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ARTICLE 13 OF THE AMERICAN CONVENTION ON HUMAN RIGHTS

Freedom of Thought and Expression

1. Everyone has the right to freedom of thought and expression. This right includes freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, in print, in the form of art, or through any other medium of one's choice.
2. The exercise of the right provided for in the foregoing paragraph shall not be subject to prior censorship but shall be subject to subsequent imposition of liability, which shall be expressly established by law to the extent necessary to ensure:
 - a. respect for the rights or reputations of others; or
 - b. the protection of national security, public order, or public health or morals.
3. The right of expression may not be restricted by indirect methods or means, such as the abuse of government or private controls over newsprint, radio broadcasting frequencies, or equipment used in the dissemination of information, or by any other means tending to impede the communication and circulation of ideas and opinions.
4. Notwithstanding the provisions of paragraph 2 above, public entertainments may be subject by law to prior censorship for the sole purpose of regulating access to them for the moral protection of childhood and adolescence.
5. Any propaganda for war and any advocacy of national, racial, or religious hatred that constitute incitements to lawless violence or to any other similar action against any person or group of persons on any grounds including those of race, color, religion, language, or national origin shall be considered as offenses punishable by law.

Declaration of Principles on Freedom of Expression

Approved by the Inter-American Commission on Human Rights
during its 108th regular session

PREAMBLE

REAFFIRMING the need to ensure respect for and full enjoyment of individual freedoms and fundamental rights of human beings under the rule of law;

AWARE that consolidation and development of democracy depends upon the existence of freedom of expression;

PERSUADED that the right to freedom of expression is essential for the development of knowledge and understanding among peoples, that will lead to a true tolerance and cooperation among the nations of the hemisphere;

CONVINCED that any obstacle to the free discussion of ideas and opinions limits freedom of expression and the effective development of a democratic process;

CONVINCED that guaranteeing the right to access to information held by the State will ensure greater transparency and accountability of governmental activities and the strengthening of democratic institutions;

RECALLING that freedom of expression is a fundamental right recognized in the American Declaration on the Rights and Duties of Man and the American Convention on Human Rights, the Universal Declaration of Human Rights, Resolution 59 (1) of the United Nations General Assembly, Resolution 104 adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization (UNESCO), the International Covenant on Civil and Political Rights, as well as in other international documents and national constitutions;

RECOGNIZING that the member states of the Organization of American States are subject to the legal framework established by the principles of Article 13 of the American Convention on Human Rights;

REAFFIRMING Article 13 of the American Convention on Human Rights, which establishes that the right to freedom of expression comprises the freedom to seek, receive and impart information and ideas, regardless of borders and by any means of communication;

CONSIDERING the importance of freedom of expression for the development and protection of human rights, the important role assigned to it by the Inter-American Commission on Human Rights and the full support given to the establishment of the Office of the Special Rapporteur for Freedom of Expression as a fundamental instrument for the protection of this right in the hemisphere at the Summit of the Americas in Santiago, Chile;

RECOGNIZING that freedom of the press is essential for the full and effective exercise of freedom of expression and an indispensable instrument for the functioning of representative democracy, through which individuals exercise their right to receive, impart and seek information;

REAFFIRMING that the principles of the Declaration of Chapultepec constitute a basic document that contemplates the protection and defense of freedom of expression, freedom and independence of the press and the right to information;

CONSIDERING that the right to freedom of expression is not a concession by the States but a fundamental right;

RECOGNIZING the need to protect freedom of expression effectively in the Americas, the Inter-American Commission on Human Rights, in support of the Special Rapporteur for Freedom of Expression, adopts the following Declaration of Principles:

PRINCIPLES

1. Freedom of expression in all its forms and manifestations is a fundamental and inalienable right of all individuals. Additionally, it is an indispensable requirement for the very existence of a democratic society.
2. Every person has the right to seek, receive and impart information and opinions freely under terms set forth in Article 13 of the American Convention on Human Rights. All people should be afforded equal opportunities to receive, seek and impart information by any means of communication without any discrimination for reasons of race, color, sex, language, religion, political or other opinions, national or social origin, economic status, birth or any other social condition.
3. Every person has the right to access to information about himself or herself or his/her assets expeditiously and not onerously, whether it be contained in databases or public or private registries, and if necessary to update it, correct it and/or amend it.
4. Access to information held by the state is a fundamental right of every individual. States have the obligation to guarantee the full exercise of this right. This principle allows only exceptional limitations that must be previously established by law in case of a real and imminent danger that threatens national security in democratic societies.
5. Prior censorship, direct or indirect interference in or pressure exerted upon any expression, opinion or information transmitted through any means of oral, written, artistic, visual or electronic communication must be prohibited by law. Restrictions to the free circulation of ideas and opinions, as well as the arbitrary imposition of information and the imposition of obstacles to the free flow of information violate the right to freedom of expression.
6. Every person has the right to communicate his/her views by any means and in any form. Compulsory membership or the requirements of a university degree for the practice of journalism constitute unlawful restrictions of freedom of expression. Journalistic activities must be guided by ethical conduct, which should in no case be imposed by the State.
7. Prior conditioning of expressions, such as truthfulness, timeliness or impartiality is incompatible with the right to freedom of expression recognized in international instruments.
8. Every social communicator has the right to keep his/her source of information, notes, personal and professional archives confidential.
9. The murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of the state to prevent and investigate such occurrences, to punish their perpetrators and to ensure that victims receive due compensation.

10. Privacy laws should not inhibit or restrict investigation and dissemination of information of public interest. The protection of a person's reputation should only be guaranteed through civil sanctions in those cases in which the person offended is a public official, a public person or a private person who has voluntarily become involved in matters of public interest. In addition, in these cases, it must be proven that in disseminating the news, the social communicator had the specific intent to inflict harm, was fully aware that false news was disseminated, or acted with gross negligence in efforts to determine the truth or falsity of such news.
11. Public officials are subject to greater scrutiny by society. Laws that penalize offensive expressions directed at public officials, generally known as "*desacato* laws," restrict freedom of expression and the right to information.
12. Monopolies or oligopolies in the ownership and control of the communication media must be subject to anti-trust laws, as they conspire against democracy by limiting the plurality and diversity which ensure the full exercise of people's right to information. In no case should such laws apply exclusively to the media. The concession of radio and television broadcast frequencies should take into account democratic criteria that provide equal opportunity of access for all individuals.
13. The exercise of power and the use of public funds by the state, the granting of customs duty privileges, the arbitrary and discriminatory placement of official advertising and government loans; the concession of radio and television broadcast frequencies, among others, with the intent to put pressure on and punish or reward and provide privileges to social communicators and communications media because of the opinions they express threaten freedom of expression, and must be explicitly prohibited by law. The means of communication have the right to carry out their role in an independent manner. Direct or indirect pressures exerted upon journalists or other social communicators to stifle the dissemination of information are incompatible with freedom of expression.

Declaration of Chapultepec

Adopted by the Hemisphere Conference on Free Speech
Mexico City March 11, 1994

Preamble

On the threshold of a new millennium, the Americas envision a future rooted in democracy. A political opening has taken hold. Citizens have a heightened awareness of their rights. More than at any time in our history regular elections, governments, parliaments, political parties, labor unions, associations and social groups of every kind reflect the hopes of our people.

In this environment of democratization, several developments engender optimism but also suggest prudence. Institutional crises, inequalities, backwardness, unresolvable frustrations, the search for easy solutions, failure to grasp the nature of democracy and special interest groups constantly threaten the advancements made. They also represent potential hurdles to further progress.

That is why we who share this hemisphere, from Alaska to Tierra del Fuego, must consolidate the prevailing public freedoms and human rights.

Democratic rule must be embodied in modern institutions that represent and respect the citizenry; it must also guide daily life. Democracy and freedom, inseparably paired, will flourish with strength and stability only if they take root in the men and women of our continent.

Without democracy and freedom, the results are predictable: Individual and social life is stunted, group interaction is curtailed, material progress is distorted, the possibility of change is halted, justice is demeaned and human advancement becomes mere fiction.

Freedom must not be restricted in the quest for any other goal. It stands alone, yet has multiple expressions; it belongs to citizens, not to government.

Because we share this conviction, because we have faith in the creative force of our people and because we are convinced that our principles and goals must be freedom and democracy, we openly support their most forthright and robust manifestation: Freedom of expression and of the press, whatever the medium of communication. The exercise of democracy can neither exist nor be reproduced without these.

We, the signatories of this declaration, represent different backgrounds and dreams. We take pride in the plurality and diversity of our cultures, considering ourselves fortunate that they merge into the one element that nurtures their growth and creativity: Freedom of expression, the driving force and basis of mankind's fundamental rights.

A free society can thrive only through free expression and the exchange of ideas, the search for and the dissemination of information, the ability to investigate and question, to propound and react, to agree and disagree, to converse and confront, to publish and broadcast. Only by exercising these principles will it be possible to guarantee individuals and groups their right to receive impartial and timely information. Only through open discussion and unfettered information will it be possible to find answers to the great collective problems, to reach consensus, to have development benefit all sectors, to practice social justice and to advance the quest for equality. We therefore vehemently reject assertions which would define freedom and progress, freedom and order, freedom and stability, freedom and justice, freedom and the ability to govern as mutually exclusive values.

Without freedom there can be no true order, stability and justice. And without freedom of expression there can be no freedom. Freedom of expression and the seeking, dissemination and collection of information can be exercised only if freedom of the press exists.

We know that not every statement and item of information can find its way into the media. We know that the existence of press freedom does not automatically guarantee unrestricted freedom of expression. But we also know that a free press favors an environment that nurtures freedom of expression and thereby benefits all other public freedoms.

Without an independent media, assured of the guarantees to operate freely, to make decisions and to act on them fully, freedom of expression cannot be exercised. A free press is synonymous with free expression.

Wherever the media can function unhindered and determine their own direction and manner of serving the public, there is a blossoming of the ability to seek information, to disseminate it without restraints, to question it without fear and to promote the free exchange of ideas and opinions. But wherever freedom of the press is curtailed, for whatever reasons, the other freedoms vanish.

After a period when attempts were made to legitimize government control over news outlets, it is gratifying to be able to work together to defend freedom. Many men and women worldwide join us in this task. But opposition remains widespread. Our continents are no exception. There are still counties whose despotic governments abjure every freedom, particularly those freedoms related to expression. Criminals, terrorists and drug traffickers still threaten, attack and murder journalists.

But that is not the only way to harm a free press and free expression. The temptation to control and regulate has led to decisions that limit the independent action of the media, of journalists and of citizens who wish to seek and disseminate information and opinions.

Politicians who avow their faith in democracy are often intolerant of public criticism. Various social sectors assign to the press nonexistent flaws. Judges with limited vision order journalists to reveal sources that should remain in confidence. Overzealous officials deny citizens access to public information. Even the constitutions of some democratic countries contain elements of press restriction.

While defending a free press and rejecting outside interference, we also champion a press that is responsible and involved, a press aware of the obligations that the practice of freedom entails.

Principles

A free press enables societies to resolve their conflicts, promote their well-being and protect their liberty. No law or act of government may limit freedom of expression or of the press, whatever the medium.

Because we are fully conscious of this reality and accept it with the deepest conviction, and because of our firm commitment to freedom, we sign this declaration, whose principles follow.

1. No people or society can be free without freedom of expression and of the press. The exercise of this freedom is not something authorities grant, it is an inalienable right of the people.
2. Every person has the right to seek and receive information, express opinions and disseminate them freely. No one may restrict or deny these rights.

3. The authorities must be compelled by law to make available in a timely and reasonable manner the information generated by the public sector. No journalist may be forced to reveal his or her sources of information.
4. Freedom of expression and of the press are severely limited by murder, terrorism, kidnapping, intimidation, the unjust imprisonment of journalists, the destruction of facilities, violence of any kind and impunity for perpetrators. Such acts must be investigated promptly and punished harshly.
5. Prior censorship, restrictions on the circulation of the media or dissemination of their reports, forced publication of information, the imposition of obstacles to the free flow of news, and restrictions on the activities and movements of journalists directly contradict freedom of the press.
6. The media and journalists should neither be discriminated against nor favored because of what they write or say.
7. Tariff and exchange policies, licenses for the importation of paper or news-gathering equipment, the assigning of radio and television frequencies and the granting or withdrawal of government advertising may not be used to reward or punish the media or individual journalists.
8. The membership of journalists in guilds, their affiliation to professional and trade associations and the affiliation of the media with business groups must be strictly voluntary.
9. The credibility of the press is linked to its commitment to truth, to the pursuit of accuracy, fairness and objectivity and to the clear distinction between news and advertising. The attainment of these goals and the respect for ethical and professional values may not be imposed. These are the exclusive responsibility of journalists and the media. In a free society, it is public opinion that rewards or punishes.
10. No news medium nor journalist may be punished for publishing the truth or criticizing or denouncing the government.

The struggle for freedom of expression and of the press is not a one-day task; it is an ongoing commitment. It is fundamental to the survival of democracy and civilization in our hemisphere. Not only is this freedom a bulwark and an antidote against every abuse of authority, it is society's lifeblood. Defending it day upon day is honoring our history and controlling our destiny. To these principles we are committed.

AG/RES. 2237 (XXXVI-O/06)**RIGHT TO FREEDOM OF THOUGHT AND EXPRESSION
AND THE IMPORTANCE OF THE MEDIA**

(Approved at the fourth plenary session, held on June 6, 2006)

THE GENERAL ASSEMBLY,

HAVING SEEN the Annual Report of the Permanent Council to the General Assembly (AG/doc.4548/06 add. 6 corr. 1);

TAKING INTO ACCOUNT resolution AG/RES. 2149 (XXXV-O/05), "Right to Freedom of Thought and Expression and the Importance of the Media";

RECALLING that the right to freedom of thought and expression, which includes the freedom to seek, receive, and impart information and ideas of all kinds, is recognized in Article IV of the American Declaration of the Rights and Duties of Man, Article 13 of the American Convention on Human Rights, the Inter-American Democratic Charter (including Article 4), the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and other international instruments and national constitutions, as well as United Nations General Assembly resolution 59 (I) and resolution 104 of the General Conference of the United Nations Educational, Scientific and Cultural Organization (UNESCO);

RECALLING ALSO that Article IV of the American Declaration of the Rights and Duties of Man states that "[e]very person has the right to freedom of investigation, of opinion, and of the expression and dissemination of ideas, by any medium whatsoever";

RECALLING FURTHER that Article 13 of the American Convention on Human Rights states that:

1. Everyone has the right to freedom of thought and expression. This right includes freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, in print, in the form of art, or through any other medium of one's choice;

2. The exercise of the right provided for in the foregoing paragraph shall not be subject to prior censorship but shall be subject to subsequent imposition of liability, which shall be expressly established by law to the extent necessary to ensure:

- a. respect for the rights or reputations of others; or
- b. the protection of national security, public order, or public health or morals.

3. The right of expression may not be restricted by indirect methods or means, such as the abuse of government or private controls over newsprint, radio broadcasting frequencies, or equipment used in the dissemination of information, or by any other means tending to impede the communication and circulation of ideas and opinions.

4. Notwithstanding the provisions of paragraph 2 above, public entertainments may be subject by law to prior censorship for the sole purpose of regulating access to them for the moral protection of childhood and adolescence.

5. Any propaganda for war and any advocacy of national, racial, or religious hatred that constitute incitements to lawless violence or to any other similar action against any person or group of persons on any grounds including those of race, color, religion, language, or national origin shall be considered as offenses punishable by law;

RECALLING AS WELL the relevant volumes of the Annual Reports of the Inter-American Commission on Human Rights for 2004 and 2005, on freedom of expression;

TAKING INTO ACCOUNT resolutions 2004/42 and 2005/38, "The Right to Freedom of Opinion and Expression," of the United Nations Commission on Human Rights; and

RECALLING the usefulness of the studies and contributions approved by UNESCO regarding the contribution of the media to strengthening peace, tolerance, and international understanding, to the promotion of human rights, and to countering racism and incitement to war,

RESOLVES:

1. To reaffirm the right to freedom of expression and to call upon member states to respect and ensure respect for this right, in accordance with the international human rights instruments to which they are party, such as the American Convention on Human Rights and the International Covenant on Civil and Political Rights, *inter alia*.

2. To reaffirm that freedom of expression and dissemination of ideas are fundamental for the exercise of democracy.

3. To urge member states to safeguard, within the framework of the international instruments to which they are party, respect for freedom of expression in the media, including radio and television, and, in particular, respect for the editorial independence and freedom-of the media.

4. To urge those member states that have not yet done so to consider signing and ratifying, ratifying, or acceding to, as the case may be, the American Convention on Human Rights.

5. To reaffirm that the media are fundamental for democracy and for the promotion of pluralism, tolerance, and freedom of thought and expression, and to facilitate dialogue and debate, free and open to all segments of society, without discrimination of any kind.

6. To urge member states to promote a pluralistic approach to information and multiple points of view by fostering full exercise of freedom of expression and thought, access to media, and diversity in the ownership of media outlets and sources of information, through, *inter alia*, transparent licensing systems and, as appropriate, effective regulations to prevent the undue concentration of media ownership.

7. To urge member states to consider the importance of including, in their domestic legal systems, rules about the establishment of alternative or community media and safeguards to ensure that they are able to operate independently, so as to broaden the dissemination of information and opinions, thereby strengthening freedom of expression.

8. To call upon member states to adopt all necessary measures to prevent violations of the right to freedom of thought and expression and to create the necessary conditions for that purpose, including ensuring that relevant national legislation complies with their international human rights obligations and is effectively implemented.

9. To urge member states to review their procedures, practices, and legislation, as necessary, to ensure that any limitations on the right to freedom of opinion and expression are only such as are provided by law and are necessary for respect of the rights or reputations of others, or for the protection of national security or of public order (*ordre public*), or of public health or morals.

10. To recognize the valuable contribution of information and communication technologies, such as the Internet, to the exercise of the right to freedom of expression and to the ability of persons to seek, receive, and impart information, as well the contributions they can make to the fight against racism, racial discrimination, xenophobia, and related and contemporary forms of intolerance, and to the prevention of human rights abuses.

11. To request the Inter-American Commission on Human Rights once again to follow up on and deepen its study of the issues addressed in the relevant volumes of its 2004 and 2005 Annual Reports on freedom of expression, on the basis, *inter alia*, of the inputs on the subject that it receives from member states.

12. To reiterate to the Permanent Council that, through its Committee on Juridical and Political Affairs, it is to hold a special two-day meeting to delve further into the existing international jurisprudence on the subject covered in Article 13 of the American Convention on Human Rights and include the following items on the agenda of that meeting:

- i. Public demonstrations as exercise of the right to freedom of expression; and
- ii. The subject of Article 11 of the American Convention on Human Rights.

Invitees to the aforementioned meeting will include members of the Inter-American Court of Human Rights, the Inter-American Commission on Human Rights, including the Special Rapporteur on Freedom of Expression, and experts from the member states, all for the purpose of sharing their experiences with these issues.

13. To request the Permanent Council to report to the General Assembly at its thirty-seventh regular session on the implementation of this resolution, which will be carried out within the resources allocated in the program-budget of the Organization and other resources.

AG/RES. 2252 (XXXVI-O/06)**ACCESS TO PUBLIC INFORMATION: STRENGTHENING DEMOCRACY**

(Adopted at the fourth plenary session, held on June 6, 2006)

THE GENERAL ASSEMBLY,

HAVING SEEN the Annual Report of the Permanent Council to the General Assembly (AG/doc.4548/06 add. 6 corr. 1), on the status of implementation of resolution AG/RES. 2121 (XXXV-O/05), "Access to Public Information: Strengthening Democracy";

CONSIDERING that Article 13 of the American Convention on Human Rights provides that "[e]veryone has the right to freedom of thought and expression. This right includes freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, in print, in the form of art, or through any other medium of one's choice";

CONSIDERING ALSO that Article 19 of the Universal Declaration of Human Rights includes the right "to seek, receive and impart information and ideas through any media and regardless of frontiers";

RECALLING that the Plan of Action of the Third Summit of the Americas, held in Quebec City in 2001, indicates that governments will ensure that national legislation is applied equitably to all, respecting freedom of expression and access to public information of all citizens;

EMPHASIZING that Article 4 of the Inter-American Democratic Charter states that transparency in government activities, probity, responsible public administration on the part of governments, respect for social rights, and freedom of expression and of the press are essential components of the exercise of democracy;

NOTING that, in the Declaration of Nuevo León, the Heads of State and Government affirmed that access to information held by the state, subject to constitutional and legal norms, including those on privacy and confidentiality, is an indispensable condition for citizen participation and promotes effective respect for human rights, and, in that connection, that they are committed to providing the legal and regulatory framework and the structures and conditions required to guarantee the right of access to public information;

BEARING IN MIND the adoption of the "Declaration of Santiago on Democracy and Public Trust: A New Commitment to Good Governance for the Americas" [AG/DEC. 31 (XXXIII-O/03)], as well as resolution AG/RES. 1960 (XXXIII-O/03), "Program for Democratic Governance in the Americas";

CONSIDERING that the Inter-American Agency for Cooperation and Development (IACD) has been identifying and facilitating access by member states to e-government practices that facilitate information and communication technology applications in governmental processes;

CONSIDERING ALSO that the Office for the Promotion of Democracy (OPD) has been providing support to member states in dealing with the topic of access to public information;

NOTING the work accomplished by the Inter-American Juridical Committee (CJI) on this issue, in particular the document "Right to Information: Access to and Protection of Information and Personal Data in Electronic Format" (CJI/doc.25/00 rev. 1);

RECOGNIZING that the goal of achieving an informed citizenry must be rendered compatible with other societal aims, such as safeguarding national security, public order, and protection of personal privacy, pursuant to laws passed to that effect;

RECOGNIZING ALSO that democracy is strengthened through full respect for freedom of expression, access to public information, and the free dissemination of ideas, and that all sectors of society, including the media, through the public information they disseminate to citizens, may contribute to a climate of tolerance of all views, foster a culture of peace, and strengthen democratic governance;

TAKING INTO ACCOUNT the important role civil society can play in promoting broad access to public information;

TAKING NOTE of the Declaration of Principles on Freedom of Expression of the Inter-American Commission on Human Rights; and of the Joint Declaration by the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE (Organization for Security and Co-operation in Europe) Representative on Freedom of the Media, and the Special Rapporteur on Freedom of Expression of the Inter-American Commission on Human Rights, adopted in 2005;

TAKING NOTE ALSO of the reports of the Special Rapporteur on Freedom of Expression of the Inter-American Commission on Human Rights on the situation of access to information in the Hemisphere for 2003, 2004, and 2005;

RECALLING initiatives taken by civil society regarding access to public information, in particular, the Declaration of Chapultepec, the Johannesburg Principles, the Lima Principles, and the Declaration of the SOCIUS Peru 2003: Access to Information, as well as the Regional Forum on Access to Public Information: Challenges to Freedom of Information in the Hemisphere, held in Lima, Peru, on January 20 and 21, 2004;

RECALLING ALSO that the media, the private sector, and political parties can likewise play an important role in facilitating access by citizens to information held by the states; and

TAKING INTO CONSIDERATION the report of the Chair of the Permanent Council on the implementation of resolution AG/RES. 2121 (XXXV-O/05), "Access to Public Information: Strengthening Democracy,"

RESOLVES:

1. To reaffirm that everyone has the freedom to seek, receive, access, and impart information and that access to public information is a requisite for the very exercise of democracy.

2. To urge member states to respect and promote respect for everyone's access to public information and to promote the adoption of any necessary legislative or other types of provisions to ensure its recognition and effective application.

3. To encourage member states, in keeping with the commitment made in the Declaration of Nuevo León and with due respect for constitutional and legal provisions, to prepare and/or adjust their respective legal and regulatory frameworks, as appropriate, so as to provide the citizenry with broad access to public information.

4. Also to encourage member states, when preparing and/or adjusting their respective legal and regulatory frameworks, as appropriate, to provide civil society with the opportunity to

participate in that process; and to urge them, when drafting and/or adapting their national legislation, to take into account clear and transparent exception criteria.

5. To encourage member states to take the necessary measures, through their national legislation and other appropriate means, to facilitate access to such information through electronic or any other means that will allow ready access to public information.

6. To instruct the Special Rapporteurship on Freedom of Expression of the Inter-American Commission on Human Rights (IACHR) and the Department for the Promotion of Good Governance:

- a. To support the efforts of member states that so request in drafting legislation and developing mechanisms in the area of access to public information and citizen participation; and
- b. To assist the Permanent Council in the work of the Committee on Juridical and Political Affairs (CAJP) mentioned in operative paragraph 13.a below.

7. To instruct the Department of International Legal Affairs:

- a. To prepare a study with recommendations on the subject of access to information and protection of personal data, on the basis of the inputs from the organs of the inter-American system and from civil society, as well as the preparatory work conducted during the special meeting of the CAJP on the subject; and
- b. To assist the Permanent Council in the work of the CAJP mentioned in operative paragraph 13.a below.

8. To request the Inter-American Juridical Committee to continue to carry out comparative law studies on the protection of personal data, and to update the study "Right to Information: Access to and Protection of Information and Personal Data in Electronic Format," of 2000, taking into account the diverse viewpoints on the subject, in connection with which it will draw up and distribute to the member states, with due support from the Secretariat, a new questionnaire on the topic.

9. To instruct the Special Rapporteur for Freedom of Expression to continue to include in the Annual Report of the IACHR a report on the situation regarding access to public information in the region.

10. To instruct the IACHR to conduct a study on how the state can guarantee all citizens the freedom to seek, receive, and impart public information on the basis of the principle of freedom of expression.

11. To instruct the Inter-American Agency for Cooperation and Development (IACD) to identify new resources to support member states' efforts to facilitate access to public information.

12. To take note of the report of the special meeting of the CAJP, with the participation of experts from the states and civil society representatives, to promote, impart, and exchange experiences and knowledge with respect to access to public information and its relationship with citizen participation, held on April 28, 2006 (CP/CAJP-2320/05 add. 2).

13. To recommend to the Permanent Council that it:
 - a. Request the CAJP to prepare a basic document on best practices and the development of common approaches or guidelines for increasing access to public information, on the basis of the report of the aforementioned special meeting and taking into account the report of the Chair of the Permanent Council on the implementation of resolution AG/RES. 2121 (XXXV-O/05), as well as inputs from the member state delegations, the Special Rapporteurship on Freedom of Expression of the IACHR, the Inter-American Juridical Committee, the Department of International Legal Affairs, and the interested organs, agencies, and entities of the Organization, as well as from civil society representatives; and
 - b. Request the General Secretariat to promote seminars, workshops, or other events designed to promote access to public information by citizens and government administrations.
14. To request the Permanent Council to report to the General Assembly at its thirty-seventh regular session on the implementation of this resolution, which will be carried out within the resources allocated in the program-budget of the Organization and other resources.

International Mechanisms for Promoting Freedom of Expression

JOINT DECLARATION

by

the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media, the OAS Special Rapporteur on Freedom of Expression and the ACHPR (African Commission on Human and Peoples' Rights) Special Rapporteur on Freedom of Expression

Having discussed these issues together with the assistance of ARTICLE 19, Global Campaign for Free Expression;

Recalling and reaffirming their Joint Declarations of 26 November 1999, 30 November 2000, 20 November 2001, 10 December 2002, 18 December 2003, 6 December 2004 and 21 December 2005;

Stressing the importance of respecting the right of journalists to publish information provided to them on a confidential basis;

Emphasising the importance of the recent ruling of the Inter-American Court of Human Rights in the case of Marcel Claude Reyes and others v. Chile, which confirmed the existence of a right to access information held by States;

Aware of the adoption by the Global Transparency Initiative, a civil society movement, of the Transparency Charter for International Financial Institutions: Claiming Our Right to Know, calling for greater openness by multilateral development banks and other international financial bodies;

Welcoming the progressive amendments that a number of international financial institutions have made to their information disclosure policies in recent years;

Noting that international public bodies and inter-governmental organisations, like their national counterparts, have an obligation to be transparent and to provide access to the information they hold;

Cognisant of greater public awareness of the tensions that may result from certain types of expression due to different cultural and religious values, in particular prompted by the Danish cartoons incident;

Concerned about calls from certain quarters to resolve the tensions noted above by reversing hitherto well established standards of respect for freedom of expression;

Reaffirming that freedom of expression and a free media can play an important positive role in addressing social tensions and in promoting a culture of tolerance;

Recalling that attacks such as the murder, kidnapping, harassment of and/or threats to journalists and others exercising their right to freedom of expression, as well as the material destruction of communications facilities, pose a very significant threat to independent and investigative journalism, to freedom of expression and to the free flow of information to the public;

Noting the need for specialised mechanisms to promote freedom of expression in every region of the world and the lack of such a mechanism in the Asia-Pacific region;

Adopt, on 19 December 2006, the following Declaration:

On Publishing Confidential Information

- Journalists should not be held liable for publishing classified or confidential information where they have not themselves committed a wrong in obtaining it. It is up to public authorities to protect the legitimately confidential information they hold.

Openness of National and International Public Bodies

- Public bodies, whether national or international, hold information not for themselves but on behalf of the public and they should, subject only to limited exceptions, provide access to that information.
- International public bodies and inter-governmental organisations should adopt binding policies recognising the public's right to access the information they hold. Such policies should provide for the proactive disclosure of key information, as well as the right to receive information upon request.
- Exceptions to the right of access should be set out clearly in these policies and access should be granted unless (a) disclosure would cause serious harm to a protected interest and (b) this harm outweighs the public interest in accessing the information.
- Individuals should have the right to submit a complaint to an independent body alleging a failure properly to apply an information disclosure policy, and that body should have the power to consider such complaints and to provide redress where warranted.

Freedom of Expression and Cultural/Religious Tensions

- The exercise of freedom of expression and a free and diverse media play a very important role in promoting tolerance, diffusing tensions and providing a forum for the peaceful resolution of differences. High profile instances of the media and others exacerbating social tensions tend to obscure this fact.
- Governments should refrain from introducing legislation which makes it an offence simply to exacerbate social tensions. Although it is legitimate to sanction advocacy that constitutes incitement to hatred, it is not legitimate to prohibit merely offensive speech. Most countries already have excessive or at least sufficient 'hate speech' legislation. In many countries, overbroad rules in this area are abused by the powerful to limit non-traditional, dissenting, critical, or minority voices, or discussion about challenging social issues. Furthermore, resolution of tensions based on genuine cultural or religious differences cannot be achieved by suppressing the expression of differences but rather by debating them openly. Free speech is therefore a requirement for, and not an impediment to, tolerance.
- Professional and self-regulatory bodies have played an important role in fostering greater awareness about how to report on diversity and to address difficult and sometimes controversial subjects, including intercultural dialogue and contentious issues of a moral, artistic, religious or other nature. An enabling environment should be provided to facilitate the voluntary development of self-regulatory mechanisms such as press councils, professional ethical associations and media ombudspersons.
- The mandates of public service broadcasters should explicitly require them to treat matters of controversy in a sensitive and balanced fashion, and to carry programming which is aimed at promoting tolerance and understanding of difference.

Impunity in Cases of Attacks Against Journalists

- Intimidation of journalists, particularly murder and physical attacks, limit the freedom of expression not only of journalists but of all citizens, because they produce a chilling effect on the free flow of information, due to the fear they create of reporting on abuses of power, illegal activities and other wrongs against society. States have an obligation to take effective measures to prevent such illegal attempts to limit the right to freedom of expression.
- States should, in particular, vigorously condemn such attempts when they do occur, investigate them promptly and effectively in order to duly sanction those responsible, and provide compensation to the victims where appropriate. They should also inform the public on a regular basis about these proceedings.

Ambeyi Ligabo
UN Special Rapporteur on Freedom of Opinion and Expression

Miklos Haraszti
OSCE Representative on Freedom of the Media

Ignacio J. Alvarez
OAS Special Rapporteur on Freedom of Expression

Faith Pansy Tlakula
ACHPR Special Rapporteur on Freedom of Expression

**OFFICE OF THE SPECIAL RAPPORTEUR FOR FREEDOM OF EXPRESSION EXPRESSES ITS
APPROVAL OF THE ELIMINATION OF DESACATO LAWS IN GUATEMALA**

The Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (IACHR) would like to express its satisfaction as to the decision of the Constitutional Court of Guatemala to definitively eliminate the crime of “desacato” (contempt). The Rapporteur’s Office considers this measure a decisive step towards the strengthening of freedom of expression in the hemisphere.

On February 1, 2006, the Constitutional Court of Guatemala decided to declare the unconstitutionality of the crime of “desacato” regulated by articles 411, 412, and 413 of the Guatemalan Penal Code. These articles established prison sentences of six months to three years for the crime. In its decision, the highest court in Guatemala adopted the recommendations of the Rapporteur’s Office and the IACHR, which insisted in the elimination of “desacato” laws as contradictory to democratic principles due to their bestowal of a higher level of protection upon public officials, as they inhibit criticism and restrict public debate.

“Desacato” or contempt, laws, found in various penal codes throughout the hemisphere, criminalize offensive expression directed at public officials. Since its inception, the Rapporteur’s Office has warned that “desacato” laws can become a tool to silence democratic debate over public policy. In accordance with Principle 11 of the Declaration of Principles on Freedom of Expression of the IACHR, “public officials are subject to greater scrutiny by society” and these laws “restrict freedom of expression and the right to information”.

The Rapporteur’s Office thus expresses its approval of the decision adopted by Guatemala, as it represents a strong step forward for the protection of freedom of expression. The Office exhorts Guatemalan authorities to take the necessary steps towards implementing the decision of the Constitutional Court.

Washington, D.C., February 3, 2006.

**OFFICE OF THE SPECIAL RAPPORTEUR FOR FREEDOM OF EXPRESSION CONDEMNS RECENT
ATTACKS AGAINST MEXICAN PRESS**

The Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (IACHR) condemns the recent attacks and acts of intimidation against the exercise of the right to freedom of expression in Mexico.

Based on information received by the Rapporteurship, on February 6, 2006 two masked individuals entered the editing room of the newspaper *El Mañana*, and proceeded to shoot and throw a grenade, thereby seriously wounding the journalist Jaime Orozco Trey. The Office of the Special Rapporteur is concerned by this latest attack in Mexico, the latest in a series of aggressions and threats against journalists and mass means of communication outlets, that have been reported to the Rapporteurship in the past few months.

The Office of the Special Rapporteur condemns these attacks which constitute serious violations to the right of freedom of expression. Their objective is to silence the press by challenging the right of citizens to receive information. As stated in Principle 9 of the Declaration of Principles on Freedom of Expression, "the murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media, violate the fundamental rights of individuals and strongly restrict freedom of expression". The Office of the Special Rapporteur reiterates that freedom of expression is essential for the consolidation of a democratic system and is indispensable for the development of public opinion. These are two crucial components to the achievement of a context where social communicators can completely fulfill their duty of informing society.

The Rapporteurship views positively the fact that these types of acts have been condemned by the highest governmental offices announcing efforts for their full investigation, such as the creation of the *Fiscalía Especial para la Atención de Delitos cometidos contra Periodistas* ("Special Prosecutor's Office for the Attention of Crimes Against Journalists"), on February 14, 2006. The Office encourages the continuation of these initiatives and recommends that local authorities implement measures to prevent the occurrence of similar acts in the future.

Washington, D.C., February 16, 2006.

**OFFICE OF THE SPECIAL RAPPORTEUR FOR FREEDOM OF EXPRESSION DEPLORES
ASSASSINATION IN VENEZUELA**

The Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (IACHR) of the OAS deplores the assassination of Mr. Jorge Aguirre, photographer for the daily newspaper *El Mundo*, and urges the Venezuelan authorities to investigate this incident swiftly and effectively, and to ensure that the persons responsible be duly punished.

According to the information received, Mr. Aguirre was assassinated yesterday afternoon in a central area of Caracas, while covering protests sparked by the killings of Mr. Miguel Rivas and the brothers Bryan, Kevin, and Jason Faddoul, whose corpses recently appeared several weeks after they had been kidnapped. The assassination of Mr. Aguirre was committed by a person riding on a motorcycle who shot at him in public, while he was inside a car. Before dying, Mr. Aguirre was able to photograph the person who shot him.

Under the American Convention on Human Rights, the states have the duty to prevent, investigate, and punish all violations of rights recognized therein. A meticulous, effective, and swift investigation into the crimes against journalists and others who work with the media is essential to send a firm message that the State does not tolerate such grave violations of the freedom of expression, and to ensure journalists that they can continue to do their work safely.

Principle 9 of the Declaration of Principles on Freedom of Expression notes that: "The murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of the state to prevent and investigate such occurrences, to punish their perpetrators and to ensure that victims receive due compensation."

Mr. Ignacio J. Alvarez, recently chosen as Special Rapporteur for Freedom of Expression, stated, "our Hemisphere is one the most dangerous regions in the world for the exercise of journalism." He added: "the assassination of journalists is certainly the most brutal form of curtailing the freedom of expression. Impunity with respect to such cases, which is a trend in our region, is an aggravating factor that facilitates the continuation of killings of journalists."

In coming months the Office of the Special Rapporteur will publish a detailed study on the assassinations of journalists in recent years in the region.

Washington, D.C., April 6, 2006.

**OFFICE OF THE RAPPORTEUR FOR FREEDOM OF EXPRESSION VOICES ITS CONCERN OVER THE
DISAPPEARANCE OF JOURNALIST IN PARAGUAY**

The Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (IACHR) of the Organization of American States expresses serious concern over the disappearance of Mr. Enrique Galeano, a journalist with Radio Azotey and editor of the magazine *Aló Vecino*, in the department of Concepción, and urges the Paraguayan authorities to swiftly and effectively investigate to determine his whereabouts.

According to the information received by the Office of the Special Rapporteur today, Mr. Galeano, who had received death threats because of his work as a journalist, went on February 4, 2006 to Horqueta, a locality near his residence, where he was last seen. The Office of the Rapporteur has also been informed that the highest-level government authorities have condemned this occurrence, and that the investigation is going forward.

Under the American Convention on Human Rights, the states have the duty to prevent, investigate, and prosecute and punish any violation of the rights recognized in the Convention. A meticulous, effective, and swift investigation into crimes against journalists and other media workers is essential to send a firm message to the effect that the State does not tolerate such grave violations of the right to freedom of expression and to ensure that journalists can continue to do their work safely.

In addition, principle 9 of the IACHR's Declaration of Principles on Freedom of Expression notes: "The murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of the state to prevent and investigate such occurrences, to punish their perpetrators and to ensure that victims receive due compensation."

The Special Rapporteur for Freedom of Expression, Ignacio J. Álvarez, noted that "it is especially important that in crimes against journalists, investigations look not only into the direct perpetrators, but also the masterminds, and any other persons whose collaboration and tolerance made it possible for such crimes to be committed."

Washington, D.C., April 12, 2006.

**OFFICE OF THE SPECIAL RAPPORTEUR FOR FREEDOM OF EXPRESSION EXPRESSES
SATISFACTION WITH LEGISLATIVE PROCESSES IN MEXICO**

The Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (IACHR) expresses its satisfaction with legislative advances under way in the federal government of Mexico aimed at ensuring that journalists can preserve the confidentiality of their sources and at removing the crimes of defamation, slander, and libel, from the Federal Criminal Code.

According to the information received, on April 18, 2006, the Mexican Senate approved a series of amendments to the Federal Criminal Code and to the Federal Code of Criminal Procedure which have the effect of recognizing the right of journalists to keep confidential "the names or the recordings, telephone records, notes, documentary and digital files, and anything that directly or indirectly may lead to the identification of those persons who, because of their journalistic work, may provide confidential information, on which they base any publication or communication." Such a reform, approved in the Senate, is awaiting presidential enactment in order to enter into force.

These provisions are compatible with inter-American standards on freedom of expression. In this respect, Principle 8 of the Declaration of Principles on Freedom of Expression of the IACHR states: "Every social communicator has the right to keep his/her source of information, notes, personal and professional archives confidential."

Furthermore, the Office learned that on April 18, 2006, the Chamber of Deputies of the Federal Congress approved a series of amendments to the Federal Criminal Code and to the Federal Civil Code repealing the criminal law provisions governing defamation, slander, and libel, in the federal legislation, and adopting, instead, civil sanctions to protect the right to honor and reputation. It was reported that the project approved is to be forwarded to the Senate, where legislative debate will continue.

Those provisions are also compatibles with international developments in this area. Principle 10 of the Declaration of Principles on Freedom of Expression provides in part: "The protection of a person's reputation should only be guaranteed through civil sanctions in those cases in which the person offended is a public official, a public person or a private person who has voluntarily become involved in matters of public interest."

Ignacio Álvarez, the Special Rapporteur for Freedom of Expression, stated that he values these legislative steps, noting that "they will represent a substantive gain for protection of the freedom of expression in Mexico, and an example for the hemisphere." He emphasized that "both the right to protect journalistic sources and elimination of criminal sanctions with respect to offenses to honor and reputation are very important gains for proper observance of the right to freedom of expression. The right to honor and reputation must be protected through civil sanctions and by means of the right to rectification."

Washington, D.C., April 20, 2006.

**OFFICE OF THE SPECIAL RAPPORTEUR FOR FREEDOM OF EXPRESSION EXPRESSES HIS
CONCERN OVER THE SITUATION OF PERUVIAN JOURNALIST**

The Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (IACHR) expresses concern over the situation of journalist Marilú Gambini, of the Confidential program on the television network Canal 31 ("Channel 31"), who had to leave Peru with her family due to death threats against her. The Rapporteurship urges the Peruvian authorities to investigate the facts swiftly and effectively, to ensure that the persons responsible are duly punished, and to guarantee the conditions necessary for Ms. Gambini to be able to return to Peru and continuing practicing her profession as a journalist.

According to the information received by the Office, journalist Marilú Gambini was investigating drug-trafficking in the city of Chimbote, as a result of which she was constantly receiving death threats directed against her and her family. It was indicated that she had reported these facts to the Office of the Prosecutor in Chimbote, where she also sought protection. On March 28, 2006, Ms. Gambini received a new death threat, by phone, which triggered her decision to leave Peru with her children on April 10, 2006.

The Office of the Rapporteur emphasizes that threats aimed at silencing journalists constitute a serious form of coercion aimed at clamping down on their right to freedom of expression, and also violate the right of the community at large to receive information. Principle 9 of the Declaration of Principles on Freedom of Expression of the IACHR points out: "The murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of the state to prevent and investigate such occurrences, to punish their perpetrators and to ensure that victims receive due compensation."

Ignacio Álvarez, Special Rapporteur for Freedom of Expression, stated: "the States are under an international obligation to duly investigate the threats received by journalists, so as to prevent violations of their rights to life and personal integrity, and to ensure that they can do their work, as journalists, without any public or private interference."

Washington, D.C., April 20, 2006.

**ANNUAL REPORT: OFFICE OF THE SPECIAL RAPPORTEUR CALLS ATTENTION TO THE INCREASE
IN THREATS AND JUDICIAL HARASSMENT OF JOURNALISTS AND OTHER MEDIA WORKERS IN
2005**

In its evaluation of the situation of freedom of expression for 2005, the Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (IACHR) called attention to an increase in acts of intimidation and threats, as well as judicial harassment, of journalists and other media workers in the hemisphere. On April 27, 2006, the IACHR submitted its Annual Report to the Committee on Juridical and Political Affairs of the Organization of American States (OAS); the second volume includes the Report of the Office of the Special Rapporteur for Freedom of Expression.

This is the eighth report prepared by the Office of the Rapporteur since it was established in the IACHR in 1998. It covers the activities carried out from January to December 2005, during which time the Office was under the responsibility and direction of then-Special Rapporteur for Freedom of Expression Eduardo Bertoni.

In addition to an evaluation of the situation of freedom of expression in the hemisphere (Chapter II), the report of the Office of the Rapporteur includes a summary of the case-law on freedom of expression of the African Commission on Human and People's Rights (Chapter III). The report also includes important doctrinal contributions in its chapters on the exercise of freedom of expression and its relationship to public demonstrations (Chapter V), and opinion polls and exit polls (Chapter VI). In addition, and as is its custom every other year, the Office of the Rapporteur presented its report on access to public information in the hemisphere. (Chapter IV).

Washington, D.C., April 28, 2006.

OFFICE OF THE SPECIAL RAPPORTEUR FOR FREEDOM OF EXPRESSION CALLS FOR RELEASE OF JOURNALISTS DETAINED AND FOR END TO JUDICIAL HARASSMENT

On the occasion of the celebration of World Press Freedom Day, May 3rd, the Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (IACHR) calls on Cuba to release the 22 journalists it is holding prisoner, and also calls for an end to judicial harassment of journalists in several countries of the region.

According to information compiled by the Office of the Special Rapporteur, at this time 22 journalists are being held prisoner in Cuba. In addition, in 2005 and the first four months of 2006 proceedings were initiated against at least 50 journalists in 15 countries of the region, for defamation, libel, or slander; for "contempt" (desacato) of public officials (under laws that grant special protection to the honor and reputation of public officials); and for not revealing sources. In addition, in some countries journalists are subject to administrative or judicial proceedings for tax matters, injunctive judicial measures (such as embargos on goods or prohibitions on leaving the country), and disproportionate civil penalties.

As regards criminal proceedings against journalists, whether for defamation, libel, or slander, or for desacato, the Office of the Special Rapporteur notes that protection of the honor and reputation of public officials should be guaranteed through the enforcement of civil penalties and the right of rectification. Ignacio J. Álvarez, Special Rapporteur for Freedom of Expression, indicated that in such cases "a sanction involving the deprivation of liberty is disproportionate insofar as in a democratic society public officials and persons who voluntarily interject themselves in matters of public interest are exposed to a greater level of criticism that makes possible a broader public debate with respect to their performance."

According to Principle 10 of the Declaration of Principles on Freedom of Expression: "Privacy laws should not inhibit or restrict investigation and dissemination of information of public interest. The protection of a person's reputation should only be guaranteed through civil sanctions in those cases in which the person offended is a public official, a public person or a private person who has voluntarily become involved in matters of public interest. In addition, in these cases, it must be proven that in disseminating the news, the social communicator had the specific intent to inflict harm, was fully aware that false news was disseminated, or acted with gross negligence in efforts to determine the truth or falsity of such news." At the same time, Principle 11 notes: "Public officials are subject to greater scrutiny by society. Laws that penalize offensive expressions directed at public officials, generally known as 'desacato laws', restrict freedom of expression and the right to information".

The Office of the Special Rapporteur observes that although in most criminal proceedings against journalists they may not, in practice, end up being deprived of liberty, the common purpose of such proceedings is to intimidate them, both by the mere existence of the proceeding and the threat of imprisonment. In addition, such criminal proceedings are often intended to intimidate other journalists, in an effort to have them engage in self-censorship.

Mindful of the situation in the region, the Office of the Special Rapporteur for Freedom of Expression recommends to the Member States of the OAS that: (1) desacato laws be repealed in those countries in which they remain in force; (2) criminal sanctions for slander, defamation, and libel be eliminated, at least with respect to public officials and persons who voluntarily become involved in matters of public interest; and (3) that the right to honor and reputation be protected through the right of rectification and by means of proportionate civil sanctions issued in proceedings

that take into account the standards set forth in Principle 10 of the Declaration of Principles on Freedom of Expression.

The Special Rapporteur, Ignacio J. Álvarez, added that “journalists provide a service fundamental to democracy, and have the right to perform their work without having to be concerned that they may be subject to imprisonment because of it.”

The Office of the Special Rapporteur for Freedom of Expression offers its cooperation and technical assistance to the States to go forward in this area.

Panama City, May 3, 2006.

JOINT DECLARATION: WORLD PRESS FREEDOM DAY

On this occasion of the World Press Freedom Day, the Special Rapporteur of the Commission on Human Rights on the promotion and protection of the right to freedom of opinion and expression, Mr. Ambeyi Ligabo; the Special Rapporteur for freedom of expression of the Organization of American States, Mr. Ignacio Alvarez; the Representative on Freedom of the Media of the Organization for Security and Co-operation in Europe, Mr. Miklos Haraszti; and the Special Rapporteur on Freedom of Expression of the African Commission on Human and People's Rights, Ms. Faith Pansy Tlakula, wish to commend the vital role the Press has been playing for the progression of democracy and human rights.

Journalists are indispensable for disseminating information, promoting debate and facilitating dialogue, activities that constitute the foundation of a democratic society based on pluralistic approach, where individuals and groups are encouraged to exchange information and express opinion freely. In this context, maintaining and nourishing media diversity, based on mutual respect and tolerance amongst different groups, are essential.

This year's World Press Freedom Day also sheds light on the link between freedom of the Press and poverty eradication. Free and independent media is a key to combat poverty, as they serve as a medium to ensure unhindered circulation of ideas, to promote education and awareness thus upgrading opportunities. A special effort needs to be made to bring these benefits to the less developed countries and the poor in general, as they should be the prime beneficiaries of unprecedented opportunities the global information society offers.

It is, however, a grave sorrow to remind ourselves that in the year 2005 the world recorded the highest number of journalists and other media professionals, killed or injured on the line of duty. Attacks, intimidation and harassment against journalists and media professionals regrettably became every-day events in some parts of the world. It is noted with grave concern that violence against the media and journalists often occur with impunity. Criminal sanctions against persons and media who express critical opinions continue, including in the forms of criminal defamation or libel suits. Media ownership concentration, censorship, harassment through judicial or administrative measures, such as discriminatory application of media accreditation procedure or entry permit to a country, continue to be reported. With a rapid development in technology, Internet has become one of the main means of disseminating information and exchanging opinions, but at the same time, more and more the freedom of the Internet is targeted.

The four special rapporteurs would like to take this opportunity to call upon all governments to combat impunity with regard to violence against journalists and media personnel, by bringing to justice those responsible for attacks against them, and by taking measures that enables journalists and media personnel to continue providing information freely and independently. All journalists detained because of their media-related activities should be released immediately.

In this context, it is parallel obligation of all to avoid the use of discriminatory forms of expression, such as hate speech. True freedom of expression and the press is firmly based on the culture of pluralism, diversity, tolerance and mutual understanding.

Ambeyi Ligabo

Special Rapporteur of the UN on the Promotion and Protection of the Right to Freedom of Opinion and Expression

Miklos Haraszi
Representative on Freedom of the Media of the OSCE

Faith Pansy Tlakula
Special Rapporteur on Freedom of Expression of the ACHPR

Ignacio Alvarez
Special Rapporteur for Freedom of Expression of the OAS

Washington, D.C., May 3, 2006.

OFFICE OF THE SPECIAL RAPPORTEUR FOR FREEDOM OF EXPRESSION RECOMMENDS TO THE ECUADORIAN STATE THAT IT DEROGATE ITS LEGISLATION DEFINING THE CRIMINAL OFFENSE OF DESACATO

On finalizing a working visit to the Republic of Ecuador, carried out from May 31 to June 2, 2006, the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (IACHR), Ignacio J. Álvarez, recommended to the appropriate authorities that they repeal legislation that provides for the crimes of desacato, found in Articles 128, 230, 231, 232, and 233 of the Criminal Code of Ecuador.

“Desacato” statutes accord special protection to the honor and reputation of public officials. The IACHR has noted that such laws are incompatible with the right to freedom of expression provided for in Article 13 of the American Convention on Human Rights, because in a democratic society, public officials should be exposed to a greater level of criticism, so as to facilitate broader public debate with respect to their performance in the conduct of public affairs.

Principle 11 of the Declaration of Principles on Freedom of Expression notes that: “Public officials are subject to greater scrutiny by society. Laws that penalize offensive expressions directed at public officials, generally known as ‘desacato laws,’ restrict freedom of expression and the right to information.”

The Office of the Special Rapporteur noted that in the past years, nine countries of the region have derogated their desacato laws, which reveals a tendency that should be taken into account by the authorities of those states that still have such laws on the books. The Office also emphasized that protecting the honor and reputation of public officials should be guaranteed through proportionate civil sanctions and the right to rectification.

During this visit the Special Rapporteur met with high-level authorities of the Ministry of Foreign Affairs, the National Congress, the Judicial branch, and the Office of the Human Rights Ombudsman. He also held meetings with journalists, representatives of the media, and civil society. The Special Rapporteur thanked the authorities of the Ecuadorian State for the wide-ranging collaboration provided during this visit, and reiterated that the Office of the Special Rapporteur for Freedom of Expression is ready and willing to cooperate with and provide technical assistance to the states in initiatives related to legislative advances related to the freedom of expression.

Quito, June 2, 2006.

**OFFICE OF THE SPECIAL RAPPORTEUR FOR FREEDOM OF EXPRESSION RECOMMENDS TO THE
REPUBLIC OF CUBA THE ELIMINATION OF RESTRICTIONS ON INTERNET ACCESS**

The Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (IACHR) of the OAS has been informed of the critical state of health of the director of the Cubanacán Press news agency, Mr. Guillermo Fariñas, who has been on hunger strike since January 31, 2006, in protest against the lack of free access to the Internet in Cuba.

As emphasized by the Office of the Special Rapporteur, access to the Internet can strengthen democratic systems, contribute to economic development in the countries of the region, and uphold the full exercise of freedom of expression.

The Office of the Special Rapporteur observes with concern that the Cuban legal system severely restricts the population's access to the Internet. The source of said legal restrictions lies in the Decree No. 209/96, "Access to the World Computer Network from Cuba", which establishes a number of limitations to the capacity of receiving and imparting information through the Internet, which are incompatible with the right to freedom of expression.

It is important to note that Principle 2 of the Declaration of Principles on Freedom of Expression of the IACHR establishes that "[a]ll people should be afforded equal opportunities to receive, seek and impart information by any means of communication without any discrimination for reasons of race, color, sex, language, religion, political or other opinions, national or social origin, economic status, birth or any other social condition".

In this same vein, in December of 2005, the UN Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media and the OAS Special Rapporteur for Freedom of Expression affirmed in a Joint Declaration that "the right to freedom of expression imposes an obligation on all States to devote adequate resources to promote universal access to the Internet" and that "restrictions on Internet content, whether they apply to the dissemination or to the receipt of information, should only be imposed in strict conformity with the guarantee of freedom of expression".

The Office of the Special Rapporteur for Freedom of Expression recommends to the Republic of Cuba the elimination of restrictions on Internet access from its legislation.

Washington, D.C., June 19, 2006.

**OFFICE OF THE SPECIAL RAPPORTEUR FOR FREEDOM OF EXPRESSION CONDEMNS THE
ASSASSINATION OF JOURNALIST IN VENEZUELA**

The Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (IACHR) of the OAS condemns the assassination of Mr. José Joaquín Tovar, director of the weekly *Ahora*. The Rapporteurship urges Venezuelan authorities to investigate this incident swiftly and effectively and to ensure that the persons responsible are duly punished.

According to the information received by the Rapporteurship, Mr. Tovar's body was found with 11 gunshot wounds on June 16, 2006 at the entrance of the parking lot of the building where the weekly *Ahora* operates in the city of Caracas. As director of the weekly *Ahora*, Mr. Tovar wrote editorial columns where he denounced acts of corruption.

Principle 9 of the Declaration of Principles on Freedom of Expression notes that: "The murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of the state to prevent and investigate such occurrences, to punish their perpetrators and to ensure that victims receive due compensation".

The Office of the Special Rapporteur for Freedom of Expression emphasizes that according to the American Convention on Human Rights, States have the duty to prevent, investigate, and punish all violations of rights recognized therein. A meticulous, effective, and swift investigation into the crimes against journalists and others who work with the media is essential to send a firm message that the State does not tolerate such grave violations of the right to freedom of expression, and to assure journalists that they can continue to do their work safely.

Washington, D.C., June 19, 2006.

**THE STATE OF FREEDOM OF EXPRESSION IN THE REGION
(APRIL- JUNE 2006)**

As the April - June 2006 trimester has concluded, the Office of the Special Rapporteur for Freedom of Expression expresses its concern about the murders of three journalists, the more than 50 episodes of physical aggression against social communicators, the criminal proceedings taking place against journalists and the regressive legislative initiatives in the area of freedom of expression. Additionally, the Rapporteurship expresses concern about the occurrence of a number of other acts that are also aimed at silencing journalists and communications media that are critical of public officials and governments. These restrictions include: discriminatory allocation of official publicity, prior censorship, warnings by high-ranking officials, terminating journalists' employment, acts of espionage against journalists, and discrimination in granting access to official acts.

In terms of positive developments, the Office of the Special Rapporteur notes the legislative advances taking place in Mexico in relation to the decriminalization of crimes against honor, and in Uruguay, with the Draft Law on Access to Public Information and Constitutional Review (Ley de Acceso a la Información Pública y Amparo Informativo), presented before Congress. The Rapporteurship also considers positive some advances made in criminal trials related to murders of journalists.

This trimestral report, which is based on the Office of the Special Rapporteur's daily monitoring of the state of freedom of expression in the region, has the objective of highlighting in a timely manner the problems and the advances with respect to freedom of expression in the region and trying to encourage the adoption of corrective measures that could bring about fuller respect for the right to freedom of thought and expression. Based on the information received during the past trimester, which is detailed in the annex to this press release, the Rapporteurship observes the following:

Argentina

The Office of the Special Rapporteur notes that during this trimester there have been numerous acts of aggression and threats against journalists, mostly perpetrated by public officials. Moreover, the Rapporteurship is concerned by the information received on different means of indirectly restricting freedom of expression, which include: discriminatory allocation of official publicity, warnings by high-ranking officials against journalists and communications media, charges of spying on journalists' e-mails, terminations of employment and restrictions on some media and journalists for the coverage of acts of high-ranking government officials.

Bolivia

The information received by the Rapporteurship includes various declarations by high-ranking government officials relating to the work of the press, which include naming the owners of a television network "government enemies."

Brazil

The Rapporteurship notes that there were two episodes of censorship, ordered by the Judiciary through precautionary measures.

Canada

The Office of the Special Rapporteur highlights that the federal government prohibited coverage of the repatriation ceremony for the bodies of Canadian soldiers killed in Afghanistan. According to the government, this measure is meant to protect the interests of the victims' families.

Chile

The information corresponding to the time period in question includes the confirmation of four journalists' prison sentences and episodes of police aggression directed at journalists working on the streets. The Office of the Special Rapporteur deplores these acts of aggression and considers positive the government's immediate order to investigate and punish those responsible.

Colombia

The information received indicates various episodes of aggression against journalists, including the violent apprehension and detention of various journalists who were covering an indigenous demonstration, and the confiscation and destruction of their equipment. On the other hand, the Rapporteurship deems as positive the advances made in the trials for the murders of two journalists, José Emeterio Rivas and Santiago Rodríguez Villalba.

Costa Rica

The Office of the Special Rapporteur considers that the Supreme Court's upholding of Article 7 of the Law of the Press is incompatible with recent developments regarding the right to freedom of expression. Said article contemplates prison sentences for journalists found guilty of defamation crimes. Moreover, the Rapporteurship has sent a letter to the State suggesting that international standards on this matter should be taken into account with respect to a draft law presented in Congress on the requirement of truthful information.

Cuba

During the time period in question, the Office of the Special Rapporteur issued a press release requesting that Cuba release its more than 20 imprisoned journalists, and another press release recommending that the State repeal its restrictions on Internet access. The acts of aggression against journalists noted in the annexed table fit within the context of the only State in the region where freedom of expression does not exist.

Dominican Republic

The Rapporteurship received information regarding an attack against journalists perpetrated by members of a political party, in the country's interior. Apparently, this episode was due to the latter being filmed by the victims while receiving checks as if they were public officials.

Guatemala

The Rapporteurship is following closely the situation of the community radio stations that were shut down.

Honduras

The Rapporteurship considers it worrisome that journalist Jesús Octavio Carvajal felt obligated to leave the country temporarily due to the attacks and threats directed against him. On a separate note, the Office of the Special Rapporteur restates that requiring membership in a professional association in order to practice journalism is incompatible with the right to freedom of expression.

Mexico

The Office of the Special Rapporteur calls attention to the numerous acts of aggression and threats committed during this trimester. On the other hand, the Rapporteurship notes the legislative advances occurring in the Federal District, which annul the crime of defamation and uphold the right of journalists to protect sources. The latter is also bolstered by recent modifications to the Federal Penal Code and the Federal Code of Penal Procedure. Moreover, the draft federal bill on the annulment of defamation as a crime was approved by the House of Representatives and is awaiting deliberation in the Senate.

Panama

The draft Penal Code presented by the Codifying Commission contains clauses that are incompatible with the right to freedom of expression. The Office of the Special Rapporteur has sent a letter to the Government of Panama regarding this issue.

Paraguay

The Rapporteurship expresses concern that journalist Enrique Galeano has been missing since February of 2006 and that some community radios have been shut down.

Peru

The Rapporteurship expresses grave concern relating to the number of acts of aggression recorded during this trimester against journalists and media outlets. Furthermore, the information received points to acts of prior censorship, job terminations and restrictions through administrative proceedings.

United States

The Rapporteurship considers as an act of prior censorship the decision of the Miami- Dade School Board to remove the book "Vamos a Cuba" from school libraries, and hopes that the legal actions taken in order to redress the situation will be successful.

Uruguay

It is of concern to the Rapporteurship that journalist Gustavo Escanlar was found guilty of criminal defamation. On the other hand, the Rapporteurship considers very positive the Draft Law on Access to Public Information and Constitutional Review (Anteproyecto de Ley de Acceso a la Información Pública y Amparo Informativo) presented to Congress. It was elaborated by renowned national and international experts.

Venezuela

The Office of the Special Rapporteur expresses its concern for the murder of two journalists, Jorge Aguirre and Jose Joaquín Tovar, and the high number of criminal proceedings against journalists. In addition, the Rapporteurship is worried about the prison sentences against reporter Mireya Zurita and journalist Henry Crespo, the order to demolish the headquarters of the newspaper Correo del Caroní, and the statements of high-level public officials on June 14, 2006, according to which the revision of concessions for television stations may have been ordered for reasons such as the editorial line of these channels. On the other hand, the Rapporteurship notes the dismissal of the claim against journalist Napoleón Bravo, although it has been appealed by the Public Prosecutor's

Office. Furthermore, the Rapporteurship deems as positive the message of the Vice President given on June 26, 2006, which announces that there will be no violation of freedom of expression in the country, no jailed reporters, no martial law utilized to try journalists, nor any newspaper shut-downs.

The Special Rapporteur considers that the acts which occurred this trimester in the region reveal a diverse set of problems surrounding the right to freedom of expression which deserves a diligent search for the necessary corrections, through the active participation of all the involved sectors of society.

The Special Rapporteur for Freedom of Expression, Ignacio J. Álvarez, stated that the analysis of the incidents which occurred this trimester reveals that alongside direct violations to the right to freedom of expression in the region “persist more subtle uses of public power with the same objective of silencing the press.”

In the months to come, the Rapporteurship will publish a manual on utilizing the inter-American human rights system for the promotion and defense of the right to freedom of thought and expression. The Rapporteurship will also organize seminars on the subject in various countries of the region.

The sources taken into account for the development of this press release can be found at the end of the annexed table. The States, along with NGOs, journalists, media and other individuals and organizations can send information to the Office of the Special Rapporteur for Freedom of Expression at the following email address cidh-expression@oas.org. The next trimestral press release will cover the period of July - September 2006.

Washington, D.C., July 7, 2006.

**OFFICE OF THE SPECIAL RAPPORTEUR FOR FREEDOM OF EXPRESSION VOICES CONCERN OVER
THE DISAPPEARANCE OF A JOURNALIST IN MEXICO**

The Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (IACHR) of the OAS expresses its concern over the disappearance of Mr. Rafael Ortiz Martínez, journalist with the newspaper Zócalo and host of the morning news program Radio Zócalo on the local station XHCCG 104.1 FM, in the city of Monclova, state of Coahuila, and urges the Mexican authorities to investigate in a prompt and effective manner regarding his whereabouts.

According to the information received by the Office of the Special Rapporteur, Mr. Ortiz Martínez was last seen early in the morning on July 8, 2006, as he was leaving the installations of the Zócalo newspaper, after having edited journalistic material for that day's issue. The information also indicated that Mr. Ortiz Martínez had recently published investigations on subjects including activities of organized crime in the city of Monclova.

In this respect, it should be recalled that according to the American Convention on Human Rights, the States have the duty to prevent, investigate and sanction all violations of the rights recognized in the Convention. A prompt, thorough and effective investigation of crimes against social communicators is essential to send a firm message that the State will not tolerate such grave violations of the right to freedom of expression and to assure journalists that they can continue to do their jobs safely.

Additionally, Principle 9 of the Declaration of Principles on Freedom of Expression of the IACHR states that "[t]he murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of the state to prevent and investigate such occurrences, to punish their perpetrators and to ensure that victims receive due compensation."

The Special Rapporteur for Freedom of Expression, Ignacio J. Alvarez, stated that "it is especially important that in crimes against journalists the investigations include not only the actual perpetrators, but also the intellectual authors and other individuals whose collaboration and tolerance made the commission of such crimes possible."

Washington, D.C., July 19, 2006.

**OFFICE OF THE SPECIAL RAPPORTEUR FOR FREEDOM OF EXPRESSION CONDEMNS THE
ASSASSINATION OF TWO JOURNALISTS IN BRAZIL AND REQUEST AN ADEQUATE
INVESTIGATION**

The Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (IACHR) of the OAS condemns the assassination of Mr. Manoel Paulino da Silva, director of the daily *Hoje Jornal*. According to the received information, Manoel Paulino da Silva was driving his car in the city of Guarujá, State of São Paulo on the morning of July 20, 2006, when individuals approached and shot in his direction. Afterwards, his vehicle crashed into a wall and ignited.

Furthermore, the Special Rapporteurship condemns the assassination of Mr. Ajuricaba Monassa de Paula, independent journalist and member of the Brazilian Press Association. The Rapporteurship was informed that Mr. Ajuricaba de Paula died on July 24, 2006, after he was brutally beaten by a councilman of the city of Guapirimim, State of Rio de Janeiro. It has been indicated that the journalist would occasionally publish news criticizing the performance of the aforementioned councilman and of the city's administration.

The Office of the Special Rapporteur for Freedom of Expression emphasizes that according to the American Convention on Human Rights States have the duty to prevent, investigate, and punish all violations of rights recognized therein. Accordingly, the Special Rapporteurship urges the Brazilian authorities to investigate both murders swiftly and effectively in order to ensure that the responsible persons be duly punished and that it be determined if the murders were related to the exercise of the journalistic activity.

Principle 9 of the Declaration of Principles on Freedom of Expression notes that: "[t]he murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of the state to prevent and investigate such occurrences, to punish their perpetrators and to ensure that victims receive due compensation".

The Special Rapporteur for Freedom of Expression, Ignacio Álvarez, indicated that "it is especially important that in crimes against journalists the State investigate not only the direct perpetrators, but also the masterminds and the persons whose collaboration and toleration made these crimes possible."

Washington, D.C., July 28, 2006.

RELATORÍA ESPECIAL PARA LIBERTAD DE EXPRESIÓN INICIA ESTUDIO SOBRE SITUACIÓN DE LAS INVESTIGACIONES DE 172 CASOS DE PERIODISTAS ASESINADOS EN LA REGIÓN

La Relatoría Especial para la Libertad de Expresión de la Comisión Interamericana de Derechos Humanos (CIDH) de la OEA ha iniciado un estudio especial sobre el estado de las investigaciones de los asesinatos cometidos en la región durante el período 1995-2005 por motivos que pudieran estar relacionados con el ejercicio de la actividad periodística.

Al respecto, la recopilación inicial efectuada por la Relatoría, que incluye nombres, fechas y circunstancias de los asesinatos, indica preliminarmente que en el período del estudio se habrían producido 172 asesinatos de periodistas en la región, de acuerdo al siguiente detalle: Argentina (2), Bolivia (1), Brasil (24), Canadá (2) Colombia (83), Costa Rica (2), Ecuador (1), El Salvador (1), Estados Unidos (1), Guatemala (9), Haití (6), Honduras (1), México (24), Nicaragua (4), Paraguay (2), Perú (4), República Dominicana (2), Uruguay (1) y Venezuela (2).

Con base en dicha recopilación preliminar la Relatoría Especial ha solicitado información a los respectivos Estados, así como a organizaciones no gubernamentales y a otras instituciones, sobre la situación de las investigaciones de dichos crímenes. El propósito del estudio es elaborar un cuadro final sobre los resultados concretos de las investigaciones en cada asesinato y un análisis general de tal situación en la región.

La información concreta solicitada incluye la relativa a si existen actualmente personas procesadas o condenadas como autores materiales, intelectuales, cómplices o encubridores respecto de tales asesinatos; la etapa procesal en que se encuentran los respectivos procesos; la existencia de personas privadas de libertad en relación con tales asesinatos y la determinación de si los asesinatos tuvieron relación con el ejercicio de la actividad periodística de las víctimas.

El Relator Especial para la Libertad de Expresión, Ignacio J. Álvarez, señaló que la Relatoría ha decidido llevar a cabo dicho estudio tomando en cuenta que "el asesinato de periodistas constituye la forma más brutal de coartar la libertad de expresión, y la falta de una debida investigación y sanción puede propiciar la ocurrencia de nuevos asesinatos".

Washington, D.C., 1 de agosto de 2006.

**OFFICE OF THE SPECIAL RAPPORTEUR FOR FREEDOM OF EXPRESSION CONDEMNS ATTACK
AGAINST NEWSPAPER IN GUYANA AND DEMANDS PROMPT INVESTIGATION**

The Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (IACHR) of the OAS condemns the attack perpetrated on August 8, 2006, against the Kaieteur News printing plant in Georgetown, Guyana, where four employees were killed and two were gravely injured. The Rapporteurship urges Guyanese authorities to investigate these crimes swiftly and effectively and to ensure that the persons responsible are duly punished.

According to the information received by the Rapporteurship, during the night of August 8, 2006, a group of masked gunmen entered the Kaieteur News printing plant and opened fire against the local security guard. It is indicated that afterwards, the assailants forced the printing staff employees: Mark Mikoo, Chitram Persaud, Eion Wegman, Richard Stewart and Shazeem Mohamed, to lie face down on the floor, where they were shot in the back of the head. It has been stated that the security guard is in stable condition, while Shazeem Mohamed is in critical condition.

The Office of the Special Rapporteur for Freedom of Expression emphasizes that according to the American Convention on Human Rights, States have the duty to prevent, investigate, and punish all violations of rights recognized therein. To this end, the Rapporteurship urges Guyanese authorities to leave no stone unturned in ensuring that the persons responsible for this crime are brought to justice and that it be determined if the murders were related to the exercise of the journalistic activity of the Kaieteur News.

Principle 9 of the Declaration of Principles on Freedom of Expression notes that: "the murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of the States to prevent and investigate such occurrences, to punish their perpetrators and to ensure that victims receive adequate compensation".

The Special Rapporteur for Freedom of Expression, Ignacio J. Álvarez, noted that "when investigating these crimes it is especially important to charge not only the direct perpetrators, but also the masterminds and the additional individuals whose collaboration and tacit acceptance made these crimes possible."

Washington, D.C., August 11, 2006.

**OFFICE OF THE SPECIAL RAPPORTEUR FOR FREEDOM OF EXPRESSION CONDEMNS
ASSASSINATION OF JOURNALIST IN COLOMBIA AND DEMANDS PROMPT INVESTIGATION**

The Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (IACHR) of the OAS condemns the assassination of Mr. Milton Fabián Sánchez, a radio journalist with Yumbo Stéreo, in Colombia. The Rapporteurship urges the Colombian authorities to investigate this incident swiftly and effectively in order to ensure that the persons responsible are duly punished and to determine whether the crime is connected to the exercise of the journalistic profession.

According to the information received by the Rapporteurship, during the night of August 9, 2006, Mr. Sánchez was shot three times by unknown assailants in Yumbo, district of Valle del Cauca. It was indicated that Mr. Sánchez died shortly after being transported to a local health center. Mr. Sánchez conducted the community program Mesa Redonda where political topics were debated.

The Office of the Special Rapporteur for Freedom of Expression emphasizes that according to the American Convention on Human Rights, States have the duty to prevent, investigate, and punish all violations of rights recognized therein. Furthermore, Principle 9 of the Declaration of Principles on Freedom of Expression notes that: "the murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of the States to prevent and investigate such occurrences, to punish their perpetrators and to ensure that victims receive adequate compensation."

The Special Rapporteur for Freedom of Expression, Ignacio J. Álvarez, noted that "when investigating crimes against journalists it is especially important to charge not only the direct perpetrators, but also the masterminds and the additional individuals whose collaboration and tacit acceptance made these crimes possible."

Washington, D.C., August 11, 2006.

**OFFICE OF THE SPECIAL RAPPORTEUR FOR FREEDOM OF EXPRESSION CONDEMNS THE
MURDER OF JOURNALIST IN MEXICO AND DEMANDS PROMPT INVESTIGATION**

The Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (IACHR) of the OAS condemns the murder of journalist Enrique Perea Quintanilla, director of the monthly magazine *Dos Caras, Una Verdad*, in the state of Chihuahua, México. The Special Rapporteur urges the Mexican authorities to investigate this incident swiftly and effectively in order to ensure that the persons responsible are duly punished and to determine whether the crime is connected to the exercise of journalism.

According to the information received by the Rapporteurship, the body of Perea Quintanilla was found abandoned on a highway in the state of Chihuahua on August 9, 2006, exhibiting signs of torture and two bullet wounds. His relatives reported the disappearance of the journalist to the authorities on August 8, 2006. It was indicated that the journalist covered subjects tied to police investigations about murders and drug trafficking as well as the increase of violence in the state of Chihuahua.

The Office of the Special Rapporteur for Freedom of Expression emphasizes that according to the American Convention on Human Rights, States have the duty to prevent, investigate, and punish all violations of rights recognized therein. Furthermore, Principle 9 of the Declaration of Principles on Freedom of Expression notes that: "the murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of the States to prevent and investigate such occurrences, to punish their perpetrators and to ensure that victims receive adequate compensation."

The Special Rapporteur for Freedom of Expression, Ignacio J. Álvarez, noted that "it is especially important that in crimes against journalists the investigations include not only the actual perpetrators, but also the intellectual authors and other individuals whose collaboration and tolerance made the commission of such crimes possible." He added that "the international obligation of the States to investigate and sanction those responsible for acts of violence against journalists includes the determination of whether these incidents were related to the exercise of journalism."

Washington, D.C., August 16, 2006.

**OFFICE OF THE SPECIAL RAPPORTEUR FOR FREEDOM OF EXPRESSION CONDEMNS THE
MURDER OF JOURNALIST IN COLOMBIA AND DEMANDS PROMPT INVESTIGATION**

The Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (IACHR) of the OAS condemns the murder of the journalist Atilano Segundo Pérez Barrios in Colombia. The Rapporteurship urges the Colombian authorities to investigate this incident swiftly and effectively in order to ensure that the persons responsible are duly punished and to determine whether the crime is connected to the exercise of journalism.

According to the information received by the Office of the Special Rapporteur, on the night of August 22, 2006, individuals riding on a motorcycle shot the journalist several times in front of his house in the city of Cartagena, department of Bolívar. It was also indicated that two days before the assassination, Mr. Pérez Barrios denounced on a radio program the alleged financing of electoral campaigns in the region by demobilized paramilitaries.

The Office of the Special Rapporteur for Freedom of Expression emphasizes that according to the American Convention on Human Rights, States have the duty to prevent, investigate, and punish all violations of rights recognized therein. Furthermore, Principle 9 of the Declaration of Principles on Freedom of Expression notes that: "the murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of the States to prevent and investigate such occurrences, to punish their perpetrators and to ensure that victims receive adequate compensation."

The Special Rapporteur for Freedom of Expression, Ignacio J. Álvarez, noted that "when investigating crimes against journalists it is especially important to investigate not only the direct perpetrators, but also the masterminds and the additional individuals whose collaboration and tacit acceptance made these crimes possible.

Washington, D.C., August 31, 2006.

**OFFICE OF THE SPECIAL RAPPORTEUR FOR FREEDOM OF EXPRESSION CONDEMNS THE
MURDER OF JOURNALIST IN VENEZUELA AND DEMANDS PROMPT INVESTIGATION**

The Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (IACHR) of the OAS condemns the murder of Mr. Jesús Rafael Flores Rojas, a journalist of the daily *Región*, in the state of Anzoátegui, Venezuela. The Rapporteurship urges the Venezuelan authorities to investigate this incident swiftly and effectively in order to ensure that the persons responsible are duly punished and to determine whether the crime is connected to the exercise of journalism.

According to the information received by the Office of the Special Rapporteur, on the night of August 23, 2006, Mr. Flores Rojas arrived at his house in the locality of El Tigre, when an individual shot him eight times before fleeing in an automobile that was waiting a few meters away. The information received indicates that Mr. Flores Rojas used to write on subjects that included denunciations of corruption in the local public administration.

The Office of the Special Rapporteur for Freedom of Expression emphasizes that according to the American Convention on Human Rights, States have the duty to prevent, investigate, and punish all violations of rights recognized therein. Furthermore, Principle 9 of the Declaration of Principles on Freedom of Expression notes that: "the murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of the States to prevent and investigate such occurrences, to punish their perpetrators and to ensure that victims receive adequate compensation."

The Special Rapporteur for Freedom of Expression, Ignacio J. Álvarez, noted that "when investigating crimes against journalists it is especially important to investigate not only the direct perpetrators, but also the masterminds and the additional individuals whose collaboration and tacit acceptance made these crimes possible." He added that "the international obligation of the States to investigate and sanction those responsible for acts of violence against journalists includes the determination of whether these incidents were related to the exercise of journalism."

Washington, D.C., August 31, 2006.

**OFFICE OF THE SPECIAL RAPPORTEUR FOR FREEDOM OF EXPRESSION CONDEMNS THE
MURDER OF JOURNALIST IN GUATEMALA AND DEMANDS PROMPT INVESTIGATION**

The Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (IACHR) of the OAS condemns the murder of radio journalist Eduardo Heriberto Maas Bol in Guatemala. The Special Rapporteurship urges the Guatemalan authorities to investigate this incident swiftly and effectively in order to ensure that the persons responsible are duly punished and to determine whether the crime is related to the exercise of the journalistic profession.

According to the information received by the Office of the Special Rapporteur, on September 10, 2006, the corpse of Mr. Eduardo Maas Bol, correspondent of Radio Punto, was found in his automobile in Cobán, department of Alta Verapaz, with five bullet wounds.

The Office of the Special Rapporteur for Freedom of Expression emphasizes that according to the American Convention on Human Rights, States have the duty to prevent, investigate, and punish all violations of rights recognized therein. Furthermore, Principle 9 of the Declaration of Principles on Freedom of Expression notes that: "the murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of the States to prevent and investigate such occurrences, to punish their perpetrators and to ensure that victims receive adequate compensation".

The Special Rapporteur for Freedom of Expression, Ignacio J. Álvarez, noted from Guatemala that "the political will of the States to promptly investigate the crimes against journalists as well as the immediate and serious launching of the investigations are basic factors to the effectiveness of the domestic trials. The lack of an effective investigation can imply the international responsibility of the State determined by the Inter-American Commission on Human Rights and the Inter-American Court on Human Rights".

Guatemala City, September 13, 2006.

**OFFICE OF THE SPECIAL RAPPORTEUR FOR FREEDOM OF EXPRESSION EXPRESSES CONCERN
OVER THE DETERIORATION OF FREEDOM OF EXPRESSION IN THE REGION**

The Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (IACHR) expresses concern over the deterioration of freedom of expression in the region during the last quarter, covering the period July 1 to September 30, 2006. There has been an increase in physical violence against journalists, which has been manifest most brutally in at least seven murders and one disappearance apparently related to the exercise of journalism. Additionally, the delays on police investigations and judicial processes with respect to the murders of journalists perpetrated in the region in the last few years leads to impunity for these crimes and encourages their probable repetition. The Rapporteurship has also registered in the period covered by this report dozens of episodes of physical aggression against journalists, several attacks against mass media, several kidnappings and dozens of threats in practically all of Latin America, as well as several acts of prior censorship. In addition, many journalists face criminal processes for crimes like "desacato" (contempt) or defamation, and some courts, including a Supreme Court, have condemned journalists to jail in these cases, restricting freedom of expression and disregarding the doctrine and jurisprudence of the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights on this subject. In addition to these criminal processes against journalists, there are administrative processes against mass media.

In addition to the direct violations, the Special Rapporteurship observes an increasing tendency towards intolerance for criticism by several governments of the region. This is reflected in the recurrent use by authorities of subtler methods of restricting the press, that if analyzed in isolated form can seem relatively innocuous, but when observed as a whole indicate worrisome situations and tendencies in various countries. Such illegitimate and misdirected use of the public power includes the application of discriminatory policies in the allocation of official publicity, discrimination in providing access to official sources, dismissals from state and private media as a result of governmental pressure and administrative inspections by government bodies.

The Special Rapporteur for Freedom of Expression, Ignacio J. Alvarez, indicated that "freedom of expression not only implies the possibility to disseminate inconvenient or critical information about authorities, but also includes freedom from facing illegitimate consequences imposed by the State as a result."

The Special Rapporteurship for Freedom of Expression also emphasizes positive developments in this period. Among them it emphasizes the confirmation of a conviction of two persons in Peru for the murder of a journalist and the definitive dismissal of the penal process against a journalist in the same country who had been charged with defamation; the stay of proceedings for defamation against a journalist in Costa Rica; and the modification made in Panama to the first draft of a bill to reform the Penal Code, by instructions of the President of the Republic and at the request of diverse sectors of civil society, to decriminalize crimes against honor of government officials or people involved in matters of public interest. In addition, the Special Rapporteurship emphasizes the approval in the State of Querétaro, México, of a norm that protects the confidentiality of the sources of information of journalists. Also, it positively emphasizes the veto of the president of Brazil of a law intended to limit the exercise of journalistic roles solely to people with university diplomas and the commitment of the President of Chile to legislate in favor of community radios.

This quarterly report, based on the daily monitoring of the Office of the Special Rapporteur of the situation of the right to the freedom of expression in the region, looks to emphasize the concerns and advances in the matter of freedom of expression, and to try to contribute to the adoption of the corrective measures that could be pertinent for a greater exercise of the right to the freedom of

thought and expression. On the basis of the information received in the last quarter, which is detailed in the annex to the present communiqué, the Special Rapporteurship shows the following:

Argentina

The Special Rapporteurship expresses its concern over the repeatedly denounces of press and mass media organizations in the matter of freedom of expression in the country. The information received refers to the use of different forms of coercion by the government on the press that maintains a stance that is critical of it, the existence of a discriminatory policy in the allocation of official publicity, the numerous hostile declarations made by high authorities of the state against the press, and the threats and acts of aggression against communicators and their families. It was noted, for example, that the day after a speech by the President in which he made accusations against a journalist, the journalist received telephone threats. Also, the decision to take a program of the state television channel off the air was interpreted as retaliation against its conductor, who is critical of the government.

Bolivia

The Special Rapporteurship received information on several acts of physical aggression against journalists. In addition, a television channel was attacked on September 8 with an incendiary bomb.

Brazil

The Special Rapporteurship reiterates that it deplores the murders of the journalists Manoel Paulino da Silva and Ajuricaba Monassa de Paula. The Special Rapporteurship laments the kidnapping of the reporter Guilherme Portanova and the technical assistant Alexandre Coelho Calado, of TV Globo, on the part of members of a criminal group. In addition, it expresses its concern over the aggressions, attacks and threats against communicators, the confiscation by the Federal Police of the writing equipment of the newspaper Hoje and the decision to close two community radio stations. Also, it expresses its concern over the high number of cases of prior censorship on the part of the judicial branch and the 8-month jail sentences for the journalists Edilberto Resende da Silva, Jairo Batista Nascimento and Ermógenes Jacinto de Sousa for the crime of defamation. Regarding positive facts, the Special Rapporteurship emphasizes the decision of the President of Brazil to veto a law that demanded a university diploma for the exercise of several journalistic roles.

Chile

The Special Rapporteurship for Freedom of Expression emphasizes the commitment expressed by the President of Chile on July 11 to legislate in favor of community radios.

Colombia

The Office of the Special Rapporteur for Freedom of Expression reiterates that it deplores the murders of the journalists Milton Fabian Sanchez and Atilano Perez Barrios and expresses concern over the cases of physical aggressions. Also, it worries the Special Rapporteurship that a police major and an army colonel exercised prior censorship, the first when he obligated photojournalists to show their films of a confrontation between police and traveling salespeople and the second when he prevented the exhibition of a documentary on a massacre. Also, it is worrisome that two indigenous communicators were detained a day before the beginning of the First Encounter of Indigenous Communication of Colombia.

Costa Rica

The Office of the Special Rapporteur for Freedom of Expression considers positive the definitive stay of proceedings against the journalist Ana Maria Navarro, denounced for defamation by a mayor.

Cuba

The Office of the Special Rapporteur reiterates its concern over the situation of the imprisoned journalists and over that of the independent journalists who try to work in Cuba, who live under constant harassment on the part of the dictatorship. According to information received, independent journalists were arbitrarily and repeatedly imprisoned, and were physically attacked and threatened by agents of the State. In addition, materials like notebooks and pencils were confiscated, and in one the telephone from which press reports were emitted was disconnected arguing that it was being used for counterrevolutionary purposes. The Special Rapporteurship emphasizes that after the transfer of governmental power on July 31 it has not perceived any change in the situation of total lack of respect for freedom of thought and expression in Cuba. The Special Rapporteurship is once again urging the Cuban State to release imprisoned journalists and to respect the right of all Cubans to freedom of thought and expression.

El Salvador

The Special Rapporteurship expresses its concern over the aggressions suffered by fourteen journalists when they tried to cover a protest, and over the threats that, according to information received, were made by the office of the mayor of Guazapa saying that it would dismantle the closed circuit radio station "Voces Juveniles."

United States

The Office of the Special Rapporteur for Freedom of Expression expresses its concern over the sentence of a federal court on September 21, which condemned the journalists Lance Williams and Mark Fainaru-Wada of the San Francisco Chronicle to jail for refusing to reveal the sources from which they obtained grand jury testimony from a case relating to presumed steroid use by professional athletes. Unlike the state laws in 31 states and the District of Columbia, the federal law does not protect journalists when they try to maintain the confidentiality of the identity of their sources. Principle 8 of the Declaration of Principles on Freedom of Expression approved by the Inter-American Commission on Human Rights establishes: "Every social communicator has the right to keep his/her source of information, notes, personal and professional archives confidential." The Office of the Special Rapporteur highlights as positive a federal bill on this issue that is currently under the consideration of the Senate Judiciary Committee in the Federal Congress, and hopes that this bill will receive prompt consideration.

Guatemala

The Office of the Special Rapporteur for Freedom of Expression reiterates that it deplores the murder of the journalist Eduardo Heriberto Maas Bol. In addition, it expresses its concern over the physical attacks and threats against journalists and over the closing of the community radio station Ixchel.

Guyana

The Office of the Special Rapporteur for Freedom of Expression reiterates that it deplores the murder by gunshots of five workers of the newspaper Kaieteur News during the assault on its headquarters last August.

Honduras

The Office of the Special Rapporteur for Freedom of Expression expresses its concern over the cases of physical attacks against journalists and over the judicial proceedings initiated against the journalist Francisco Romero on the part of government officials for defamation.

Mexico

The Office of the Special Rapporteur for Freedom of Expression reiterates that it deplores the murder of the journalist Enrique Perea Quintanilla. Also, it reiterates its concern over the disappearance of the journalist Rafael Ortiz Martinez on July 8 in Coahuila, and over the numerous attacks, aggressions and threats against journalists and mass media that happened in this last quarter. Several of them took place in the State of Oaxaca, where the Popular Assembly of the People of Oaxaca (Asamblea Popular del Pueblo Oaxaqueño, APPO) occupied several radio stations. The Special Rapporteur follows with attention the case of the journalist Lydia Cacho, author of an investigation on pedophilia involving businessmen and politicians, who denounced being the victim of threats and ongoing harassment. On the positive side, the Special Rapporteurship emphasizes the approval in the Commission on Constitutional Issues of the Congress of the State of Querétaro of a norm that protects the professional secrecy of journalists.

Nicaragua

The Office of the Special Rapporteur for Freedom of Expression expresses its concern over public expressions attributed to the President of the Republic, according to which he publicly urged the newspaper El Nuevo Diario to dismiss the journalist Oliver Bodán, who had investigated presumed irregularities in the management of the Ministry of Transport and Infrastructure.

Panama

The Office of the Special Rapporteur for Freedom of Expression highlights the modification in Panama to the bill to reform the Penal Code, by instruction of the President of the Republic and at the urging of various sectors of civil society, that would decriminalize crimes against honor when the allegedly offended person is a public official or a person involved in issues of public interest.

Paraguay

The Office of the Special Rapporteur for Freedom of Expression reiterates its concern over the disappearance of journalist Enrique Galeano, missing since February 2006. According to the accusation by the Union of Journalists of Paraguay the investigations have not advanced. Additionally, the Office expresses concern over the threats against and harassment of journalists, and over the detention by the police of journalist Soledad Viera, who was interrogated about her news reporting

Peru

The Office of the Special Rapporteur expresses its concern over the attacks, aggressions and death threats against journalists, the judicial processes against journalists, the dismissal of Karina Borrero of the state TV channel for declaring that she would not work in that media if it became a "government flatterer," and the negative atmosphere for the exercise of freedom of expression generated by the investigation announced by the Intelligence Commission of the National Congress against nongovernmental organizations. On the positive side, the Special Rapporteur emphasizes the definitive termination of the penal proceedings that a congressman begun for defamation against the journalist Cecilia Valenzuela and the confirmation of the 30-year prison sentence for two persons for the homicide of the radio journalist Alberto Rivera Fernandez.

Dominican Republic

The Office of the Special Rapporteur for Freedom of Expression shows its concern over the prison sentence of three journalists accused of defamation and over the various cases of attacks, aggressions and threats suffered by communicators.

Uruguay

The Special Rapporteurship expresses its deep concern over a sentence of the Uruguay Supreme Court of Justice that reversed its own jurisprudence established in 1997, by condemning the journalist Carlos Dogliani Staricco to prison for defamation for the publication of an investigation on alleged fraud on the part of a mayor. Such decision is contrary to the standards of the inter-American system of human rights, according to which it is not proportionate in a democratic society to apply criminal sanctions in cases of offenses against the honor of public officials, who are subject to a greater degree of scrutiny by society. The public officials' right to reputation and honor should be protected using proportionate civil sanctions and the right to rectification or reply. The above-mentioned judgment by the Supreme Court of Justice is regressive and tends to create an environment that is unfavorable for the exercise of freedom of expression. On the other hand, the Office of the Special Rapporteur shows its concern over the confiscation of equipment of a community radio station in Castillos, Rocha.

Venezuela

The Office of the Special Rapporteur for Freedom of Expression reiterates that it deplores the murder of the journalist and political leader Jesus Flores Rojas. Also, the Special Rapporteurship expresses its concern over the physical aggressions and threats to journalists registered during the quarter and over the reopening of the criminal process against journalist Napoleón Bravo for the crime of contempt, for declarations that offended the Supreme Court of Justice. The Office of the Special Rapporteur also observes that the threat to demolish the headquarters of the newspaper Correo del Caroní subsists. On the positive side, the Special Rapporteur highlights the partial cancellation on the part of the Judicial Branch of the censorship imposed on the publication of information related to the case of the homicide of prosecutor Danilo Anderson in 2004.

Sources and denunciations

The sources taken into account for the elaboration of the present communiqué are mentioned at the end of the annexed chart. The States, as well as nongovernmental organizations, journalists, media and other people and institutions can send information to the Special Rapporteurship via electronic mail at: cidh-expresion@oas.org.

Please direct questions or interview requests to the press and communication coordinator of the Office of the Special Rapporteur, Maria Isabel Rivero, (202)458-3796, mrivero@oas.org

The Office of the Special Rapporteur for Freedom of Expression was created in 1997 by the Inter-American Commission on Human Rights. For more information on the Office: <http://www.cidh.org/relatoria>

Washington, D.C., October 12, 2006.

THE OFFICE OF THE SPECIAL RAPPORTEUR FOR FREEDOM OF EXPRESSION MANIFESTS ITS SATISFACTION FOR THE EXPRESS RECOGNITION OF THE INTER-AMERICAN COURT OF THE FUNDAMENTAL NATURE OF THE RIGHT TO ACCESS INFORMATION

The Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (IACHR) expresses its satisfaction with the recognition of the fundamental nature of the right to access information under the control of the state, made by the Inter-American Court of Human Rights in the Judgment issued on September 19, 2006 in the case of Claude Reyes et al, that was recently published. The Judgment of the Inter-American Court constitutes an important landmark in international jurisprudence, given that it explicitly recognizes that right to access information forms a part of the right to freedom of thought and expression.

Ignacio Álvarez, the Special Rapporteur for Freedom of Expression, highlighted the importance that the Court, in interpreting Article 13 of the Convention, protects the right of individuals to seek access to information under the control of the State and to receive such information and stated that “this decision represents a substantive contribution to the development of a culture of transparency and the eradication of secrecy in the hemisphere, and to improve, through the publicity of the actions of the States, the quality of democracy in our region.”

The decision of the Court responds to a complaint that the IACHR presented on July 8, 2005 against the State of Chile for the refusal of a State institution to provide the victims with all the information they requested about a deforestation project with an environmental impact. The Commission’s complaint was based on the argument that the refusal, as well as the lack of judicial remedy to challenge it, generated the international responsibility of the State for violating the right to freedom of thought and expression and the right to judicial protection.

The Office of the Special Rapporteur emphasizes that the considerations of the Court contain important advances in the area of access to information, such as: a) the application to State authorities of the principle of maximum disclosure, “which establishes the presumption that all information is accessible, subject to a limited set of exceptions;” b) the obligation of the States to govern themselves by the principles of openness and transparency in public administration so that the people can exercise democratic control; c) the existence of a positive obligation of the States to provide information that is requested from them; d) the duty of the State to refrain from requiring those who request information to demonstrate a direct interest in it; e) the obligation of the State to give a reasoned response when, for a reason permitted by the Convention, it can limit the access to the requested information; and f) the need for the existence of a simple, rapid, and effective remedy to determine if the rights of the requestor of the information are violated and, in such a case, order the corresponding body to provide the information.

The Rapporteurship further emphasizes that the reparations ordered in this judgment will have positive effects for strengthening the right to access information, given that the Court resolved that the State should guarantee the effectiveness of an administrative procedure adequate for the processing and resolution of requests for information by setting deadlines to resolve them and providing information. To this end, the State must train the organs, authorities, and public agents responsible for handling requests.

Since its creation in 1997, in compliance with the mandates of the OAS Charter, the American Convention Human Rights, and various resolutions of the OAS General Assembly, the Office of the Special Rapporteur for Freedom of Expression of the IAHR has carried out a series of activities related to the right to access information, including the presentation of reports before various OAS organs, the preparation of three special studies on the state of this right in the hemisphere (2001,

2003, and 2005) and the participation in seminars and workshops with various inter-governmental organizations in the hemisphere, as well as technical assistance to the OAS Member States on this issue. The judgment of the Court is an invaluable instrument that the Office of the Special Rapporteur will use to continue its promotion and protection activities related to the right to access information in the power of the State.

Washington, D.C., October 31, 2006.

OFFICE OF THE SPECIAL RAPPORTEUR FOR FREEDOM OF EXPRESSION REGRETS DEATH OF JOURNALIST IN MEXICO AND CALLS FOR APPROPRIATE INVESTIGATION

The Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (IACHR) of the OAS regrets the death of U.S. cameraman Brad Will in Oaxaca, Mexico. The Office of the Special Rapporteur urges the Mexican authorities to investigate this occurrence promptly and effectively in order to determine the circumstances of the death and duly sanction those responsible.

According to the information received by the Office of the Special Rapporteur, on October 27, 2006, Mr. Brad Will was injured by gunshots while he was filming a confrontation between sympathizers of the Popular Assembly of the People of Oaxaca (Asamblea Popular de los Pueblos de Oaxaca, APPO) and the local police. The documentarian and photojournalist, who was covering the conflict in Oaxaca for the independent media organization Indymedia, died when he was transferred to a hospital. According to the information received, the shots allegedly came from municipal police dressed in civilian clothing and personnel of the mayor's office, who opened fire against an APPO barricade near Mr. Brad Will.

The Special Rapporteur for Freedom of Expression, Ignacio J. Álvarez, stated that "this act once again shows the vulnerability of the situation of journalists in carrying out their work, vital for the existence and development of an informed society. It is lamentable and deplorable that a cameraman who was attempting to gather images of a news story of national and international interest died during the shooting. We urge the local and national authorities to investigate this crime adequately, to determine whether the murder of Mr. Brad Will was a consequence of his work as a journalist, and to bring those responsible for this act before the courts. The lack of an effective investigation may cause the States to incur international responsibility determined by the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights."

The Office of the Special Rapporteur for Freedom of Expression recalls that according to the American Convention on Human Rights, the States have the duty to prevent, investigate, and sanction any violation of the rights recognized therein. Principle 9 of the Declaration of Principles of the IACHR states that "[t]he murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of the State to prevent and investigate such occurrences, to punish their perpetrators and to ensure that victims receive due compensation."

Washington, D.C., October 31, 2006.

OFFICE OF THE SPECIAL RAPPORTEUR FOR FREEDOM OF EXPRESSION DEPLORES MURDERS OF JOURNALISTS IN MEXICO AND CALLS FOR DUE INVESTIGATION

The Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (IACHR) of the OAS deplores the murders of two journalists in Mexico in the last few weeks. The Office of the Special Rapporteur urges the Mexican authorities to investigate these killings promptly and effectively in order to duly sanction those responsible and to determine whether these crimes are related to their journalistic activities.

The body of Misael Tamayo Hernández, director of the newspaper *Despertar de la Costa*, was found on November 10 in a motel in the city of Zihuatanejo, State of Guerrero, with the hands tied behind the back and with injuries on the forearm and the hand. The journalist had received death threats after he published news about drug trafficking, organized crime, and corruption in the local government.

The body of José Manuel Nava Sánchez, former director of the newspaper *Excélsior*, was found on November 16 at his home in Mexico City. He had been stabbed several times. The journalist was a columnist for the newspaper *El Sol de Mexico* and on November 6 he had presented his book *Excélsior, El Asalto Final*, where he criticized presumed irregularities in the sale of the newspaper.

Previously this year the following journalists were murdered in Mexico: Jaime Arturo Olvera Bravo (March 9 in Michoacán); Ramiro Téllez Contreras (March 10 in Tamaulipas); Enrique Perea Quintanilla (August 9 in Chihuahua); and Bradley Ronald Hill (October 27 in Oaxaca). Additionally, Rafael Ortiz Martínez disappeared on July 8 in Coahuila.

The Special Rapporteur for Freedom of Expression, Ignacio J. Álvarez, said that "the political will of the States to promptly investigate the crimes against journalists as well as the immediate and serious launching of the investigations are basic factors to the effectiveness of the domestic trials. The lack of an effective investigation can imply the international responsibility of the State determined by the Inter-American Commission on Human Rights and the Inter-American Court on Human Rights".

The Office of the Special Rapporteur for Freedom of Expression recalls that in accordance with the American Convention on Human Rights, the States have the duty to prevent, investigate, and sanction any violation of the rights recognized therein. Principle 9 of the Declaration of Principles on Freedom of Expression of the IACHR states that "[t]he murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of the state to prevent and investigate such occurrences, to punish their perpetrators and to ensure that victims receive due compensation."

Washington, D.C., November 21, 2006.

OFFICE OF THE SPECIAL RAPPORTEUR FOR FREEDOM OF EXPRESSION CONCLUDES VISIT TO COSTA RICA

In concluding its working visit to Costa Rica, the Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (IACHR) of the OAS highlights the fundamental role that freedom of expression has played in the long democratic tradition of the country and recommends that the competent authorities continue to advance in this matter. In this respect, the Office of the Special Rapporteur considers it important to give priority to the following issues: investigating the murders of two journalists that occurred in the country in recent years and punishing those responsible; continuing the process of bringing the legislation into conformity with international standards on freedom of expression; and expanding the citizenry's access to information in the hands of the State.

During its visit to Costa Rica, carried out between November 27 and 29, 2006, the Special Rapporteur for Freedom of Expression, Ignacio J. Álvarez, attorney Carlos Zelada, and journalist María Isabel Rivero met with representatives of the State, civil society, and communications media. At the state level, they were received by the First Vice-President of the Republic and Minister of Justice, Laura Chinchilla; by the Director General of Foreign Affairs of the Chancellery, José Joaquín Chaverri; by the Attorney General of the Nation, Francisco Dall'Anese Ruiz; by the President of the Legislative Assembly, Francisco Antonio Pacheco; by the President of the Constitutional Chamber of the Supreme Court, Luis Fernando Solano; and by the Human Rights Ombudsperson (Defensora de los Habitantes), Lisbeth Quesada. Additionally, the delegation of the Office of the Special Rapporteur met with recognized civil society organizations, including the College of Journalists of Costa Rica (Colegio de Periodistas de Costa Rica), the Institute of the Press and Freedom of Expression (Instituto de Prensa y Libertad de Expresión, IPLEX), the Center for Justice and International Law (Centro para la Justicia y el Derecho Internacional, CEJIL), and the Inter-American Institute of Human Rights (Instituto Interamericano de Derechos Humanos), as well as representatives of communications media in the country. These meetings permitted the Office of the Special Rapporteur to complement and update information on the situation of the right to freedom of expression in Costa Rica. Accompanying this press release is an annex with the observations of the Office of the Special Rapporteur with respect to some issues related to freedom of expression in Costa Rica.

The Office of the Special Rapporteur thanks the different state organs, civil society organizations, and the media and journalists for their extensive collaboration during this visit. The Office of the Special Rapporteur, as part of its mandate, reiterates its disposition to collaborate and provide technical assistance to the initiatives in the matter of freedom of expression that are being presented in the country.

San José, November 29, 2006.

**OFFICE OF THE SPECIAL RAPPORTEUR FOR FREEDOM OF EXPRESSION RELEASES
RECOMMENDATIONS TO URUGUAY AT THE CONCLUSION OF ITS WORKING VISIT**

At the conclusion of its working visit to the Oriental Republic of Uruguay, the Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (IACHR) of the OAS observes the high value placed on freedom of thought and expression in the country and formulates the following recommendations to the State in order to continue to advance in this matter: 1) Move forward with the investigations related to the disappearance of the teacher and journalist Julio Castro, which occurred in 1977, during the military dictatorship; 2) Make its legislation compatible with the American Convention on Human Rights in the matter of freedom of expression, which includes the repeal of the crime of *desacato* (disrespect), which is contemplated in Article 173 of the Penal Code, as well as the modification of Articles 333 to 336 of the Penal Code, and the related laws, with the aim of eliminating criminal sanctions with respect to crimes against honor or reputation derived from the dissemination of information about issues of public interest; and 3) Give prompt consideration to two bills related to freedom of expression that are currently under consideration in the Legislative Branch, one on access to information and the other on broadcasting and community media.

During the visit to Uruguay, carried out from December 13 to 16, 2006, the Special Rapporteur for Freedom of Expression, Ignacio J. Álvarez, attorney Daniel Cerqueira, and journalist María Isabel Rivero, specialists in the Office of the Special Rapporteur, met with representatives of the State, communications media, civil society, journalists, and academics. At the state level, they held meetings with the Vice President of the Republic and President of the Senate, Rodolfo Nin Novoa; the Secretary of the Presidency, Gonzalo Fernández; the Undersecretary of Foreign Affairs, Belela Herrera; the Undersecretary of Education and Culture, Felipe Michelini; the Commission on Education and Culture of the Senate; the president of the Commission on Population and Development of the Chamber of Deputies, Horacio Yanes, and one of its members, Pablo Álvarez López; and the president of the Supreme Court of Justice, Hipólito Rodríguez Caorsi, among others. At the level of communications media, the Office of the Special Rapporteur held meetings with Newspaper Association of Uruguay (Asociación de Diarios del Uruguay); the Press Organization of the Interior (Organización de Prensa del Interior, OPI); the International Association of Broadcasting (IAB); and the National Association of Uruguayan Broadcasters (Asociación Nacional de Broadcasters Uruguayos, ANDEBU). Additionally, the delegation met with recognized civil society organizations, including the Uruguayan Press Association (Asociación de la Prensa Uruguaya, APU); the World Association of Community Radio Broadcasters (AMARC, by its Spanish acronym); the Institute of Legal and Social Studies of Uruguay (Instituto de Estudios Legales y Sociales del Uruguay, IELSUR); and the Group Archives and Access to Public Information (Grupo Archivos y Acceso a la Información Pública, GAIP). The delegation also held meetings with journalists and an academic meeting with representatives of the Departments of Communications Sciences of the University of the Republic (Universidad de la República) and the Catholic University of Uruguay Dámaso Antonio Larrañaga (Universidad Católica del Uruguay Dámaso Antonio Larrañaga, UCUDAL), of the School of Social Communication of the Technical College of Uruguay (Universidad del Trabajo del Uruguay, UTU), and of the Human Rights Institute of the Law School of the University of the Republic.

These meetings permitted the Office of the Special Rapporteur to complement and update the information in its possession on the situation of freedom of expression in Uruguay. The Office of Special Rapporteur presents its specific observations in an annex to this press release.

The Office of the Special Rapporteur thanks the organs of the State, the communications media, the civil society organizations, the journalists, and the academic community for their extensive

collaboration. The Office of the Special Rapporteur reiterates, as part of its mandate, its disposition to collaborate and provide technical assistance to the initiatives related to freedom of expression that are being presented in the country.

Montevideo, December 16, 2006.

International Mechanisms for Promoting Freedom of Expression**JOINT DECLARATION
by**

the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media, the OAS Special Rapporteur on Freedom of Expression and the ACHPR (African Commission on Human and Peoples' Rights) Special Rapporteur on Freedom of Expression

Having discussed these issues together with the assistance of ARTICLE 19, Global Campaign for Free Expression;

Recalling and reaffirming their Joint Declarations of 26 November 1999, 30 November 2000, 20 November 2001, 10 December 2002, 18 December 2003, 6 December 2004 and 21 December 2005;

Stressing the importance of respecting the right of journalists to publish information provided to them on a confidential basis;

Emphasising the importance of the recent ruling of the Inter-American Court of Human Rights in the case of Marcel Claude Reyes and others v. Chile, which confirmed the existence of a right to access information held by States;

Aware of the adoption by the Global Transparency Initiative, a civil society movement, of the Transparency Charter for International Financial Institutions: Claiming Our Right to Know, calling for greater openness by multilateral development banks and other international financial bodies;

Welcoming the progressive amendments that a number of international financial institutions have made to their information disclosure policies in recent years;

Noting that international public bodies and inter-governmental organisations, like their national counterparts, have an obligation to be transparent and to provide access to the information they hold;

Cognisant of greater public awareness of the tensions that may result from certain types of expression due to different cultural and religious values, in particular prompted by the Danish cartoons incident;

Concerned about calls from certain quarters to resolve the tensions noted above by reversing hitherto well established standards of respect for freedom of expression;

Reaffirming that freedom of expression and a free media can play an important positive role in addressing social tensions and in promoting a culture of tolerance;

Recalling that attacks such as the murder, kidnapping, harassment of and/or threats to journalists and others exercising their right to freedom of expression, as well as the material destruction of communications facilities, pose a very significant threat to independent and investigative journalism, to freedom of expression and to the free flow of information to the public;

Noting the need for specialised mechanisms to promote freedom of expression in every region of the world and the lack of such a mechanism in the Asia-Pacific region;

Adopt, on 19 December 2006, the following Declaration:

On Publishing Confidential Information

- Journalists should not be held liable for publishing classified or confidential information where they have not themselves committed a wrong in obtaining it. It is up to public authorities to protect the legitimately confidential information they hold.

Openness of National and International Public Bodies

- Public bodies, whether national or international, hold information not for themselves but on behalf of the public and they should, subject only to limited exceptions, provide access to that information.
- International public bodies and inter-governmental organisations should adopt binding policies recognising the public's right to access the information they hold. Such policies should provide for the proactive disclosure of key information, as well as the right to receive information upon request.
- Exceptions to the right of access should be set out clearly in these policies and access should be granted unless (a) disclosure would cause serious harm to a protected interest and (b) this harm outweighs the public interest in accessing the information.
- Individuals should have the right to submit a complaint to an independent body alleging a failure properly to apply an information disclosure policy, and that body should have the power to consider such complaints and to provide redress where warranted.

Freedom of Expression and Cultural/Religious Tensions

- The exercise of freedom of expression and a free and diverse media play a very important role in promoting tolerance, diffusing tensions and providing a forum for the peaceful resolution of differences. High profile instances of the media and others exacerbating social tensions tend to obscure this fact.
- Governments should refrain from introducing legislation which makes it an offence simply to exacerbate social tensions. Although it is legitimate to sanction advocacy that constitutes incitement to hatred, it is not legitimate to prohibit merely offensive speech. Most countries already have excessive or at least sufficient 'hate speech' legislation. In many countries, overbroad rules in this area are abused by the powerful to limit non-traditional, dissenting, critical, or minority voices, or discussion about challenging social issues. Furthermore, resolution of tensions based on genuine cultural or religious differences cannot be achieved by suppressing the expression of differences but rather by debating them openly. Free speech is therefore a requirement for, and not an impediment to, tolerance.
- Professional and self-regulatory bodies have played an important role in fostering greater awareness about how to report on diversity and to address difficult and sometimes controversial subjects, including intercultural dialogue and contentious issues of a moral, artistic, religious or other nature. An enabling environment should be provided to facilitate the voluntary development of self-regulatory mechanisms such as press councils, professional ethical associations and media ombudspersons.

- The mandates of public service broadcasters should explicitly require them to treat matters of controversy in a sensitive and balanced fashion, and to carry programming which is aimed at promoting tolerance and understanding of difference.

Impunity in Cases of Attacks Against Journalists

- Intimidation of journalists, particularly murder and physical attacks, limit the freedom of expression not only of journalists but of all citizens, because they produce a chilling effect on the free flow of information, due to the fear they create of reporting on abuses of power, illegal activities and other wrongs against society. States have an obligation to take effective measures to prevent such illegal attempts to limit the right to freedom of expression.
- States should, in particular, vigorously condemn such attempts when they do occur, investigate them promptly and effectively in order to duly sanction those responsible, and provide compensation to the victims where appropriate. They should also inform the public on a regular basis about these proceedings.

Ambeyi Ligabo
UN Special Rapporteur on Freedom of Opinion and Expression

Miklos Haraszti
OSCE Representative on Freedom of the Media

Ignacio J. Alvarez
OAS Special Rapporteur on Freedom of Expression

Faith Pansy Tlakula
ACHPR Special Rapporteur on Freedom of Expression

**OFFICE OF THE SPECIAL RAPPORTEUR FOR FREEDOM OF EXPRESSION EXPRESSES CONCERN
OVER THE SITUATION OF RADIO CARACAS TELEVISION (RCTV) IN VENEZUELA**

The Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (IACHR) of the OAS has learned with concern about recent statements made by the President of the Bolivarian Republic of Venezuela to the effect that the Government has apparently decided not to renew RCTV's license for use of the television frequency.

RCTV is a television station that began operating more than 50 years ago whose editorial position has been predominantly critical of the current government. In May 1987, the Government of Venezuela renewed RCTV's broadcasting licence for a period of 20 years. The current government therefore claims that the licence will expire in May 2007. RCTV argues that the license was renewed in 2001 and will be in effect until 2012.

Beyond any legal considerations, the Office of the Special Rapporteur for Freedom of Expression believes that, if the government's decision were implemented, Venezuelans would be deprived of possible access to a medium with editorial views critical of the government.

The Special Rapporteur for Freedom of Expression, Ignacio J. Alvarez, said that "it is of the utmost importance to freedom of expression in Venezuela that the government's actions guarantee the continued existence of media with diverse editorial positions, in order to ensure a climate of democratic pluralism where people are exposed on a daily basis to different views on matters that concern them."

The Office of the Special Rapporteur for Freedom of Expression urges the Government of the Bolivarian Republic of Venezuela to preserve the plurality of the mass media, and offers its advice and assistance in this regard, within its sphere of competence.

Washington, D.C. December 31, 2006.