

**EXECUTIVE SUMMARY OF THE 2014 ANNUAL REPORT OF THE OFFICE OF THE SPECIAL
RAPPORTEUR FOR FREEDOM OF EXPRESSION OF THE IACHR**

- Limited progress in the practice of freedom of expression.
- Increase in violence against journalists.
- Expansion of the use of criminal law to sanction expressions of public interest.
- Excessive reaction against protesters.
- Lack of transparency and limits to electronic surveillance programs.
- Concentration of the media and exclusion of the communal sector in the agenda of pending issues.

In its assessment over the situation of freedom of expression in 2014, the Office of the Special Rapporteur for Freedom of Expression of the Inter American Commission of Human Rights (IACHR) draws attention to the increase in murders, intimidation and threats, such as the use of criminal law against journalists and unreasonable sanctions imposed on the media in some countries. It also manifests concerns on the excessive response of various States to the right to peaceful demonstration, arrests, aggressions and the rupture of equipment towards (media) communicators. Mass surveillance without the proper guarantees for privacy and intimacy, and the debate of laws that allow for the massive retention and treatment of personal data, are recent challenges arising in the hemisphere with regards to freedom of expression.

The 7th of May 2015, the IACHR presented before the Committee on Juridical and Political Affairs of the Organization of American States (OAS) its Annual Report, whose second volume incorporates the Report of the Office of the Special Rapporteur for Freedom of Expression.

This is the sixteenth report prepared by the Rapporteur since its creation within the IACHR in 1998, and covers the activities and the events that took place during the months of January to December 2014, period in which the office was under the responsibility of the Rapporteur Catalina Botero, until early October, and the Rapporteur Edison Lanza since the 6th of that month.

Among the progress registered, the Office of the Special Rapporteur highlights the enactment of two of its new laws on access to public information (Colombia and Paraguay), the granting of constitutional autonomy to the Federal Institute of Access to Public Information of Mexico (IFAI), and the approval of the Internet's Civil Framework in Brazil. Also, the law on Audiovisual Communication Services in Uruguay, with greater guarantees for the exercise of freedom of expression, and the Telecommunications Law in Mexico, which introduced important changes to the legal framework in this topic.

Besides the evaluation of the situation of freedom of expression in the hemisphere (Chapter III), the report of the Office of the Rapporteur includes a thematic report on the standards of freedom of expression for the transition to an open, diverse, plural and inclusive digital television (Chapter III). The report also incorporates a study on the characteristics of the

supervisory bodies of access to public information in 10 different countries of the hemisphere (Chapter IV).

As usual, the report includes a series of recommendations for the States to overcome the obstacles that persist in the region for the full exercise of the right to freedom of expression and access to public information.

Violence against journalists:

The year 2014 was a tragic year for journalism in the Americas with at least 25 journalists murdered for reasons that could be related to the exercise of freedom of expression. It was also verified the murder of two journalists' relatives, victims of the attack aimed at these journalists. The violence situation was exceptionally serious, with a significant increase in deaths compared with the 18 victims documented in 2013. Among those murdered in the year under review there were seven journalists and an assistant of daily or weekly newspapers, two television presenters and reporters, five cameramen, five journalists from radio, one Twitter user, one community radio journalist, one communicator and owner of a television channel, one journalist and blogger, and one journalist and editor of a website.

Mexico was the country with the most murders of media workers and citizens who make use of social networks, with eight cases that could be associated with the exercise of freedom of expression. In addition, the Office of the Special Rapporteur recorded the death of a child in an attack aimed at his father, a community radio presenter.

In Brazil and Paraguay four murders were recorded in each country related to the exercise of journalism in critical regions of organized crime. In Honduras, three journalists were killed in the departments of Yoro and Comayagua. Meanwhile, in Colombia and Peru two deaths were reported in each country, and the wife of a Peruvian journalist died trying to defend an attack at his workplace. In El Salvador and Dominican Republic there was one death in each case.

In addition to these serious incidents, the violence against journalists was also expressed through more than 400 attacks, threats, harassment, intimidation and physical attacks against journalists and media throughout the region. In most cases, the violence occurred after the journalists reported acts linked to organized crimes or linked to political or police corruption phenomena.

The high levels of violence against journalists can be explained, at least in part, by the impunity enjoyed by the perpetrators of these attacks. The lack of justice becomes an encouragement to new acts of violence. Consequently, the effect in terms of the right to freedom of expression and information is devastating in areas where, to the journalist's death, a chilling effect on the remaining media workers that promotes the silencing of information about what happens in those regions is added.

The Office of the Special Rapporteur recommends that the States adopt appropriate prevention mechanisms to prevent violence against journalists, including public condemnation of any act of aggression; the adoption of effective measures of protection to ensure the safety of those who are subject to special risk by exercising their right to freedom of expression; to carry out serious, impartial and effective investigations into the acts of

violence committed against journalists and social media workers; the trial and conviction of all those responsible for these acts, and adequate reparation to victims and their families.

Social Protests

The Annual Report of the Office of the Special Rapporteur for Freedom of Expression also highlights the increasing obstacles stemming from the State's reaction to the social protests that have taken place in the Americas. In particular, information was received regarding numerous arrests, threats and aggressions that were committed against journalists, media communicators, protestors and users of social media that were reporting on the manifestations.

The Office of the Special Rapporteur received information from more than 40 attacks suffered by journalists and media communicators in Brazil. Among them, 13 had been detained under the cover of demonstrations. Also, according to the information received, hundreds of protestors would have been attacked and detained by alleged members of the police forces during the social protests carried out in 2014.

In Cuba, over four thousand arrests were reported: journalists, lawyers, opponents, media communicators, bloggers, activists, religious leaders, members of the Ladies in White [*Damas de Blanco*] and other organizations were detained, the majority for short periods. Between journalists, bloggers and media communicators, there were over 70 arrests.

The Office of the Special Rapporteur had knowledge of the arrest of approximately 120 people, 54 of which would be adolescents, during the march organized by trade unions and various social organizations against some of the social policies in Ecuador. At the time, a cameraman was injured.

The Office of the Especial Rapporteur also received information on the excessive use of force and the detention of more than 600 people under the cover of demonstrations in several cities of the United States. At least 17 journalists were detained whilst covering these protests against police violence towards Afro-Americans.

In Mexico, the protests inside the country grew since the disappearance of 43 students of the '*Escuela Nacional Rural*' of Ayotzinapa the 26th of September. In these protests, dozens of physical attacks against journalists and media communicators were recorded, and six detentions.

In Venezuela, the police forces and irregular groups have left a result of more than 130 aggressions against journalists, with 40 of those who were covering the protests being arrested. According to the data published by the Attorney General of the Republic of Venezuela, the report registered that during the first two months of protests 41 people were killed, 813 wounded and 1,854 people were arrested. Opposing political leaders were arrested as a result of their calls for demonstrations and some of them continue to be imprisoned.

The Office of the Special Rapporteur recommends the Member States of the OAS to adopt special measures to protect the journalists that cover situations of armed conflict and intensified social conflict and guarantee that they will not be detained, threatened, assaulted nor their rights limited in any form because they are exercising their profession; and that their

material or equipment are not destroyed or confiscated by public authorities among other suggestions for the protection of journalists. Similarly, it recommends the States to ensure the protection of people and refrain from stigmatizing or stereotyping social protestors and their demands, and avoid making generalizations based on the behavior of particular groups or isolated events. If security forces have to act in a demonstration, they must use the safest and least harmful measures of the rights of the people.

Use of criminal law and the imposition of subsequent liability

Another situation that restricts freedom of expression in the region is the growing use of criminal law to punish criticism or the dissemination of public interest information by journalists and human rights defenders. Criminal proceedings were initiated in 2014 by public officials in Brazil, Honduras, Ecuador, Venezuela and Guatemala.

In several countries there are still criminal codes that have yet to be adjusted to inter-American standards on freedom of expression. These laws allow for the imposition of disproportionate measures that have a chilling effect incompatible with a democratic society.

The Office of the Special Rapporteur noted with concern the use of administrative sanctions to restrict the exercise of freedom of expression. The most concerning situation is found in Ecuador, due to content-related restrictions established by the Communications Act. The text contains vague and imprecise provisions, and establishes penalties that are disproportionate and unnecessary in a democratic society, an issue addressed by the Office of the Special Rapporteur previously.

The Office of the Special Rapporteur gathered information of at least 36 sanctions imposed in 2014 against journalists, cartoonists, and media outlets for the implementation of this Act that may infringe international standards of freedom of expression. The sanctions have consisted of written warnings to the media, public apology orders for discriminatory content, requests for correction and the dissemination of certain information and the issuing of penalties.

In a fully democratic system public debate should be promoted. States should ensure greater openness to expressions and assessments made by citizens as an accountability tool for democracy. Therefore, the Office of the Special Rapporteur recommends the States to abolish the *desacato* laws and the laws on criminal defamation regarding information about issues of public interest, modify laws that are ambiguous or vague that restrict freedom of information, and promote the inclusion of inter-American standards in civil legislation so that civil proceedings against individuals who have made statements about public officials or about matters of public interest apply the standard of actual malice, in accordance with principle 10 of the Declaration of Principles, and are proportionate and reasonable.

Stigmatizing statements

The Office of the Special Rapporteur continued receiving reports in 2014 regarding statements made by high state authorities that belittled and stigmatized the work of some journalists, media and NGOs, in particular, in Ecuador, Venezuela and Argentina.

This Office exhorts the authorities to refrain from making public statements that could stigmatize journalists, media outlets, and human rights defenders, in particular those that could put the life and safety of individuals at risk.

Freedom of Expression and the Internet

The Office of the Special Rapporteur welcomes the adoption of the Civil Rights Framework for the Internet [*Marco Civil de Internet*] in Brazil, after a process of consultation with all stakeholders. The legislation enshrines the principle of net neutrality and establishes rules to protect the users' privacy. The protection to Internet service providers, hosting and websites, about the legal responsibility of the content uploaded by third parties, is a great contribution of this law. Other countries such as Argentina, Chile, Mexico, and Canada have begun to adapt its legislation to international principles applicable to the exercise of the right to freedom of expression on the Internet.

However, several States in the region have promoted efforts to regulate the Internet that do not take into account the special features of this technology and as a result, could restrict freedom of expression.

Some Congress has begun to legislate to establish the retention of data for surveillance or the possibility of restricting access to Internet during demonstrations or States of emergency.

In its report, the Office of the Special Rapporteur noted the existence of programs and practices of surveillance and security that may cause serious harm to the universal rights to privacy and freedom of thought and expression. In particular, various media continued revealing information on the extent of mass surveillance programs implemented by the National Security Agency in the United States.

The Office of the Special Rapporteur recommends that States refrain from applying to the Internet regulatory approaches developed for other media and design an alternative and specific regulatory framework to this media, in accordance with existing international standards on freedom of expression. In particular, ensure that the processing of data and Internet traffic is not subject to any discrimination, in accordance with the principle of net neutrality. It also reiterates its recommendation to States to review their legislation to ensure that any program of surveillance of private communications, attend principles of necessity and proportionality, in accordance with international human rights law.

Other relevant situations

In its annual publication, the Office of the Special Rapporteur reported that some countries continue without legislation on community broadcasting. In particular, the Office of the Special Rapporteur received troubling information about the lack of progress within the Congress of Guatemala for the adoption of a law regulating community radio in the country, which would have led to an increase in the criminalization of this sector.

The Office of the Special Rapporteur recorded cases that could constitute the exercise of indirect censorship, as the arbitrary placement of official advertising in several countries and the undue restrictions on access to newsprint in Venezuela. It also stressed the importance of

adopting appropriate processes of implementation of Communication Services laws that have been adopted in countries such as Argentina and the need that the competent authority for broadcasting in the Member States is a technical body independent from political and economy influence, among others.

The Annual Report shows that in some countries it has been established the undue concentration of media ownership and control - whether private or public - and the risks this poses to freedom of expression. The Office of the Special Rapporteur noted with concern in 2014 the adoption of legal decisions designed to control and veto of the information before it is disseminated.

The 2014 Annual Report of the Office of the Special Rapporteur is available by clicking [here](#).

The Office of the Special Rapporteur for Freedom of Expression was created by the Inter-American Commission on Human Rights (IACHR) to encourage the defense of the right to freedom of thought and expression in the hemisphere, given the fundamental role this right plays in consolidating and developing the democratic system.