

SELF-CENSORSHIP IN LATIN AMERICA

Presentation made by Gerardo Reyes* by the Communications Media on
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Nobel Prize winner Camilo José Cela,¹ said that there is nothing worse for a writer than self-censorship. That is the feeling of hundreds of Latin American reporters whose more common source of information is fear. Most Latin American journalists fear reporting controversial news because they may be killed. They fear exposing big corporations because the corporations own their jobs. They fear losing guerrilla sources, military sources, and economic sources because their stories do not reflect what the sources expected. They fear being reprimanded by editors because a political candidate with close ties to the owner of the paper has been singled out by the reporter in a corruption story.

These are not rhetorical complaints. I have been listening to the same frustrations since 1993, when more than one hundred Latin America investigative reporters, gathered in Santiago, Chile, to discuss the challenges of our profession in the region. As an organizer of the event, I distributed a survey asking the reporters to evaluate all the restrictions they face when they try to publish investigative stories. A total of 64 reporters and editors answered the questionnaire. The survey resulted:

- **Thirty-one percent** responded that the main obstacle for investigative reporting was the lack of access to documents and information within government offices;
- **Twenty-eight percent** complained that their media organization does not have the resources to hire full time investigative reporters;

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¹ Camilo Jose Cela Foundation, at <http://www.celafund.es> (last visited Oct. 13, 2002).

- **Twenty-three percent** responded that their principal impediment was “the warnings from editors and media owners that restrain them from looking into issues that could affect advertisers, relatives, personal friends or political leaders;” and
- **Seventeen percent** said that threats to their lives were their main problem.

I conduct this type of survey in a less scientific manner when I travel to Latin American countries. In February 2002, at the Universidad de la Sabana Media Observatory, in Bogotá, I conducted a survey among one hundred and fifty-nine journalists, whose answers confirmed that little has changed since my first evaluation in 1993. The survey asked the Colombian reporters: “Do you think that self-censorship exists within the media organization for which you work?”

- **Fifty-two percent** answered they believe censorship exists within their organization and forty-two percent said they do not;
- **Thirty-one percent** responded they thought the cause for self censorship was “economic interest” and twenty-five percent believed the cause was “political interest;”
- **Twenty-six percent** responded they had to totally or partially hold the publication of stories, because of “fear of losing their jobs;”.
- **Seventeen percent** said they were under pressure from the two main guerrillas groups: Fuerzas Armadas Revolucionaria (FARC)² and Ejercito de Liberación Nacional (ELN).³

I will explain why this is happening in a general approach and explain the situation in a country where all of these obstacles convene simultaneously.

² Revolutionary Armed Forces, at <http://www.uh.cu/infogral/areasuh/defensa/far.htm> (last visited Oct. 13, 2002).

³ Ejercito de Liberacion Nacional (ELN), at <http://www.hot.ee/ezln> (last visited Oct. 13, 2002).

I. THE SECRET SANCTUARIES

With the exception of Colombia, Costa Rica and lately Mexico, Latin American laws granting liberal access to information (the equivalent of the Freedom of Information Act)⁴ are still dreams to come true. The reason for this is because governments are not very willing to open the doors of their secret sanctuaries to the media. It is also because journalists have been more active in complaining about the lack of laws than in trying to convince independent lawmakers to pass bills that provide the key to those safe havens.

The constitutional grounds for the right to obtain information are stipulated in most Latin American countries' constitutions under the name of the "right of petition."⁵ More or less those guidelines have the same tone as the following article from the constitution of Chile.⁶

The Chilean Constitution guarantees to all people the right to file petitions with authority regarding any matter of public or private interest, the only other limitation on filing the request is that it must be done in a respectful and convenient manner.

The idea sounds democratic. The implementation of those well-expressed constitutional guidelines is missing in most of the Latin American codes. There are no rules that regulate practical and procedural issues for answering requests, appeals and disciplinary actions for officials who ignore the petitions.

That should be the next step, but reporters have told me that it has not been implemented in most Latin American countries because the constitutional guidelines imply a very sensitive and uncomfortable task: the government would be forced to define what should be considered public and what should be confidential, as well as the notion of security interests and military secrets.

⁴ Freedom of Information Act, 5 U.S.C. § 552 (1996), available at <http://www.usdog.gov/04/foia> (on file with the NYLS Journal of Media Law and Policy).

⁵ *Thornhill v. Alabama*, 310 U.S. 88 (1940).

⁶ CHILE CONST. art. I, § 1.

In some countries the doors are opening slowly. After sixty-five years of official secretiveness, Mexican reporters won a victory on June 2002, when President Vicente Fox sanctioned a federal freedom of information law that facilitated the scrutiny of official activities.⁷ The new legislation allows Mexicans to verify government salaries, monitor public spending and view the results of federal audits.⁸

But the absence of game rules in other countries for exercising the right to petition makes the lives of journalists more miserable because they have to rely completely on human sources. Those sources put their jobs at risk when they sneak documents under the table to the reporters (the most common way to get them) but it is also true that they decide what kind of information they want to show or hide.

In a more democratic atmosphere, giving out that information would be a duty, not a favor. As a part of this culture it is symptomatic that some Latin American reporters apologize to high-ranking officials before they ask a regular question in a press conference.

The distorted belief that information is an official treasure has another side effect: the relationship between the person inside the official bunker and the reporter is so unbalanced that many times journalists have to restrain themselves from publishing stories that may have an effect on their sources, fearing they will lose them.

American reporters sometimes face the same dilemma, but not as often as their Latin colleagues because the Americans have the chance of obtaining documents from public offices by simply making a phone call.

II. A WEB OF INTERESTS

The second important restriction on Latin American reporters is economic and political pressure.

⁷ Kate Doyle, *Mexico's New Freedom of Information Law*, ¶ 1 (June 10, 2002), at <http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB68/> (last visited Oct. 13, 2002) (on file with NYLS Media Law & Policy).

⁸ *Id.* at ¶ 3.

In order to understand the scope of the problem, look at the media property structure in the following Latin American countries:

Grupo Clarín⁹ is the leading media group in the Spanish-speaking world. Its principal undertakings are:¹⁰

- i) **Printed media sector** : *Clarín* and *Olé* newspapers, *Artes Gráfica Rioplatense*, *Elle* magazine, stakes in *Cimeco*, *Papel Prensa* and *DyN* ;
- ii) **Audio-visual contents**: Canal 13, Radio Mitre, cable channels, film production;
- iii) **Television distribution**: Multicanal and DirecTV, sport (Trisa , Teledeportes);
- iv) **Connectivity and content production for Internet** : Prima – Ciudad Internet) and telecommunications (Audiotel and a stake in CTI Móvil); and
- v) **Shareholders**: Mrs. Ernestina Herrera de Noble, Mr. Héctor Horacio Magonetto, Mr. José Antonio Aranda and Mr. Lucio Rafael Pagliaro. Goldman Sachs (18 percent minority stake).

In Brazil, the largest country in South America, the media is largely under the control of two groups.¹¹ The first of these groups is Editora Abril.¹²

Editora Abril is South America's leading publisher of consumer magazines with over two hundred and forty titles. Eight of the ten largest circulation publications in Brazil are Abril magazines, and they have sixty-seven

⁹ *Grupo Clarin*, <http://www.grupoclarin.com.ar/english/grupoclarin/index.html> (last visited Oct. 13, 2002) (on file with NYLS Media Law & Policy).

¹⁰ *Id.*

¹¹ *Grupos America Latin; Brazil* http://www.unav.es/fcom/guia/medios/fr_3medios_americalatina_gruposed.htm (last visited Oct. 13, 2002) (on file with NYLS Media Law & Policy).

¹² *Editoria Abril*, <http://www.abril.com.br> (last visited Oct. 13, 2002) (on file with NYLS Media Law & Policy).

percent of the magazine market share.¹³ UOL is Brazil's largest paid Internet provider. UOL Inc. is the largest provider of online and Internet services in Latin America, with 5.4 billion page views in the fourth quarter of 2000. Abril's revenue in 2001 was approximately one billion dollars.¹⁴

In September 2000, the Canadian company Quebecor World signed a ten-year agreement with Editora Abril S.A. to print eighty-three million magazines per year. The contract covers eighteen titles, including *VEJA*.¹⁵

The second group controlling the Media in Brazil is the Grupo Globo.¹⁶ By the time patriarch Roberto Marinho handed over control to his three sons in the mid-1990s, he had created the world's fourth-largest television network (behind NBC, CBS and ABC), Brazil's major radio network (Radio Globo), a leading Rio de Janeiro newspaper, *O Globo*,¹⁷ and the country's second largest publishing house Editora Globo.¹⁸

Globo receives half of the total amount spent annually in Brazil on advertising, approximately \$6.4 billion in 1998 including seventy-four percent of all broadcast TV ads.¹⁹

¹³ *Editora Abril S.A. Relatório sobre as demonstrações contábeis em 31 de dezembro de 1999 e 1998 (Prom-Forma)*, page 4, <http://www.abril.com.br/balanco/Port/ano99/imagens/r-p-1999.pdf> (last visited Oct. 13, 2002) (on file with NYLS Media Law & Policy).

¹⁴ *Editora Abril S.A. Relatório Sobre As Demonstrações Contábeis, em 31 de dezembro de 1999 e 1998 (Pro Forma)*, p.4, www2.uol.com.br/abril/balanco/Port/ano2001/bal01.pdf (last visited November 21, 2002).

¹⁵ *Quebecor World Inc.: Key Developments: September 7, 2000*, <http://news.moneycentral.msn.com/ticker/sigdev.asp?Symbol=IQW> (last visited Oct. 13, 2002).

¹⁶ *Grupo Globo*, <http://www.globo.com> (last visited Oct. 13, 2002) (on file with NYLS Media Law & Policy).

¹⁷ *O Globo Online*, available at <http://oglobo.globo.com> (last visited Oct. 18, 2002) (on file with NYLS Media Law & Policy).

¹⁸ *Editora Globo*, available at <http://editoraglobo.globo.com> (last visited Oct. 18, 2002) (on file with NYLS Media Law & Policy).

¹⁹ *Brazil's TV Globo International Ltd. To Use Loral Skynet's Telstar 12 Satellite for Hemispheric Satellite Newgathering Application*, available at <http://www.loral.com/inthenews/020730.html> (last visited Oct. 18, 2002) (on file with NYLS Journal of Media Law & Policy).

In Venezuela,²⁰ Cisneros Group includes more than fifty companies with combined annual revenues of more than \$4 billion. The Cisneros Group's flagship broadcasting property is Venevision. Purchased in 1961, Venevision is the leading television network in Venezuela and distributes programming globally through Venevision International, based in Miami, Florida.

The Cisneros Group is the largest shareholder of Univision, the most watched television network among the thirty-five million Hispanics in the United States. Univision has an eighty-six percent market share and is the fifth largest network in the United States.

The Cisneros Group is also the largest shareholder in Galavision, the leading U.S. Spanish-language cable television network. One of the cornerstone investments of the Cisneros Group is America Online Latin America, a partnership with America Online that provides global interactive services to the region. Partnered with Hughes Electronics, the Cisneros Group controls DIRECTV Latin America. DIRECTV Latin America has over 1.5 million subscribers providing three hundred video and audio channels to twenty-eight countries.

The ownership of these companies is highly concentrated in the hands of a single family or a small group of investors. It would not be a problem if the majority of stockholders simply devoted their lives, as some of them do, to the jet-set feverish calendar in New York or to the promotion of art and philanthropic crusades in Europe.

The problem is that besides their social and cultural celebrations, most of the media tycoons in Latin America are busy exercising their power in the day-to-day operations of their media empires. They accomplish this by placing their friends and relatives in the newsroom to maintain the control of contents and the political orientation of their products.

In our countries media moguls elect presidents, governors and mayors by giving them unlimited cash contributions, free time on television advertisements

²⁰ Venezuela Cisneros Group, *available at* <http://www.Cisneros.com/about/aboutUs.asp> (last visited Oct. 18, 2002) (on file with NYLS Journal of Media Law & Policy).

in newspapers, full coverage of their campaigns, and even luxury private airplanes for political rallies. All of these benefits flourish in the self-censorship that media moguls exercise over their friends.. There is no restriction for free political propaganda in Latin America, and legislation does not categorize those advertising favors as political contributions.

The media owners negotiate silence or noise. In Brazil, the Globo empire emerged after Marinho²¹ agreed not to criticize the policies or iron-fisted methods of the ruling military regimes (1964-1985). In Venezuela, the Cisneros Family has had access to the Presidential Palace since the early 1960s, when the family patriarch Diego Cisneros purchased a television station that was in the hands of a leftist union. The Cisneros and the Presidential Palace have remained close, and the Cisneros have been the main financial supporters of all the democratic presidents over the past forty years. In 1992, they portrayed themselves as the Venezuela's saviors of democracy when they allowed president Carlos Andres Pérez to address the nation from a Venevision station after a group of military insurgents, led by then colonel Hugo Chavez, assaulted the presidential palace.²²

The line that divides the advertising department and the newsroom is blurring in some newspapers at both a national and provincial level. A clear example of the importance of protection to the main advertisers just happened this year. The U.S. Securities and Exchange Commission imposed an unprecedented fine on BellSouth for two illicit actions in Latin America. The first, in Nicaragua, involved the payment of a bribe. The second, in Venezuela, regarded false invoices to justify overseas transfers.²³ One cannot easily find these stories on the Internet or in the newspapers, probably due to the millions of advertising dollars spent by BellSouth in Latin American countries annually.

²¹ The following site indicates that Globo was born as a medium for owner Marinho and his ultra conservative political views in support of the military relationship , *available at* http://www.pacificislandtravel.com/sound_americas/brazil/about_destin/media_html (last visited Oct. 18, 2002).

²² Lucia Newman *Former Coup Leader Chavez Takes Office in Venezuela*, The Associated Press, Reuters, *available at* <http://www.cnn.com/WORLD/Americas/9902/02/Venezuela.01/> (last visited Oct. 18, 2002)

²³ U.S. Securities & Exchange Commission, *available at* <http://www.sec.gov/litigation/litleases/lr17310.htm> (last visited Oct. 21, 2002).

Overwhelmed by this complex web of interests, Latin reporters have learned to read a sort of invisible radar in the newsrooms; and in the non-transit zones, covered by those issues, persons and institutions cannot be mentioned if they are related to any wrongdoing. I do not know a single reporter in the region who has not had the depressing experience of coming back from the editor's office with an order to hold a story because it trespasses the radar's silence zone.

Self-censorship is a taboo issue in the region. It is a topic, which nobody wants to discuss, because it would have the same consequences as having published the censored story. Before coming to this presentation, I posted a message in a freedom of the press regional institute asking for examples of censorship and I received only two answers. One response was from a Colombian reporter whose column on censorship was censored by the paper in which it was going to be published. The other was from an Argentinean reporter who asked me not to identify her media organization.

Self-censorship has the same perverse effect as regular external control: silence. That is the final result of both practices, regardless of whether it comes from the scissors of the government or from the delete key of the editor. The difference is that in the first case that decision sets off all kind of alarms and disapproval. In the second case it remains as a soft talk (chismorreo) among reporters. Quite often you will not find a public discussion about that kind of censorship. At least it has not been an issue in any convention of the Inter American Press Association (IAPA), which gathers owners and editors of print media in Latin America and the United States.²⁴

III. KILLING THE MESSENGER

The obstacles discussed so far may seem sophisticated when compared to the threats to the lives of journalists in Colombia, the most dangerous country in the world for reporters, after Afghanistan, according to The World Association of Newspapers.²⁵

²⁴ International Freedom of Expression Exchange: Inter-American Press Association, <http://www.ifex.org/members/iapa/> (last visited Oct. 13, 2002) (on file with NYLS Journal of Media Law & Policy).

²⁵ "Colombian Conference on Violence Against Media," *World Associate of Newspapers*, Jan. 17, 2002 available at <http://www.comminit.com/DevNews2002/sld-3953.html> (last visited October 21, 2002).

Sixty journalists and other media workers were killed worldwide in 2001; compared to fifty-three the previous year.²⁶ In Colombia, ten journalists were killed, the highest death toll for a single country. Six more journalists were killed in other Latin American countries, making Latin America the most dangerous region for journalists to work.²⁷

Allow me to recite a very eloquent analysis by a reporter at the *Washington Post*:

In a country where a four-decade civil war has reached into every facet of life, few institutions reflect the complexity of the conflict better than the news media. Reporting in Colombia, particularly by Colombians, has long been a perilous vocation. But mounting violence, combined with the weakness of public institutions and the blurry line between journalism and advocacy in a country at war with itself, have increasingly placed journalists high on the list of targets.” Reporters trying to stick to the conviction that they are at the center and maintain this position in a very polarized society, according to Rafael Santos, co-editor in chief of Colombia's only national daily newspaper, *El Tiempo*.²⁸

The question is, are they succeeding? In a regular war you have two defined sides in conflict. In Colombia, the war has so many factions in conflict that it is almost impossible for reporters not to be in a constant crossfire, even if their

²⁶ Press Freedom: “Media Employees Killed So Far in 2002, Columbia” available at <http://www.wan-press.org/pf/killed/22.01.02.html>.

²⁷ *Id.*

²⁸ Scott Wilson, *Colombian Reporters Seek Elusive Truth Amid Peril* The Washington Post, Oct. 14, 2002, at A28 available at <http://www.rose-hulman.edu/~delacova/farc/farc-peril.htm>.

reporting is based on press releases or press conferences. Despite all the restrictions (i.e. legal secretiveness, in-house restrain and physical threats), there are still Latin American journalists who have managed to publish very well documented investigative stories. Some of these journalists have the support of a generation of young publishers and media owners who understand that independence is also a good business. Other journalists have decided to publish books exposing the thorny issues that need more time, space and courage in regular papers. There are also an increasing number of journalists who found the Internet as a way to divulge what they cannot via the big media organizations