence reveals its value and effectiveness.¹⁰

Although it seems improbable the registration of the documents of illicit acts that could have criminal consequences, forensic psychology has studied that the bully presents a psychological imbalance that sometimes makes him leave a trace or proof of his obsessive idea for the victim (mail, e-mails, WhatsApp chats, etc.). Thus in stalking cases, described as urgent (compulsive) abuse, there are some behaviours that have been considered descriptive of the stalker: the victim receives gifts, mails, e-mails and calls at any time, visits is followed in the streets. Nowadays, many of this acts have been shifted to the social media; for instance, WhatsApp or any other chat that would be counted on the process as an expertise documental proof. In this last case, the services of an informative expertise or system engineer would be needed, who by entering a computer would have the information about the truth, facts, dates,

emission and reception of messages, photos, chats, from different IP server, and the record on social media, chat channels, e-mails, etc.

Precisely, to have access to a technical-scientific view that would get you closer to the truth, the judge counts on expertise proof. Although it has to do with valuing the context of all the information in the cause, the psychological expertise is of huge importance: firstly, to detect signs of simulation or fable of the victim of violence, and, once determined the seriousness, to evaluate the suffering of it. It is worth recalling that, although with personal shades, the action of the labour abuser is intended to make the dignity of the abused person vulnerable, creating an intimidating, degrading and hostile working atmosphere that harms the mental and physical integrity of the worker. The consequences would depend on the duration of the abusive behaviour, the fury, and the grade of resistance and the emotional strength of the victim, not leaving behind the "invalid repercussion" that the violent act has had on it. In effect, the seriousness of the humiliation, insults, offence, indifference, mistreatment, etc., would be marked, principally because of the victim's feelings, as some acts could be serious for some people and not for others, which generates more difficulty when it is time to probe them. Thus, these behaviours are usually a starting point or aggravation for other temporary pathologies that have long-term consequences to abuse: insomnia, tiredness, distress, irritability, stress and tension; which at the same time can generate a varied number of other affections, connected with depression of the immune system. To determine them correctly, it would be necessary to consult a psychiatrist and/or psychologist.

Without undermining the long way to get the objective of decent and violence-free work, it is not possible to ignore the decision of the society to tackle the problem, reflected in the creation of specialized institutions in the different levels of the State- Ombudsman's Office, Ministry of Work- where the demands are increasing

and have a correlation with the number of causes that they handle and consolidate in the local Courts, where they have selected three cases that seem interesting when it is time to find parameters and orientate criteria.

“The health of the employees, as a fundamental right, is a juridical good that the employer has the obligation to protect, but is, besides, a strategic value that the human resources policies should prioritize, not only not to affect the fundamental rights of people, but also because the new productive models would not be so if a balance is not achieved between the increase of productivity and the security of the workers”.

Specifically, in the Labour Court N°2 of Santa Fe¹¹, the demand of a worker was presented that ended with the labour contract calling upon the personal mistreatment and wage discrimination due to his homosexual orientation, and demanded not only the compensations derived from the layoff but also the material damage compensation and moral compensation. The facts occurred in a poultry farming company – chicken- from the rural area, where, together with several co-workers, the affected worker carried out rustic labour, having to do, it seems, with people with poor education. In this context and due to his sexual condition, he was treated unequally on a daily basis and humiliated on the behalf of his co-workers, manager and one of the firm owners. This attitude was in crescendo until getting to physical violence that derived in policies demands, internal report and sanctions together with the people involved. Besides, the company stopped

paying him a financial incentive that was still given to the rest of the co-workers. These are delicate situations and difficult to prove because they generate fear and reluctance on the third parties because of socio-labour implications. However, in this case the proof was conclusive. It is that by absolving positions the owners recognized that the actor was a good employee, and six out of seven witnesses that also worked in the farm, not only recognized the mistreatment but also admitted the informal perception that the victim was suspended of the wage without an objective cause, having demonstrated through documentary evidence that the plus had an impact in the personal amount of money, and that he could not pay for debts, that were executed judicially. Since this evidence of the discriminatory act because of the victim's sexual condition, the company was condemned to pay the personal injuries due to the layoff and also the patrimonial and moral damages, according to the antidiscrimination law 23.592 article 1, which highlighted and looked at violence and labour abuse that, in 2003, was almost unheard of in our courts.

Another case of Labour Court n°3 from this city¹², closer in time, was the one of a female worker who was fired because she demanded being a victim of workplace violence and mobbing causing a professional illness, and claimed for the integral compensation for damages. The company neglected the existence of the causes involved and, thus, not to pay for it. This was the case of the restaurant of a well-known city hotel, where, with the help of the witnesses, the existence of a hostile working atmosphere was demonstrated as they stated: *“one day (...) she (...) was seriously ill and asked to go home to be assisted by a doctor and she was neglected the permission, they did not call anybody and, I think she fainted (...) they were not free to go to the toilet (...) without authorization (...) the majority of the workers were uncomfortable and more even the girls, we could easily find them crying (...) it was an stressful job, the working atmosphere was not good, heavy (...) in the kitchen it was not so hard but the waitresses and waiters were mistreated (...). There were men working but girls*

were heavily mistreated." These testimonies come from co-workers, they clarified not only that the actor was a victim, but also that the pressures and the mistreatment were common in the workplace. The judge condemned the company to pay the indemnifying concepts derived from the layoff, but also to make in a 60-day time a training about management and organization, gender violence in the workplace. Curiously, this was the only part of the demanded appealed to- in her view- an extra petita judgement. However, the judicial decision was confirmed by the Alzada Court- Appeal Labour Chamber room 2- in the resolution that short consideration were instructed: *"(...) it is not an excessive petition but a reasonable preventive measure aiming at avoiding causing damages, optimizing the management capacity and looking at international compromises about gender violence"*. And due to the reluctance, the company was warned, so that the judicial demand was completed with the training fulfilled with supporting accreditation.

It was the homosexual condition and a couple relationship with other female worker what started this situation between the workers and the superiors of the company demanded, which with the complicity-by action or omission- of the working community humiliated this female worker with unimaginable acts as described by the Labour Judge from court n°5 where the cause was processed¹³, prioritizing a testimony over the one of *"(...) five witnesses demanding that -with litany, claim that everything was normal"*, considered that due to the factual presupposition asked and claimed for the moral damage compensation. It expressed that the demanding part by consenting- without knowing or not being interested- and the labour community that remained insensitive, validated the hostile behaviour of this illicit extra contractual act, and taking the civil norm that states that we should also answer for the prejudices caused under its dependence, condemned the employers due to their obligation to *"(...) keep the workers safe from all harm, who, by no means should allow comments, attitudes, degrading behaviours because of her*

sexual condition, but also other that qualify themselves as eschatological that no person must stand", alluding the terrible acts that arose from testimony: *"(...) that they know the actor because they worked together in the company; (...) the actor was in charge of cleaning and teaching (...) that ALVAREZ was chief of teaching (...) that he made up jokes and comments about the sexual conditions (...) I saw him (...) he did disgusting things in the toilet (...) he left toilet paper with stool in the walls, everything was dirty (...) several times I saw people crying because they felt helpless; they were conscious that the actor and her couple suffered from petting, touching or insinuations (...) both were petted (...) all these types of situations described occurred when they found out about their sexual condition."*

What called the Judge's attention is, that the worker that was fired without cause, and the excuse of supposed flaws in her service, was paid anyway the amount for indemnity that is stipulated in cases of layoffs without cause, which is contradictory and shows guilt on the employer's part because, as the testimony ends *"... she has overlooked the subject of constitutional preference tutor, as they have not been given dignified and equitable working conditions" (art. 14 bis CN)"*

There is a common point in these three cases: when psychological violence is shown, the discriminatory act or abusive behaviour, the employee, without trying to revert the punishment, acknowledges and answers without a reason or because of the dependent, this attitude denotes consciousness of their own lack of reason. We should ask, the, why is it that they speculate with being innocent; why they wait for the judicial condemn. It is clear that in this way he has not lost anything, he only reiteratively reproduces models in which he does not recognize the dignity of the worker, counting on a society that is locked in cultural habits, assumes the risk of compensating if the case gets to court and is successful, while in the rest he just limits to do- to let continue.

It is worth adverting that even in those suppositions that are difficult to prove and get to a fair sentence, the patrimonial compensation of the harm -material, moral and life- does not result an integral response regarding the problem, and not even, one that reconciles with the respect to human rights. In the real life, the judicial resolution leaves a scenario where the aggressor continues in his workplace, having changed his function, takes his personality to other sector or place; while the victim continues with a story of segregation, is disposed from her job, or taken to a position where not only she was submitted to aberrant acts, but also comes back after having taken the employer to court and more than one co-worker. The facilitative factors of workplace violence are still in, or even worse, they intensify. Without much reflexive effort we can conclude that none of these situations encourages social peace or redistributes an effective justice.

Aiming to go in this direction, apart from the normative prevision of high fines or monetary sanctions for the employer, it is necessary to include in the agenda the types as crimes of the demanded acts, establishing to the aggressor sentences that deprive them of their freedom. Thinking about the multiple causes and manifestations (psychological abuse, sexual abuse, mobbing, layoffs, between others), besides other of the called ‘alternative sentences’ (community work, workshops, therapies, etc.), oriented to act in an interdisciplinary way with the aggressor so as to neutralize the possibilities of repetition. This can be linked to the adopted measures aiming at discouraging these acts in the Labour Chamber of Villa María, Córdoba (27/09/17) that, taking an adverse precedent both for the employer and the denounced aggressor, sent copies of the acts of the local delegation from the Ministry of Work and Production, to include them as antecedent of Labour violence in the database of the Advisory and Registry Office of Workplace Violence.

Thus, with the objective of avoiding future damage

or stopping the one that is occurring now, we would have to appeal to the preventive principles of the law of work contract, and law 26.693 that confirms the agreement n° 155 of the ILO (art. 13 and 19 section F) and the protocol 2002 about Security and Health of the Workers, through preventive action of the acts (art. 1710, 1711, 1717, 1718 y cc. CC and CN). “the topic of security and health of the workers can be linked with the promotion of preventive actions, both by the potential victims as by the unions. It is clear that the fulfilment on the part of the employer of the labour security norms, automatically generates a risk of a health harm to the -

For the exercise of this inhibiting guardianship, we should credit that the act before being performed, or of which realization is feared of, is legally prohibited. In effect, it is necessary to recall the provincial decree n° 1040/2007 from Law 12.434 of “*prevention and eradication of workplace violence*” states that “*the damage suffered by the complaining worker is due to his attitude, when they are performed in a period of time immediately after the demand, a disciplinary sanction, adscription, transfer, or change of duties or, in general, any other detriment of his labour rights or of hierarchy if prima facie the truth of the act would be seen*”; from where the illegitimacy seems already conceived -*iuris tantum*- counting on the possibility to take a preventive measure. It has to do with an autonomous action that is over one they got to the objective of stopping the threat of a harm, or to impede it to get worse, due to the sentence that admits the preventive action- either ultimately or tentatively, obligations to give, do or not to do, and in case of not fulfilling it, the application or execution of any measure to get the final goal.

As Ramirez¹⁵ states, the advantages of the preventive action are significant:

- a. The threat to an “unjustified” damage is enough;
- b. It is not necessary to blame or claim negligence

in the act of the accused;

c. If the damage is produced, the threat and its aggravation can be called upon.

d. The active legitimation is wide (having a “reasonable interest” and, without doubts, the union associations have a wide scope to operate, as their social object is “eradicate obstacles that make the fully realization of the worker possible” (law 23551, art 3).

e. The passive legitimation is also wide, as not only the accused for the damage, but also anyone who has the juridical capacity to avoid it, can be demanded.

f. The act must not be recent, imminent or serious.

g. It is possible to appeal to any of the procedural ways admitted in the local laws, as the precautionary measures already foreseen.

h. The Court can take officio measures.

From an institutional perspective, the Counselling Office about Workplace Violence of the Nation (OAVL), The MTE and SS and the companies agreed on the creation of a Handbook on the Awareness and Prevention about Workplace violence in the Company Organizations, that aims at preventing workplace violence through awareness, training and collective negotiation. Besides the OAVL and 100 union organizations created under the same model the Handbook about Workplace Violence for Union Organizations, where the specific area instalment to develop prevention, assistance and the representation of those workers victims of violence was taken into account. These initiatives have been replicated in Santa Fe province in a state level as the employer organism, through the creation of action protocols that take the demands in an interdisciplinary form, promote the awareness about the seriousness of this acts that generate violence and the existence of instruments to stop violence, mistreatment that should not be naturalized.

...

With no doubts, we are under the presence of one of the biggest challenges of the 21st century, because violence-free work is a key condition to face the human relationships transformations and the labour conditions that, due to the huge advance of technology today are active and do not wait.

Certainly, the multi causes of workplace violence¹⁶ take the complexity of this phenomena and the necessity of its approach as a systemic problem, pierced by micro social aspects, everyday relationships and macro social aspects derived from a labour market more precarious. Here is the necessity for new legislations that contemplate the deterrence, coercion, action and prevention.

“Without undermining the long way to get the objective of decent and violence-free work, it is not possible to ignore the decision of the society to tackle the problem, reflected in the creation of specialized institutions in the different levels of the State- Ombudsman’s Office, Ministry of Work- where the demands are increasing and have a correlation with the number of causes that they handle and consolidate in the local Courts”.

The health of the employees, as a fundamental right, is a juridical good that the employer has the obligation to protect, but is, besides, a strategic value that the human resources policies should prioritize, not only not to affect the fundamental rights of people, but also because the new productive models would not be so if a balance is not achieved between the increase of productivity

and the security of the workers. With this goals, the employer should create a sustainable workplace, safe and healthy in its preservation, detection, neutralization and dissolution of acts and situations that generate a toxic community, and would sooner transform the scene in one that generates workplace violence.

We should take a closer look to the situations where abuse seemed fun, or in which a layoff occurred, where we did not give our different opinion or a condition of difference caused pain, or people were looked with judgement and not on their capacities and work, situations in which all of us have experienced discrimination sometime, and our dignity was threatened. This world seems not to be prepared to accept differences, as it was modelled on image and likeness.

We believe that all the community has today the opportunity to join to the voices of those who rebel against situations that create violence and attack dignity and human freedom, and from there, to deconstruct the negative aspects of reality to face the processes of human interrelation that is tolerant, inclusive, respectful and equitable.

There is a lot to do, no doubt, and Estela M. Ferreirós clearly states: "(...) it seems it is time to realize that the Human Rights doctrine and their legislative elaboration and jurisdictional application would not get its true validity until an internal and external change that makes possible a fair social order occurs. On the contrary, the human rights would only be empty models."

To sum up, we should agree because of this tangible data, that there is no worse workplace violence than the one that is generated in economic crises, where jobs are lost and there is plenty unemployment. This situation, together with clandestine work, constitutes a problem and turns it in a discipline factor of the dependent worker, both inside and outside the company. When the job and the salary are threatened, which are the only surviving

means for the worker and his family, the insecurity and even the fear, are conditions for the acts and decisions of the worker and they put to limit the dignity of a person, consequence of workplace violence in its worst version. Workplace violence is an answer to the socio economic policies imposed by the State as the unique and correct way to continue with the showy speech, and in fact it is the exteriorization of arguments between dominant sectors that only favour some at the expense of others, where, unluckily, the worker is part.

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PROVINCIAL LAW
N° 12.434

Workplace violence

LA LEGISLATURA DE LA PROVINCIA SANCIONA CON FUERZA DE LEY:

ARTÍCULO 1.- Objeto. la presente ley tiene por objeto prevenir, controlar y sancionar la violencia laboral, y brindar protección a los/las trabajadores víctimas de las mismas, los/las denunciantes y/o testigos de los actos que la configuren.

ARTÍCULO 2.- Ambito de Aplicación. Lo establecido en la presente ley es de aplicación en el ámbito de toda la administración pública provincial central y descentralizada, sus entidades autárquicas, empresas o sociedades del Estado, sociedades de economía mixta o con participación estatal mayoritaria, en el ámbito de la administración pública municipal y comunal central y organismos descentralizados, entes autárquicos, empresas o sociedades del Estado, comprendiendo también al Poder Judicial y al Poder Legislativo de la Provincia, así como a toda otra entidad u organismo del Estado Provincial, Municipal y Comunal independientemente de su naturaleza jurídica, denominación, ley especial que pudiera regularlo o lugar donde preste sus servicios.

ARTÍCULO 3.- Conceptualización. A los fines de la presente ley se considera violencia laboral a toda conducta activa u omisiva, ejercida en el ámbito laboral por

funcionarios o empleados públicos que, valiéndose de su posición jerárquica o de circunstancias vinculadas con su función, constituya un manifiesto abuso de poder, materializado mediante amenaza, intimidación, inequidad salarial fundada en razones de género, acoso, maltrato físico, psicológico y/o social u ofensa que atente contra la dignidad, integridad física, sexual, psicológica y/o social del trabajador o trabajadora.

ARTÍCULO 4.- Difusión y prevención. El Estado Provincial organizará e implementará programas de prevención de la violencia laboral en el ámbito de aplicación de la presente, campañas de difusión y capacitación, formas de resolver los conflictos, modos de relacionarse con los compañeros, superiores y subalternos, maneras de mejorar sus conductas sociales y todo otro proceso de formación o terapéutico que los lleve a una mejor relación dentro de su ámbito laboral y toda otra forma que considere oportuna para establecer un clima de trabajo adecuado, con el objetivo de preservar la integridad psicofísica de todos los trabajadores/as. Para ello podrá requerir la asistencia de las áreas especializadas en capacitación, salud laboral, salud mental u otras afines a esta problemática.

ARTÍCULO 5.- Protección a denunciantes y testigos. Ningún trabajador/a que haya sido víctima de violencia laboral, que haya denunciado las mismas o haya comparecido como testigo, podrá sufrir perjuicio alguno en su empleo o en cualquier otro ámbito, cuando el mismo le fuera ocasionado como represalia por su denuncia o testimonio.

ARTÍCULO 6.- Sanciones. A todo aquel que incurriera en conductas de violencia laboral, se le aplicará las sanciones que prevén los regímenes administrativos y/o disciplinarios respectivos dentro del ámbito de aplicación de la presente ley, conforme la gravedad que en cada caso corresponda.

ARTÍCULO 7.- Denuncia. El/la trabajador/a víctima

de violencia laboral podrá optar por denunciar el hecho ante su mismo empleador o ante la Defensoría del Pueblo de la Provincia.

ARTÍCULO 8.- Inicio de trámite. El proceso ante hechos de violencia laboral podrá iniciarse mediante:

- a)a) la denuncia efectuada por parte de la víctima, testigo o tercero que haya tomado conocimiento del hecho;
- b)b) de oficio

ARTÍCULO 9.- Sustanciación. Las denuncias realizadas deberán ser dirigidas al superior inmediato, quien está obligado a correr traslado a la persona denunciada dentro de los términos establecidos por los regímenes administrativos y/o disciplinarios correspondientes.

Para el caso que el denunciado fuere el propio superior inmediato queda habilitada la vía jerárquica para la aplicación del procedimiento establecido en el párrafo precedente.

ARTÍCULO 10.- Responsabilidades. El funcionario o responsable del área o establecimiento en el que se produzcan los hechos de violencia laboral, deberá adoptar las medidas conducentes a preservar la integridad psicofísica de los empleados y la seguridad de los bienes del Estado Provincial, bajo apercibimiento de las sanciones que le pudieran corresponder.

ARTÍCULO 11.- Aporte de pruebas. Toda denuncia por violencia laboral efectuada deberá ser acompañada de una relación de los hechos y el ofrecimiento de las pruebas en que sustenta su denuncia. Si la denuncia se realizará ante la Defensoría del Pueblo será de aplicación el procedimiento previsto en la Ley 10.396.

ARTÍCULO 12.- Reglamentación. El Poder Ejecutivo deberá reglamentar la presente Ley dentro de los sesenta (60) días de promulgada.

ARTÍCULO 13.- Comuníquese al Poder Ejecutivo.

DADA EN LA SALA DE SESIONES DE LA LEGISLATURA DE LA PROVINCIA DE SANTA FE, A LOS SIETE DÍAS DEL MES DE JULIO DEL AÑO DOS MIL CINCO.

Decreto Reglamentario 1040/07 de la Ley de Prevención y Erradicación de la Violencia Laboral 12.434

APRUEBA LA REGLAMENTACION DE LA LEY N° 12434 DE PREVENCIÓN, SANCION Y CONTROL DE LA VIOLENCIA LABORAL

FIRMANTES: OBEID – MICHIG
DECRETO N° 1040
SANTA FE, 14 JUN 2007

VISTO:

La Ley N° 12434, de prevención, control y sanción de la violencia laboral; y

CONSIDERANDO :

Que la misma estableció disposiciones tendentes a erradicar, de todos los ámbitos de trabajo de la Administración Pública Provincial, prácticas de violencia laboral en perjuicio de los trabajadores y trabajadoras del sector público, tipificando las conductas configurativas de aquélla (artículo 3), que vienen a complementar las establecidas por la Ley N° 11948 que estableciera disposiciones represivas del denominado acoso sexual;

Que la propia ley regula de una manera amplia y general, las conductas tipificadas como configurativas de Violencia Laboral, por lo tanto no puede establecerse una casuística detallada a través de la reglamentación, encuadrando otras conductas no previstas en la misma, o ampliando el diseño típico efectuado por el legislador;

Que en cambio corresponde a este Poder Ejecutivo y en general a los órganos encargados de su aplicación, la actividad material de verificación de la efectiva ocurrencia de los hechos (mediante el procedimiento

disciplinario del caso), su adecuación típica y la sanción correspondiente, conforme a la gravedad de la falta y demás parámetros propios del derecho disciplinario, todas estas actividades que no importan el ejercicio de la facultad reglamentaria;

Que la propia ley en el artículo 11° contempla que si la denuncia se realizara ante la Defensoría del Pueblo, será de aplicación el procedimiento previsto en la Ley N° 10.396, con lo que está significando que se seguirá con el trámite de la queja, consagrado por dicha norma en su artículo 24, y en especial en su Capítulo II, artículo 38 y siguientes, correspondiendo señalar que el artículo 34 inciso d) de la misma establece que la Defensoría no dará curso a las quejas cuando respecto de la cuestión planteada se encuentre pendiente resolución administrativa o judicial;

Que además la Ley N° 12434 especialmente regula por el artículo 6° las sanciones a aplicarse a quienes incurrieren en conductas configurativas de violencia laboral en detrimento de otros servidores públicos, que son las que se encuentran previstas en los regímenes administrativos o disciplinarios respectivos que rigen dentro de su ámbito de aplicación, delimitado a su vez por el artículo 2°;

Que sin perjuicio de ello, algunas de las previsiones del texto sancionado ameritan su reglamentación por este Poder Ejecutivo, a los fines de precisar conceptos establecidos de modo genérico en la norma legal;

Que si bien las obligaciones que la ley crea en cabeza de lo funcionarios y agentes de la Administración Pública Provincial comprenden a todos ellos, con prescindencia de su lugar y situación de revista, al momento de instrumentar los programas de prevención, campañas de difusión y demás acciones que prescribe el artículo 4 de la ley, ha de tenerse en cuenta el reparto de competencias funcionales que establece la Ley Orgánica de Ministerios N° 10101 y demás normas complementarias de ella;

Que de acuerdo a ello se estima adecuado atribuir el cometido vinculado a la instrumentación de las acciones previstas en el mencionado artículo 4 a la Secretaría de Estado de Derechos Humanos con la cooperación de las Subsecretarías de Información Pública y Comunicación Social del Ministerio Coordinador, la Subsecretaría de la Función Pública del Ministerio de Hacienda y Finanzas y la Secretaría de Estado de Trabajo y Seguridad Social, en la esfera de sus respectivas competencias;

Que el presente acto se dicta en uso de las facultades otorgadas por el artículo 72 inciso 4) de la Constitución de la Provincia;

POR ELLO;
EL GOBERNADOR DE LA PROVINCIA
D E C R E T A

ARTICULO 1°.- Apruébase la reglamentación de la Ley N° 12434 de prevención, sanción y control de la violencia laboral, la que forma parte del presente decreto, como Anexo Unico al mismo.

ARTICULO 2°- Regístrese, comuníquese, publíquese y archívese.

ANEXO UNICO
REGLAMENTACION DE LA LEY N° 12434

ARTICULO 1°.- No requiere reglamentación.

ARTICULO 2°.- Decláranse expresamente comprendidos dentro de su ámbito de aplicación a la Sociedad Anónima Aguas Santafesinas, cuya creación fuera dispuesta por Decreto N° 193/06, y al Tribunal de Cuentas de la Provincia.

ARTICULO 3°.- No requiere reglamentación.

ARTICULO 4°.- La Secretaría de Estado de Derechos Humanos, con la cooperación de la Subsecretaría de In-

formación Pública y Comunicación Social del Ministerio Coordinador, la Subsecretaría de la Función Pública del Ministerio de Hacienda y Finanzas, y la Secretaría de Estado de Trabajo y Seguridad Social, en la esfera de sus respectivas competencias, tendrán a su cargo la implementación de los programas de prevención, las campañas de difusión y capacitación y los demás cometidos a que refiere este artículo de la ley; para lo cual promoverán además la participación de las organizaciones sindicales representativas de los diferentes sectores de agentes estatales.

Sin perjuicio de ello, todos los demás organismos y reparticiones dependientes de este Poder Ejecutivo prestarán a los citados su más eficaz y decidida cooperación para el logro de los objetos de la ley, cuando les sea requerida.

Invítase a los Poderes Legislativo y Judicial y al Tribunal de Cuentas de la Provincia a adoptar provisiones similares, en sus respectivos ámbitos de competencia.

ARTICULO 5°.- Se presumirá, salvo prueba fehaciente en contrario, que el perjuicio sufrido por el trabajador o trabajadora denunciante lo han sido en represalia de su actitud, cuando sufrieren en un lapso inmediatamente posterior a la denuncia una sanción disciplinaria, adscripción, traslado o cambio de tareas o, en general, cualquier detrimento a sus derechos laborales o escalafonarios si prima facie apareciese verosímil la ilegitimidad del acto que lo disponga.

ARTICULO 6°.- Incurrir en conductas configurativas de violencia laboral, en las condiciones descriptas por la ley, constituirá infracción a los deberes propios del cargo, a todos los efectos legales emergentes.

ARTICULO 7°.- La presentación de la denuncia por alguno de los medios contemplados en este artículo de la ley, no obstará a su reiteración por el otro cuando el denunciante lo estime conveniente como mejor garantía

de los derechos que ella le reconoce.

ARTICULO 8°.- No obstante haberse iniciado el procedimiento por denuncia por la víctima, testigo o tercero, los funcionarios competentes para sustanciarlo tendrán el deber de impulsarlos de oficio.

ARTICULO 9°.- El traslado contemplado en este artículo de la ley, se entenderá sin perjuicio del estricto cumplimiento de las diligencias de procedimiento previstas en los regímenes administrativos y disciplinarios que resultaren de aplicación en cada caso, y que tengan por objeto garantizar el derecho de defensa y el debido proceso adjetivo a los presuntos infractores.

Se tendrá por encauzada la vía jerárquica, a los fines previstos en el segundo párrafo de este artículo de la ley, cuando la denuncia fuere dirigida a cualquier agente o funcionario que estuviere ubicado en relación de superioridad respecto del denunciado, en la línea directa de mando o fuera de ella; estando en tales casos los receptores de aquella obligados a tramitarla cualquiera fuera su situación al respecto.

ARTICULO 10°.- No requiere reglamentación.

ARTICULO 11°.- El ofrecimiento de las pruebas en que se sustenta la denuncia se entenderá cumplido cuando el denunciante indique en ella, de un modo inequívoco, dónde pueden ser obtenidas; y tampoco excluye que las acompañe en el mismo acto.

ARTICULO 12°.- No requiere reglamentación.

ARTICULO 13°.- No requiere reglamentación.

PROVINCIAL LAW
N° 13.696/17

Gender Violence

LA LEGISLATURA DE LA PROVINCIA DE SANTA FE
SANCIONA CON FUERZA DE LEY:

ARTÍCULO 1.- La presente tiene por objeto promover y garantizar derechos en el ámbito laboral para las trabajadoras en situación de Violencia de Género.

ARTÍCULO 2.- A los fines de esta ley, se entiende como "Violencia de Género" la definición establecida por la ley nacional 26485 y la ley provincial 13348.

ARTÍCULO 3.- Créase como causal de licencia laboral la "Violencia de Género" para las trabajadoras del Estado Provincial en sus tres (3) poderes, organismos autárquicos, descentralizados y empresas del Estado, incluyendo incluyendo aquellas que acrediten la rectificación registral del sexo conforme a la ley nacional 26743.

ARTÍCULO 4.- La licencia se otorga por un plazo de tres (3) días hábiles, con goce de sueldo y sin requerir un mínimo de antigüedad en el cargo.

ARTÍCULO 5.- La licencia entra en vigencia a partir de la comunicación de la situación de violencia ante las autoridades del área en la que presta servicio la trabajadora, debiendo en el plazo de cuarenta y ocho (48) horas presentar la debida justificación emitida por la Subsecretaría de Políticas de Género o el organismo que en el futuro la reemplace, o un centro de salud con competencia específica para la atención y asistencia a las mujeres en situación de violencia. Teniendo en cuenta las circunstancias del caso en concreto, la autoridad de aplicación debe requerir la previa instancia de acción penal.

ARTÍCULO 6.- Frente a la solicitud de la "Licencia Laboral por Violencia de Género", el organismo empleador debe preservar el derecho a la intimidad de la trabajadora en situación de violencia.

ARTÍCULO 7.- El organismo empleador debe notificar por escrito, en soporte papel o electrónico, a la Subsecretaría de Políticas de Género o al organismo que en el futuro la reemplace, toda licencia laboral por violencia de género en un plazo máximo de veinticuatro (24) horas desde su inicio, debiendo constar en la notificación el nombre completo de la trabajadora, su documento nacional de identidad, domicilio, teléfono de contacto y, una copia de la certificación por ella presentada. Esta última puede ser presentada por la trabajadora afectada: en un plazo máximo de setenta y dos (72) horas.

ARTÍCULO 8.- La Subsecretaría de Políticas de Género o el organismo que en el futuro la reemplace, evalúa y dispone medidas para el acompañamiento, seguimiento y abordaje integral de la situación de violencia de género, de acuerdo a la complejidad del caso.

ARTÍCULO 9.- Créase, en el ámbito de la Subsecretaría de Políticas de Género o del organismo que en el futuro la reemplace, un Registro Provincial de Licencias Laborales por Violencia de Género, con el objeto de proceder a su sistematización y facilitar el estudio y visualización de esta problemática.

ARTÍCULO 10.- En todas las instancias del procedimiento, rigen los principios de confidencialidad y reserva, aún ante requerimientos administrativos o judiciales, salvo expreso consentimiento informado de la víctima.

ARTÍCULO 11.- Comuníquese al Poder Ejecutivo.

DADA EN LA SALA DE SESIONES DE LA LEGISLATURA DE LA PROVINCIA DE SANTA FE, A LOS TREINTA DÍAS DEL MES DE NOVIEMBRE DEL AÑO 2017.

C.P.N. CARLOS A. FASCENDINI
Presidente
Cámara de Senadores

ANTONIO JUAN BONFATTI
Presidente
Cámara de Diputados

D. FERNANDO DANIEL ASEGUADO
Subsecretario Legislativo
Cámara de Senadores

DR. MARIO GONZALEZ RAIS
Secretario Parlamentario
Cámara de Diputados
SANTA FE, Cuna de la Constitución Nacional
9 de Enero de 2018.

Red Sindical Ambientes
de Trabajo Libre de Violencia

Protocol of action on workplace violence cases

Introducción

La Defensoría del Pueblo es autoridad de aplicación de la Ley Provincial N° 12.434/05, en la cual se conceptualiza a la Violencia Laboral como “toda conducta activa u omisiva, ejercida en el ámbito laboral por funcionarios o empleados públicos que, valiéndose de su posición jerárquica o de circunstancias vinculadas con su función, constituya un manifiesto abuso de poder, materializado mediante amenaza, intimidación, inequidad salarial fundada en razones de género, acoso, maltrato físico, psicológico, y/o social u ofensa que atente contra la dignidad, integridad física, sexual, psicológica y/o social del trabajador o trabajadora”.

El Ministerio de Trabajo y Seguridad Social de la Provincia de Santa Fe, a través de la Resolución 427/15 entiende por Violencia Laboral “el ejercicio abusivo de poder que tiene por finalidad someter o excluir a un/a trabajador/a de su lugar de trabajo. Incluye acoso psicológico, acoso sexual, agresión física y violencia de gé-



Red Sindical
**Ambientes de Trabajo
Libres de Violencia**
PROVINCIA DE SANTA FE

nero. Puede provenir de niveles jerárquicos superiores, del mismo rango o inferiores y puede manifestarse por acción u omisión”.

La Red Sindical por Ambientes Libres de Violencia, en su acta de constitución del año 2016 declara que “el respeto mutuo en las relaciones laborales es una de las características esenciales del trabajo digno y que la Violencia Laboral configura una violación a los derechos humanos y laborales y atenta contra la integridad de las personas afectando su salud psicofísica, su vida laboral y social, lo cual resulta contrario a lo establecido por diversas normas del derecho internacional así como legislación y normativa nacional y sectorial”.

La presente guía de actuaciones el resultado del trabajo conjunto que se viene llevando adelante por parte de las instituciones mencionadas en materia de Violencia Laboral en la Provincia de Santa Fe.

OBJETIVO GENERAL

Generar un ordenamiento de las intervenciones y actuaciones pertenecientes a los diferentes organismos que abordan situaciones de Violencia Laboral, del ámbito público y privado.

INTRODUCCIÓN

Objetivos específicos

- Determinar el circuito de las herramientas institucionales disponibles para todos aquellos/as trabajadores/as que deseen ser asistidos ante situaciones de Violencia Laboral.
- Permitir un trabajo coordinado y conjunto de la Red Sindical con las áreas del Estado competentes en la materia, deslindando competencias en cada caso.
- Acordar pautas dirigidas a brindar un mejor acceso por parte de los trabajadores y las trabajadoras a las áreas del Estado encargadas de

diligenciamiento de las actuaciones que correspondan y a las herramientas sindicales disponibles a tal fin.

- Promover mecanismos de articulación interinstitucional para la construcción y análisis de información que facilite un mejor conocimiento de la dimensión de la problemática de Violencia Laboral en la Provincia de Santa Fe.

PROCEDIMIENTO

1. A toda persona que consulte acerca de Violencia Laboral, se le brindará información clara, concreta y específica acerca de la legislación vigente, así como también de las herramientas, recursos y procedimientos disponibles para la atención y gestión de casos de Violencia Laboral, según los enfoques Ley Provincial N° 12.434/05 y de la Resolución 427/15 del Ministerio de Trabajo y Seguridad Social de la Provincia de Santa Fe. Todos los datos e información se tramitará de manera estrictamente confidencial.

2. Los casos de Violencia Laboral provenientes del ámbito privado podrán ser derivados al Ministerio de Trabajo, en tanto que los casos provenientes del ámbito público podrán derivados a la Defensoría del Pueblo ambos de la Provincia de Santa Fe. Cuando se trate de casos que correspondan al ámbito público, de la esfera nacional, podrá articularse con la OAVL del Ministerio de la Trabajo, Empleo y Seguridad Social de la Nación.

3. Cada Sindicato, miembro de la Red Sindical, habilitará un correo electrónico institucional para la recepción de casos por Violencia Laboral, pudiendo los trabajadores o las trabajadoras además presentarse en forma personal. En caso que el Sindicato no cuente con un e-mail específico, las personas consultantes, podrán remitir un correo confidencial a: contacto@redsindical.com.ar

4. Las entrevistas se realizarán en la sede del Sindicato y se le dará el tratamiento que amerite según cada situación particular.

5. Para la recepción y atención de los casos, en cada Sindicato, se deberá contar al menos con un integrante de la Red Sindical que haya sido legitimado por la organización sindical.

6. En todos los casos recibidos, encuadren o no en situaciones de Violencia Laboral, se utilizará el formulario de recepción de denuncia consensuado e implementado desde la Red Sindical.

7. Cuando el Sindicato que haya recepcionado un caso de Violencia Laboral lo considere necesario derivará, al trabajador o trabajadora, al Equipo Interdisciplinario que funcionará en la órbita de la Red Sindical, esto se realizará con el aval del consejo directivo o autoridad de corresponda a cada organización sindical. El Sindicato que dio origen a la denuncia actuará en forma coordinada con el equipo de la Red Sindical.

8. El Equipo Interdisciplinario de la Red Sindical se conformará con profesionales de diferentes disciplinas vinculadas a la temática como así también delegados gremiales. La Red Sindical establecerá el criterio en cuanto al número de integrantes por cada área o disciplina.

9. El equipo interdisciplinario de la Red Sindical articulará con los organismos provinciales competentes en la temática para realizar las gestiones tendientes a la tramitación de los casos de Violencia Laboral que se aborden.

10. En el caso de las denuncias que se presenten directamente en los organismos públicos competentes en la materia, se le dará a conocer el espacio existente de la Red Sindical para que los trabajadores o trabajadoras afectadas tengan la posibilidad, si así los quisieran, de

contar con un espacio de contención y con otras herramientas para la tramitación de sus denuncias.

Resolution

N° 427/15

Public policies implementations for the Federal Network on Workplace Violence

VISTO:

El expediente N° 01601-0086861-5, del registro del Sistema de Información de Expedientes, conforme el Convenio Marco entre el Ministerio de Trabajo, Empleo y Seguridad Social y Ministerios de Trabajo Provinciales comprometidas con el Trabajo Digno sin Violencia Laboral; y

CONSIDERANDO:

Que el Ministerio de Trabajo y Seguridad Social de la Provincia de Santa Fe, ha suscripto el Convenio Marco de Cooperación Mutua, en octubre de 2014, con el Ministe-

rio respectivo de la Nación" y de otros Estados Provinciales de la República Argentina;

Que las partes signatarias del Convenio Marco establecieron la creación de la Red Federal sobre la Violencia Laboral, la que estará coordinada y presidida por la Oficina de Asesoramiento sobre Violencia Laboral del Ministerio de Trabajo, Empleo y Seguridad Social de la Nación (OAVL MTE y SS);

Que este Ministerio de Trabajo y Seguridad Social de la Provincia de Santa Fe se comprometió a coordinar y/o desarrollar acciones tendientes a contribuir a la prevención y eliminación de la violencia laboral que vulnera la dignidad de los trabajadores y trabajadoras; comprometiéndose además a la creación de áreas específicas, con criterios de atención, quedando comprendidos todas las relaciones laborales, independientemente de su carácter permanente o transitorio y del tipo de contratación que la origine. Asimismo se comprometió a elaborar criterios orientados a preservar los datos de los/las denunciantes, con niveles de confidencialidad adecuados, tendientes a evitar la judicialización de los planteos administrativos, reconociendo la necesidad de adoptar medidas de prevención y atención de la Violencia Laboral que promuevan la toma de conciencia sobre la importancia de la materia, condenando toda forma de Violencia Laboral; comprometiéndose a realizar acciones de prevención a través de la difusión de información y/o capacitación y a fomentar la utilización de la negociación colectiva como instrumento fundamental para establecer políticas de prevención y tratamiento en el ámbito laboral y a contribuir en las investigaciones y estudios estadísticos que lleva adelante la Oficina de Asesoramiento sobre Violencia Laboral en el sentido de aportar a un mayor conocimiento de la temática a nivel nacional;

Que en forma coincidente este Ministerio de Trabajo y Seguridad Social sostiene que la Violencia Laboral configura una violación a los Derechos Humanos y laborales y atenta contra la integridad de las personas, afectando

su salud psicofísica, su vida laboral y social, lo cual resulta contrario a lo establecido por diversas normas del Derecho Internacional así como legislación y normativa nacional, provincial, municipal y convencional. Asimismo entiende por "Violencia Laboral" el ejercicio abusivo de poder que tiene por finalidad someter o excluir a un/a trabajador/a de su lugar de trabajo. Incluye acoso psicológico, acoso sexual, agresión física y violencia de género. Puede provenir de niveles jerárquicos superiores, del mismo rango o inferiores y puede manifestarse por acción u omisión;

Que la Agenda Provincial de Trabajo Decente de este Organismo Laboral, como así también todo el plexo normativo internacional, nacional y provincial referido a la observancia en materia de Violencia Laboral, coadyuvan al desarrollo de políticas públicas de intervención, a fin de procurar relaciones laborales seguras, tendientes a la igualdad de trato y oportunidades en el mundo del trabajo, y a establecer condiciones de trabajo decente;

Que a los efectos mencionados precedentemente, es vital la creación de áreas de abordaje de este tipo de temáticas, y a la implementación de acciones de intervención, tendientes a procurar la solución de los conflictos suscitados en los ámbitos laborales presentados como casos de Violencia Laboral, como también al inicio de acciones de concientización, sensibilización y naturalización de los diferentes tipos de violencia laboral, para ser tenidos en cuenta tanto por empleadores, como trabajadores en todos los ámbitos de trabajo;

Que conforme al Decreto N° 100/ 11, Reglamentario de la Ley N° 12.817/07 es función, entre otras, de la Subsecretaría de Coordinación para el Trabajo Decente, promover la interacción y articulación con organismos nacionales e internacionales vinculados al trabajo y a la seguridad social, para desarrollar actividades de sensibilización, divulgación, investigación y promoción de las mejoras prácticas, en aras de lograr trabajo decente sustentable;

Que en virtud del decreto mencionado, también es competencia de dicha subsecretaría articular, coordinar y controlar la implementación en las diferentes áreas orgánicas funcionales de la jurisdicción de las políticas, programas y acciones que en materia de trabajo, empleo, condiciones y medio ambiente de trabajo, sean dispuestas por este Ministerio de Trabajo y Seguridad Social;

Que tal como lo establece la normativa provincial, nacional e internacional y los distintos pronunciamientos de organismos supranacionales en la materia, resulta necesaria la intervención de esta cartera laboral en la aplicación de políticas públicas de esta temática;

Que tomado intervención la Dirección General de Asuntos Jurídicos, mediante Dictamen N° 958/2015, expresando que no existen observaciones de carácter legal que formular ante el presente trámite;

Que la gestión encuadra en las facultades establecidas por la Ley N° 12.817/07 y Decreto N° 100/11;

Por ello:

EL MINISTRO DE TRABAJO Y SEGURIDAD SOCIAL

RESUELVE:

ARTÍCULO 1 - Disponer que la implementación de políticas públicas de intervención de esta cartera, en materia de Violencia Laboral, corresponde a la Subsecretaría de Coordinación para el Trabajo Decente, creando un área de abordaje en aras de propender al cumplimiento de los objetivos de la Red Federal sobre Violencia Laboral establecidos en el Acuerdo Marco N° 144/2014 entre el Ministerio de Trabajo, Empleo y Seguridad Social de la Nación y las Autoridades Provinciales comprometidas con el trabajo digno sin Violencia Laboral.

ARTÍCULO 2 - Establecer que el área de intervención sobre Violencia Laboral de la Subsecretaría de Coordi-

nación para el Trabajo Decente, quedará facultada para intervenir de oficio o por denuncia, pudiendo citar a empleadores y/o trabajadores, en virtud de lo establecido por la Ley Provincial N° 10.468 y demás normativa concordante en la materia. Podrá intimar a las partes controversiales a cesar en forma inmediata cualquier acto, acción u omisión que configure algún tipo o clase de violencia laboral, sin perjuicio de disponer las medidas que considere oportunas y necesarias de acuerdo a la gravedad de los hechos sucedidos, pudiendo solicitar la comparencia de otras áreas de este Ministerio de Trabajo y Seguridad Social como así también de organismos públicos-- provinciales, administrativos y/o jurisdiccionales competentes en la materia.

ARTÍCULO 3 - Encomendar a la Subsecretaría de Coordinación para el Trabajo Decente, la redacción del "Protocolo de Intervención sobre Violencia Laboral", determinando las acciones tendientes a resolver los casos que se susciten en la materia en el territorio provincial.

ARTÍCULO 4 - Registrar, comunicar y archivar.

AND... WHAT ABOUT YOU?

**INTERNAL
SURVEY**

8M

2018

**THIS IS AN IDEA TO KNOW HOW, THE PEOPLE WHO
WORK IN THE OMBUDSMAN'S OFFICE THINK ABOUT
THE INTERNATIONAL WOMEN'S DAY.**

To do this, we created an anonymous survey, with open questions for you to be as free as possible to express yourself.



**IN YOUR OPINION:
WHAT DO WE CONMEMORATE
ON THE INTERANTIONAL
WOMEN'S DAY?**



**THE FIGHT FOR EQUAL
LABOUR AND SOCIAL RIGHTS,
EQUAL OPPORTUNIES AND
TREATMENT**



**VIOLENCE AGAINST
WOMEN**

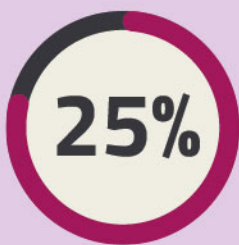


**A HISTORICAL DAY FOR THE A
WARENESS ON THE ACCOMPLISHED
RIGHTS CONQUISTADOS**

3

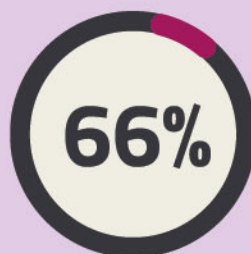
DO YOU THINK THAT WOMEN
AND MEN HAVE THE SAME
OPPORTUNITIES?

YES-NO-I DON'T KNOW- WHY?



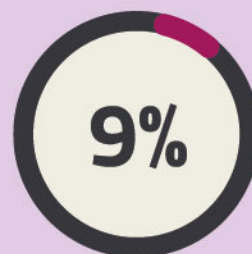
YES

THERE IS EQUALITY
IN THE OPPORTUNITIES
BETWEEN WOMEN
AND MEN



NO

WOMEN AND MEN
DO NOT HAVE THE
SAME OPPORTUNITIES



I DON'T KNOW

THEY IGNORE

The People Interviewed That Answered That There Is No Equality Between Women And Men Showed, In Their Answers, A Broader And More Complex Interpretation And Vision Of This Problem. They Included Factors Related To The Social, Cultural, Legal And Institutional Spheres. Meanwhile, People Who Answered That There Is Equality Expressed Short Answers With A Reduced Look, Taking Into Account Individual Factors.



IN YOUR OPINION IS THERE DISCRIMINATION TOWARDS WOMEN NOWADAYS?

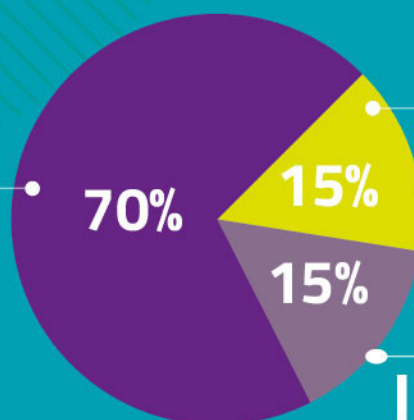
YES – NO – I DON'T KNOW

You can make a comment where you think there is discrimination against women.

MEN

YES

THEY THINK THAT
NOWADAYS
WOMEN SUFFER
FROM DIFFERENT
DISCRIMINATION
FORMS



NO

THERE IS NO
DISCRIMINATION
TODAY TOWARDS
WOMEN

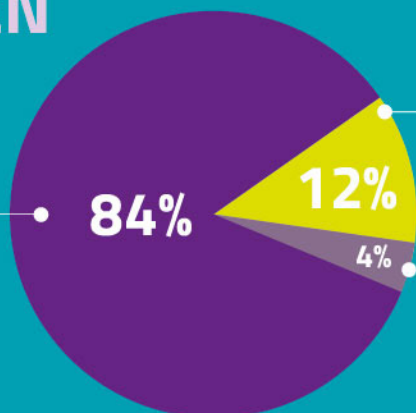
**I DON'T
KNOW**

THEY IGNORE IF
THERE IS
DISCRIMINATION
TOWARDS WOMEN

WOMEN

YES

THEY THINK THAT
NOWADAYS
WOMEN SUFFER
FROM DIFFERENT
DISCRIMINATION
FORMS



NO

THERE IS NO
DISCRIMINATION
TOWARDS WOMEN
NOWADAYS

**I DON'T
KNOW**

THEY IGNORE IF
THERE IS
DISCRIMINATION
TOWARDS WOMEN

As we can observe a bigger number of men and women agree that nowadays, there is discrimination against women. There is also agreement in the spheres where this violence can be seen, everyday life, domestic, working, political and scientific spheres. We can think that almost all the spheres where a woman's life is developed can be a potential discrimination place.



Some women expressed that in the working atmosphere at the ombudsman's office, they have suffered discrimination and/or aggressions just because of the fact that they are women. It is important to take this data and reflect upon the acts in our working place.



**WHICH OPINION, REFLECTION
OR COMMENT GENERATES THE
PHRASE *"IF OUR LIVES ARE NOT
WORTHY, PRODUCE WITHOUT US"***

THERE HAVE BEEN DIVERSE AND VARIED REFLECTIONS REGARDING THIS TASK.

The majority agreed with it, however, others did not feel identified or think that they do not collaborate in stopping inequalities, discrimination and violence against women.

THOSE WHO AGREED

- It makes sense, it shows what the patriarchal and capitalist society does with the female gender, enhancing inequalities and the scenarios that promote them.
- Very true. Women are fundamental in the social structure and she must be recognized in roles and functions that are truly equal and with the effective exercise of the corresponding rights.
- Aimed at the national state that reduced the budget for protection in gender policies programs.
- Aimed at chauvinist men who are defiant and oppose to the call for women rights.
- It is extreme but shows the feeling of women today and the situation that would produce if women disappeared from everyday life.

THOSE WHO DISAGREED

- It generates inequality, conflict between the parts and confrontation. It is not the correct form.
- It highlights the productive role of women but limits the value of women.
- It does not represent me, the phrase does not correspond, children should be educated from their early childhood not to be chauvinist.
- I do not feel identified with it, it is not clear as the femicide and the call for equality are mixed.
- Out of reason, both lives are of the same value and have similar tasks. It is a feminist phrase and I am not macho.

CLARIFICATION ABOUT THE QUESTION:

"If our lives are not worthy, produce without us"

This phrase appears in Argentina in 2016, after the femicide of Lucía Pérez, 16, in Mar Del Plata. Its author is the Argentinian writer Itatí Schvartzman, who, on the night Lucia died wrote: "To Lucía, women go on strike on Wed 19/10", and added to the image a text: "if my life is not worthy, produce without me. Lucía Pérez, 16. Died with pain, buried and raped. They washed her, they dressed her up, and they threw her. For her, for me, for my daughter, for you, for your daughter: I go on strike on wed 19/10. I am not going to be an accomplice, in this country the price of a wall is higher than the price of a woman's life #womenstrike #yoparo."

In a few hours the motto took worldwide relevance. Today the organization #nosotrasparamos (we go on strike) includes hundreds of women in more than 60 countries, which proposed the task in consequence to a question that arises in many women: what would occur if women stopped doing all the things they do? This question makes reference to women's chores in the different spheres of life in which they develop: social, political, working and domestic. Spheres in which discrimination and violence regarding gender are frequent. We know that equality and equity of gender continue to be a horizon to reach, horizon to which everybody should get closer with concrete actions, working for wage inequalities, the distribution of the domestic chores and the chauvinist violence could be eradicated from the lives of women. In general, it is estimated that women earn 27% less than men, have the most precarious jobs and a double working day, as stated in the survey by INDEC in 2013 about unpaid jobs and use of time, women dedicate the double amount of hours to housework. These are some dimensions that are daily hidden or are naturalized and thus not questioned.



GLOSSARY



STEREOTYPES

They refer to those values, opinions, beliefs and acts that a society has, in a particular historical context, about a determined group of people. In this way a contribution is made to create a simplified and arbitrary image of people and their reality, where the particularities and differences of this referring group are not taken into account. For instance, "All women are...", "All men are..." "The gays/lesbians are...". Thus, we understand the stereotypes as simplistic and generalized representations and culturally imposed and, condition our ways of thinking, living and judging people.

FEMINISM

Group or school of thought, social theories and political practices that are openly positioned towards a criticism of a system that historically regulated the relationships of sex-gender. Feminism started at the end of the 1800s as a movement that claimed formal equality between men and women, becoming a transforming movement in itself that still today continues working to deconstruct sociocultural patterns of inequality, discrimination and violence.

GENDER

Group of sociocultural actions, attitudes and feelings assigned to people, that, differing from men and women, by establishing psychological, social and cultural behaviours and characteristics "corresponding" to the male and female. These characteristics are a historical, social, political and cultural construction that transforms in and throughout time and, thus, is modifiable.

PATRIARCHY

It is understood as a system of domination that expresses and reproduces inequalities between genders- delimiting hierarchical spaces full of signification that operate as barriers, that exclude or include subordinate groups. This system of social, political, religious, familiar and military organization imposes physical and symbolic spaces according to genders, being power spaces occupied, generally by men and delimiting the role of women in society. Marcela Lagarde states: "The patriarchy is a generic social order of power, based on a domination mode which paradigm is men. This order secures the supremacy of men and the masculine over the degrading of women and the feminine."

GENDER PERSPECTIVE

It is a transversal approach for the analysis of the relationships of power between men and women. It aims at amplifying the study of the social problems taking into account how reality is touched by the power relationships and inequality between the genders.



CONSIDERATIONS

We would like to generate a reflection time, only five minutes, about a day that commemorates and actualizes the fight for women's human rights and that has an impact in all the social structure. Thus, thinking about oneself in relation with others has generated multiple reactions; from enthusiasm to lack of interest or even underestimation of the activity, some people said not to have time and others just were indifferent to the proposal and/or the interviewer (who are co-workers). As a highlighting point, some people remarked it would be interesting to have training, exchange and reflection spaces regarding these topics linked to violence against women in all the spheres; even though the violence exercised at workplace was the main preoccupation for the participants.

It is noticeable how in some answers, elaborated reflections came out and they were constructed with information that aims to continue generating debates on the topic, however, in other cases some people were not motivated or committed to the reflection or had little information about rights, women or gender.

As a group of work, we understand that the relationship of women with rights is not a topic that must be only tackled by women. We firmly believe that we should continue reflecting and working actively to create a society where equity is affective, where women have the right to live without violence, discrimination or any obstacle in inequality.



PROPOSAL

As for the evidence and presence of sociocultural patterns that generate inequalities inside the ombudsman's office, seen between co-workers, positions, etc. And the look that exists upon women nowadays, we propose to generate training spaces with gender perspective and extending the sensitivation spaces between the male and female workers of the ombudsman's office. This will have an impact in the attention quality of the citizens and a better working atmosphere.

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