

## INTRODUCTION

1. The year 2006 was an especially violent time for journalism in the region. According to information analyzed by the Office of the Special Rapporteur for Freedom of Expression (“the Office of the Special Rapporteur”) during 2006, at least 19 persons were assassinated for motives that could well be related to their work as journalists.<sup>1</sup> This figure is especially worrisome, considering the downward trend in killings of journalists in the region over the last three years.

2. Especially worrisome in this regard is the impunity that has resulted from the failure to properly investigate the assassinations of journalists that have taken place during this period and in earlier periods. Impunity, in turn, spurs on new assassinations. As it is known beforehand that there is unlikely to be any punishment after the crime is committed, those who kill journalists may continue to do so, or threaten to do so, without serious consequences. This, in turn, gives rise to self-censorship. Given the states’ failure to provide guarantees for journalists’ right to life, journalists are forced to stop investigating and reporting on certain issues or matters.

3. In addition, in the course of this year, the Office of the Special Rapporteur received information on more than 200 incidents involving assaults and threats against media workers in several countries. The actual number may be much higher considering that many of these situations are not reported. Impunity with respect to assaults and threats is worrisome, for often in such cases investigations have not even been opened. This not only results in self-censorship; in addition, several journalists and their family members are forced to leave their cities and even their countries.

4. In 2006 there was also a continuing increase in the use, by public officials, of criminal proceedings against journalists. The information received by the Office of the Special Rapporteur for Freedom of Expression indicates that criminal proceedings were brought against journalists in several countries of the region for *desacato* and criminal defamation.

5. In addition are the reports and complaints received in the year on issues such as the discriminatory allocation of government advertising, and the use of other indirect restrictions on the freedom of expression in several countries. The Office of the Special Rapporteur also received complaints regarding the refusal of state officials to provide information when it is requested of them.

6. During the year the Office of the Special Rapporteur received information about major legislative advances in several member states including the repeal of criminal statutes on *desacato*, the decriminalization of defamation, access to information held by the government, and confidentiality of journalists’ sources.

7. The work plan of the Office of the Special Rapporteur takes into account the priorities in relation to freedom of expression in the region. During this year, the Office of the Special Rapporteur has implemented a system for daily monitoring of the right to freedom of expression in the region. Every day the Office receives information from different sources, such as non-governmental organizations, journalists’ associations, news media, and an alert network that is activated via email. When the facts reported are especially serious, such as assassinations, press releases are issued deploring the act and demanding that the state authorities conduct a proper investigation and punish the persons responsible. Similarly, the Office of the Special Rapporteur contacts threatened journalists and informs them of the possibility of seeking precautionary

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<sup>1</sup> The table showing the breakdown of journalists assassinated in 2006 for reasons presumably related to their work as journalists can be found in section D of Chapter II of this report.

measures from the Inter-American Commission on Human Rights ("IACHR") to protect their lives and personal integrity. All this information is compiled, and at the end of each quarter a press release is prepared outlining the events in each country and giving the Office of the Special Rapporteur's preliminary evaluation.<sup>2</sup>

8. In addition to publicly denouncing all these situations, during this year the Office of the Special Rapporteur provided assistance to the IACHR in several individual cases being processed addressing emblematic situations in which international complaints are brought against states for violations of the right to freedom of thought and expression. The Office of the Special Rapporteur considers that bringing individual cases on this subject in the inter-American human rights system is an especially important part of its mandate, which makes it possible to obtain justice in an individual case, and to continue creating case-law that helps to ensure greater observance of the right to freedom of thought and expression in the region.

9. In carrying out that priority, the Office of the Special Rapporteur substantially increased the number of draft reports submitted to the IACHR for its consideration. The Office prepared and submitted for the consideration of the IACHR six draft reports on the merits in individual cases. Cases were chosen from six different countries, brought by different non-governmental organizations, on a variety of issues: assassination of journalists, physical attacks on journalists, threats against journalists, criminal defamation proceedings against a lawyer brought by a public official for allegations on matters in the public interest, and disproportionate sanctions on a media outlet in a civil trial related to the dissemination of information on matters of public interest.

10. A study was also begun into the status of investigations into all the cases of journalists assassinated in the region in the last 10 years presumably for motives related to their work as journalists. To this end, the Office of the Special Rapporteur requested specific information from each state and from non-governmental organizations on specific aspects of the investigations. A study will be published based on the results, analyzing each case, and the general situation of impunity in the region in relation to this serious problem.

11. During 2006 the Office of the Special Rapporteur continued to keep a demanding agenda including several trips to promote the right to freedom of expression and participated in numerous conferences and seminars. It is important to emphasize, as well, that in the course of this year seminars were organized to train journalists in the use of the inter-American system for the protection of human rights.

12. In March 2006 the IACHR, through a public convocation, chose Venezuelan attorney Ignacio J. Álvarez as the new Special Rapporteur for Freedom of Expression. The new Special Rapporteur assumed the position in April 2006.

13. The new Special Rapporteur has emphasized the excellent work done by his predecessors, Messrs. Santiago A. Cantón and Eduardo A. Bertoni, and also notes that the achievements of the Office of the Special Rapporteur this year would not have been possible without the dedication of the Office's staff and the support of a group of talented interns. During this year, the Office of the Rapporteur took on board two new attorneys and one journalist. In addition, in 2006 the Office drew on the valuable support of David Rondón, María Jesús Ahumada, Ioana Luca, Roberto Giacoman, Silvia Delgado, and Wayne DeFreitas, who participated in our internship program. The Office of the Special Rapporteur highlights the hard work and important

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<sup>2</sup> This practice began in the second quarter of 2006. The quarterly press releases issued by the Office of the Special Rapporteur may be found in the Annexes to this report.

contributions made by the staff of the Office and by each of the interns in promoting and protecting the freedom of expression.

14. This report maintains the same basic structure of the previous reports and carries out the mandate established by the IACHR for the work of the Office. The report begins with a general chapter on the mandate and competence of the Office of the Special Rapporteur, and continues with a description of the activities carried out during the year. As is by now customary in the reports of the Office of the Special Rapporteur, the second chapter presents an evaluation of the situation of freedom of expression. The third chapter presents a comparative study of international case-law.

15. Chapter II of this report analyzes some of the situations reported to the Office of the Special Rapporteur in the course of 2006. The methodology for preparing that chapter continues to be, in essence, the same used in previous years; and as was done in the Annual Report on 2005, the situations have been presented and grouped taking into consideration the Declaration of Principles on Freedom of Expression.

16. Since it was established, the Office of the Special Rapporteur has used some of the cases that have arisen to highlight the challenges faced by those who wish to exercise their freedom of expression: the assassinations, attacks, and threats against journalists; the non-existence of and shortcomings in laws that guarantee access to information; the existence of *desacato* laws and the criminalization of defamation in many states of the region. As indicated at the beginning of this introduction, this year, unfortunately, several such situations recurred, and, indeed, worsened in some cases. Chapter II also draws attention to other aspects of freedom of expression in the Americas, such as the discriminatory use of government advertising and other indirect restrictions on the freedom of expression.

17. Chapter III of this report goes back to the practice of the Office of the Special Rapporteur of undertaking comparative studies of case-law. This year, chapter III updates the studies published in previous annual reports of the Office of the Special Rapporteur on the case-law of the Inter-American Court of Human Rights<sup>3</sup>, the European Court of Human Rights<sup>4</sup>, and the Human Rights Committee of the United Nations<sup>5</sup> on the freedom of expression. The publication of these decisions seeks to become a tool useful for different sectors, including the state, civil society, and academia.

18. This report is, therefore, an overview of the dedicated work, over one whole year, of the staff, interns, and partners of the Office of the Special Rapporteur. The intense work done in recent years by the Office of the Special Rapporteur has consolidated its position as a fundamental player in relation to the freedom of thought and expression. The firm support of the sectors with which the Office interacts has played a fundamental role; these include states, non-governmental organizations, journalists, media, and academic sectors.

19. This strengthened position has, in turn, increased substantially the expectations of the work and performance of the Office of the Rapporteur. To address this demand, it is necessary,

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<sup>3</sup> IACHR, Annual Report of the Office of the Special Rapporteur for Freedom of Expression 2002. Volume III. Chapter III.

<sup>4</sup> IACHR, Annual Report of the Office of the Special Rapporteur for Freedom of Expression 2003. Volume III. Chapter III.

<sup>5</sup> IACHR, Annual Report of the Office of the Special Rapporteur for Freedom of Expression 2004. Volume III. Chapter III.

along with the institutional and political support that the Office of the Rapporteur has received since it was established, to pay attention to its need for financial support, for without it, it cannot function or carry out the activities that its mandate requires of it.

20. Therefore, it is important to once again call on the states of the region to follow the steps of those countries that have responded to the call of the hemispheric summits to support the Office of the Special Rapporteur. The Action Plan approved by the Heads of State and Government at the Third Summit, held in Quebec City in April 2001, provides: "To strengthen democracy, create prosperity and realize human potential, our Governments will ... support the work of the inter-American human rights system in the area of freedom of expression through the Special Rapporteur for Freedom of Expression of the IACHR."

21. This work seeks to contribute to progressively increase respect for the right to freedom of thought and expression in the region, and thereby to continue strengthening democracy and development through greater observance, in practice, of the fundamental right of each person to think freely and to express his or her thoughts by any means.