

OAS Shows Perils of Being Journalist in Brazil

Contributed by Newsroom
Thursday, 21 April 2005

In its evaluation of the situation of freedom of expression in 2004, the Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (IACHR) called attention to the increase in the acts of violence against media workers in Latin America, including Brazil.

In the 2004 Annual Report there are accounts of 11 murders of media workers related to their work as journalists. The IACHR presented its Annual Report before the Committee on Juridical and Political Affairs of the Organization of American States (OAS) last Friday, April 15, 2005. The third volume of the report contains the Report of the Office of the Special Rapporteur for Freedom of Expression.

Besides the evaluation of the situation of freedom of expression in the Region, the report of the Office includes a summary of the caselaw on freedom of expression in the United Nations Human Rights Committee; a report on access to information in the member states of the OAS; and contains a doctrinal report on concentration of media ownership and its impact on freedom of expression.

The annual report also analyzes the problem of hate speech in the context of the exercise of freedom of expression.

Moreover, the Office, following its biannual custom, reported the state of advances and setbacks in the limitations to freedom of expression through laws of desacato and of criminal defamation.

This year, the Office highlighted the important decisions of the Inter-American Court of Human Rights, which stressed the importance of freedom of expression in democratic societies by rejecting criminal liability as consequence of determined expressions.

When making the report public, the Special Rapporteur for Freedom of Expression asserted that "the great challenge facing the attacks on freedom of expression and of the press is that the society in its whole must take them on as their own fundamental rights, for their development and life in democracy, and not as a rights of a few privileged ones".

Brazil

In August, a legislative initiative proposed by professional organizations was sent for consideration to the Brazilian Chamber of Deputies, which sought to oversee the activity of journalists and create a Federal Journalism Council and Regional Journalism Councils in the country's 26 states.

The councils proposed would have the authority to "orient, discipline, and oversee" the exercise of journalism, and to impose sanctions on those who exercised it "irresponsibly," through warnings, fines, or suspension of professional registration for up to 30 days, or definitive expulsion.

In addition, the proposal required that journalists be registered with the Council as a condition for exercising their profession. Nonetheless, the initiative was not well-received in Congress, where in November different parliamentary groups signed an agreement to vote on and squarely reject the proposal.[1]

This year once again journalists were murdered in Brazil. On April 24, 37-year-old journalist José Carlos Araújo, of Radio Timbaúba FM, was murdered. Araújo addressed police-related issues.

On April 27, 2004, Helton Jonas Gonçalves de Oliveira was arrested; he had reportedly confessed to the murder,[2] and had indicated that it was because Araújo had accused him, on his program José Carlos Entrevista, of being responsible for several crimes, which he denied.[3]

On July 11, 2004, Jorge Lourenço dos Santos, owner and commentator on the radio station Criativa FM, was murdered in the state of Alagoas, in the Brazilian Northeast.[4]

On his program, dos Santos criticized local politicians and businesspersons. He had received death threats and had been targeted in two prior assassination attempts. Dos Santos had also been involved in politics and had run for the local council in a neighboring community.[5]

On August 12, 2004, the daily A Crítica of Manaus, state of Amazonas, reported that its journalists had received death threats and had suffered persecution and intimidation. Among those impacted were the team made up of reporter Gerson Dantas, photographer Antônio Lima, and driver Ednelson Arruda.[6]

The paper's columnist Orlando Farias de Lima, editor-in-chief Taiza Brito, and other journalists also received death threats, after disseminating information on a police operation that culminated in the detention of several public officials and businesspersons.

This year, the Office of the Special Rapporteur received information on a decision of July 6, 2004, by the Court of Appeals of Pará that confirmed a guilty judgment[7] against journalist Lúcio Flávio Pinto, director of the daily Jornal Pessoal of Belém, the capital of Pará.

In 2000, Pinto published information criticizing a decision of a judge who brought the criminal action against him. Pinto appealed the decision to the same Court, but his appeal was rejected. Other remedies being pursued by Pinto may be analyzed in the Court of Appeals and in the Federal Supreme Court.[8]

In previous reports, the Office of the Special Rapporteur has described proceedings against journalists who publish reports and criticisms of public officials, particularly those related to judicial decisions.

These proceedings are possible due to the existence of criminal laws that may be invoked by public officials, and which could have a chilling effect for those who wish to participate in the free democratic debate.

The Office of the Special Rapporteur urges Brazilian authorities to review this legislation in light of the standards established by the inter-American system.

In May 2004, the Office of the Special Rapporteur expressed its concern through a press release[9] regarding the case of journalist Larry Rohter, correspondent of the U.S. newspaper The New York Times, whose visa was cancelled on May 11, 2004, by the government of Brazil after he published information on certain personal conduct by the President of Brazil.[10]

The newspaper's attorneys sent a letter to the government, and on May 17, 2004, Minister of Justice Márcio Thomas Bastos revoked the decision and closed the case.[11]

[1] Estadão, "Acordo enterra projeto que cria Conselho Federal de Jornalismo," at www.estadao.com.br, November 12, 2004 and Inter-American Press Association, "Preocupa a la SIP proyecto de ley en Brasil, contrario a la libertad de expresión y de prensa," press release of August 10, 2004.

[2] The police unit at Timbaúba also established that Gonçalves de Oliveira was assisted by Marcelo Melo, and a third person who allegedly provided them with a motorcycle.

[3] Reporters without Borders, "Asesinado un periodista en el Estado de Pernambuco," www.rsf.fr May 5, 2004. Committee to Protect Journalists, Otro Periodista Asesinado, April 30, 2004, at <http://www.ifex.org>.

[4] Dos Santos was killed in front of his house, in Santana do Ipanema, some 200 kilometers from Maceió.

[5] Committee to Protect Journalists, "Periodista radial muere asesinado en el estado nororiental de Alagoas," July 14 2004, at International Freedom of Information Exchange (IFEX), www.ifex.org.

[6] The team was headed to the district of President Figueiredo to evaluate the conditions of the city and the repercussions of the jailing of the mayor, when it was followed by five cars. The team had to return, escorted by Military Police and the Civilian Police of Manaus.

[7] In February 2003, the 16th Criminal Jurisdiction of the Forum of Belém convicted Pinto and sentenced him to one year in prison, at trial. In its July decision, the appellate court modified the penalty to a fine of some US\$ 3,500, as it was his first conviction.

[8] Asociación por la Defensa del Periodismo Independiente (PERIODISTAS), "Periodista apela condena penal," July 29, 2004 at www.ifex.org.

[9] Press Release of the Special Rapporteur for Freedom of Expression 105/04 at [http://www.cidh.org/Office of the Special Rapporteur/English/Press Rel04/PRlease10504.htm](http://www.cidh.org/Office%20of%20the%20Special%20Rapporteur/English/Press%20Rel04/PRlease10504.htm), O Estado de Minas, "Lula só volta atrás com retratação de jornalista do NYT," (www.uai.com.br), May 13, 2004.

[10] Law on Foreigners (Estatuto do Estrangeiro) (Law 6,815, of August 19, 1980). [www.oas.org/juridico/ mla/pt/bra/pt](http://www.oas.org/juridico/mla/pt/bra/pt), Ministry of Justice of Brazil, "Nota à Imprensa" (www.mj.gov.br/noticias), May 11, 2004.

[11] Ministry of Justice of Brazil. "Thomas Bastos assina despacho sobre caso New York Times" (www.mj.gov.br/noticias), May 17, 2004, O Estado de Minas, "Ministro revoga portaria que cassou visto de Larry Rohter" (www.estadao.com.br), May 17, 2004.