

CHAPTER IV

CONCLUSIONS AND RECOMMENDATIONS

A. Conclusions

1. This Annual Report reveals a situation of considerable concern with respect to the state of freedom of expression in the Americas.

2. The assassination of 19 journalists throughout the region in 2006 and the dozens of threats and acts of physical aggression against journalists related to the exercise of their profession have become even more serious because of impunity. Furthermore, the continuous use of criminal trial proceedings against journalists for *desacato* (contempt) and defamation demonstrate, in the great majority of the cases, both State intolerance of criticism and the use of these to frustrate investigations of acts of corruption.

3. In addition to the more direct forms of violations mentioned above, there exists an increasing trend among the States to resort to more subtle methods to coerce the press, that include discriminatory allocation of official publicity, discrimination in the access to public information, removal of public and private media outlets as a result of governmental pressure and administrative inspections lead by governmental bodies with the objective of punishing media because of the opinions they express.

4. The latter situations, moreover, are given within a general context characterized by factors of a more structural nature. An example of this is the concentration of ownership of media outlets in various countries in the region, which frequently implicates that the public receives only one perspective of matters that concern them. This does not contribute to the effective vigilance of the freedom of expression and democracy, which entails pluralism and diversity. The Office of the Special Rapporteur stresses that the concentration and monopoly of ownership and control of media outlets, whether public or private, negatively affects pluralism which is a fundamental component of the freedom of expression.

5. Another factor that affects freedom of expression is the lack of appropriate legislation on community broadcasting in many countries in the region. The Office of the Special Rapporteur has indicated that community broadcasting "serve as outlets for expression that generally offer the poor better opportunities for access and participation".¹ In effect, the lack of adequate legislation regarding community radio broadcasting contributes to the present existence of radios that act on the margin of law, which cause, among others, interferences in the spectrum, judicial insecurity, and repressive, violent acts throughout the region.

6. Likewise, lack of access to information also constitutes a structural situation that affects the right to freedom of expression which creates a culture of secrecy and lack of transparency in a number of States in the region.

B. Recommendations to the Member States of the OAS

7. Taking into account the existing situation in reference to the freedom of thought and expression in the region, the Office of the Special Rapporteur for Freedom of Expression

¹ IACHR, *Annual Report 2002*, Volume II, Annual Report of the Office of the Special Rapporteur for Freedom of Expression, Chapter IV, Freedom of Expression and Poverty, para. 39.

recommends to the Member States of the OAS the following actions so as to keep moving forward with this cause:

1. Grant full attention to the situation of violence against journalists in the region and the impunity that has been shown in these cases. The states should take effective measures sanctioning the direct perpetrators and the masterminds of these crimes.
2. Eliminate the crime of *desacato* (contempt) and modify other connected norms from Criminal Codes and related laws, in order to prevent the application of criminal trial proceedings to protect honor and reputation when information of public interest is published.
3. Abstain from using state power to punish or reward media outlets and journalists with respect to their political opinions, with methods such as the discriminatory allocation of official advertising, administrative proceedings, pressure or any other indirect means tending to impede the communication and circulation of ideas and opinions.
4. Abstain from adopting actions affecting pluralism, and adopt legislative and other measures to guarantee its effectiveness.
5. Enact laws regarding community radio so that part of the spectrum is designated for community radio stations and the assignment of these frequencies takes into account democratic criteria that guarantee equality of opportunities for all individuals to access them, in conformity with Principle 12 of the Declaration of Principles on Freedom of Expression.
6. In reference to access to information, to continue enacting laws in line with international standards and implementing practices as part of transparency and anti corruption policies.
7. Bring their domestic laws into line with the standards established in the American Convention on Human Rights, the American Declaration of the Rights and Duties of Man and the IACHR's Declaration of Principles on Freedom of Expression.
8. The Office of the Special Rapporteur thanks all the states that have worked with it this year, as well as the IACHR, its Executive Secretariat and the Secretary General of the OAS for their constant support.