

## CHAPTER II

### THE SITUATION OF FREEDOM OF EXPRESSION IN THE HEMISPHERE

#### A. Introduction and methodology

1. This chapter describes some aspects related to the situation of freedom of expression in the countries of the Hemisphere. Continuing the tradition of earlier reports, it also contains a table that reflects the number of assassinations of journalists in 2004, the circumstances and presumed motives of these crimes, and the status of the investigations.

2. This year, the Office of the Special Rapporteur has changed the way in which it sets forth the specific situation of each country, starting with the Declaration of Principles on Freedom of Expression, prepared by the Office of the Special Rapporteur for Freedom of Expression and adopted by the Inter-American Commission on Human Rights.<sup>1</sup> This change has been introduced because, since its adoption, the Declaration has emerged as a frame of reference for evaluating the possible violations of the freedom of expression in the Member States. Increasingly, the States, civil society organizations, and private persons invoke its principles to assess progress, regression, or possible violations of this right, and undertake possible actions to support this right. This does not mean that in the previous years the Declaration was not considered a guide, but that this year there was an interested in being more explicit in referring to it. Accordingly, the earlier categories of assassinations, threats, detentions, judicial actions, intimidation, censorship, and legislation contrary to the freedom of expression have given way to the categorization of facts reported to the Office of the Special Rapporteur according to the principle to which they are related. Where relevant, positive actions are treated in a separate section on progress, so as to get a clearer view of the countries in which there was progress, such as the adoption of laws for access to information consistent with the Declaration, draft legislation, and judicial decisions favorable to the full exercise of the freedom of expression. The facts that could be related to Principles 10<sup>2</sup> and 11<sup>3</sup> of the Declaration of Principles on Freedom of Expression were compiled together, considering that in more than a few cases—and as the Office of the Special Rapporteur has indicated—defamation laws are generally invoked for the same purposes as *desacato* laws.<sup>4</sup>

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<sup>1</sup> The idea of developing a Declaration of Principles on Freedom of Expression was born out of recognition of the need to set forth a legal framework to regulate the effective protection of the freedom of expression in the Hemisphere, incorporating the leading doctrines recognized in the various international instruments. The Inter-American Commission on Human Rights approved the Declaration prepared by the Office of the Special Rapporteur during its 108th session in October 2000. That declaration is fundamental for interpreting Article 13 of the American Convention on Human Rights. Its approval is not only an acknowledgement of the importance of protecting the freedom of expression in the Americas, but it also incorporates into the inter-American system the international standards for the more effective exercise of this right (see <http://www.cidh.oas.org/relatoria/showarticle.asp?artID=25&IID=1>).

<sup>2</sup> Principle 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.

<sup>3</sup> Principle 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.

<sup>4</sup> IACHR, *Annual Report 2002*, OEA/Ser.LV/II.117, Doc. 5 rev. 1, March 7, 2003, Vol. III, Report of the Office of the Special Rapporteur for Freedom of Expression, Chapter V.

3. This chapter reflects information corresponding to 2004. The Office of the Special Rapporteur for Freedom of Expression receives information from various sources<sup>5</sup> that describes the situation related to the freedom of expression in the States of the Hemisphere. Once the information is received, and mindful of the importance of the matter, it is analyzed and checked. Once this task is completed, it is grouped based on the principles, and the Office of the Special Rapporteur, for the purposes of this Report, reduces the information to a series of emblematic examples to reflect the situation of each country in relation to respect for and the exercise of the freedom of expression. In most of the cases cited, the sources of the information are given. The omission of some states indicates that no information has been received; their omission should be interpreted only in this light.

4. Finally, the Office of the Special Rapporteur would like to thank each of the States and civil society in the Americas as a whole for sending information on the situation of the freedom of expression. The Office of the Special Rapporteur urges them to continue and expand on these practices for the benefit of future reports.

## **B. Evaluation**

5. In 2004 the exercise of the freedom of thought and expression in the Hemisphere continued to face the same types of problems that have been mentioned by the Office of the Special Rapporteur in recent years, but there was a clear increase, in some countries, of acts of violence against social communicators.

6. Cuba continues to be the only country in the Hemisphere in which the freedom of expression is violated categorically, and, therefore, it is the only state in which it can be said that Principle 1 of the Declaration of Principles on Freedom of Expression is systematically violated.<sup>6</sup>

7. Based on what is reflected in this report, once again cases have been presented of assassinations of journalists killed because of their work. In this connection,

the Office of the Special Rapporteur recalls that Principle 9<sup>7</sup> is very clear on establishing that assassinations of social communicators violate the rights of individuals and severely restrict the freedom of expression. On four occasions the Office of the Special Rapporteur noted its concern through press releases, particularly in relation to cases that occurred in Brazil, Mexico, and Nicaragua. A total of eleven assassinations are reported in this report (Brazil, 2; Haiti, 1; Mexico, 3; Nicaragua, 2; Peru, 2; Dominican Republic 1), although it should be noted that there were other deaths of social communicators in which the relationship to their professional activity was not sufficiently clarified so as to be able to consider them attacks on the freedom of expression.

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<sup>5</sup> The Office of the Special Rapporteur receives information sent by independent human rights organizations and organizations for the defense and protection of the freedom of expression, independent journalists directly affected, and information request by the Office of the Special Rapporteur of the representatives of the Member States of the OAS, among others.

<sup>6</sup> Principle 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.

<sup>7</sup> Principle 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.

8. Physical assaults and threats also continue having a negative impact on the full exercise of the freedom of expression. Principle 9 also emphasizes that such situations restrict this fundamental right. While it is true that in many countries one can find wide-ranging discussion and criticism of government policies in the media, it is no less true that such legitimate activity has brought as a consequence assaults or threats, which are unacceptable in a democratic society. Acts at odds with Principle 9 were reported, in 2004, from a larger number of countries: Argentina, Brazil, Colombia, Cuba, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Paraguay, Peru, Dominican Republic, Trinidad and Tobago, Uruguay, and Venezuela.

9. As in the preceding year, in 2004 there were public demonstrations in several countries of the Hemisphere. Many of them ended in acts of violence, whose victims of which included journalists, cameramen, and other employees of media outlets who covered these events. Such situations occurred in Venezuela, Haiti, El Salvador, and Peru.

10. Even though state agents may not have been directly involved in the possible violations of Principle 9 mentioned in this report, the Office of the Special Rapporteur notes that it is an obligation, emanating from the American Convention, not only to respect human rights, but also to guarantee their exercise. For that reason, as the Principle in question says: "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 once again calls on the States to ensure they draw on all legal mechanisms within their reach to carry out this duty, so as to show their unequivocal will to guarantee the free exercise of the freedom of expression. Impunity for such acts should be eradicated in the Hemisphere.

11. In addition, judicial actions continued that may have a chilling effect on the exercise of the freedom of expression. Criminal proceedings against those who criticize matters of public interest, whether by using laws on *desacato*, or those on slander, libel, or criminal defamation, persist in the Hemisphere. In many of the countries of the Hemisphere, the Office of the Special Rapporteur has found the existence or use of these laws including: Brazil, Cuba, Ecuador, Grenada, Honduras, Mexico, Panama, Paraguay, Uruguay, and Venezuela.

12. Such criminal proceedings are feasible given that many Member States continue to have in their criminal law the crime of *desacato* or criminal sanctions for criticizing public officials in the performance of their duties. Nonetheless, in 2004, major progress was seen with the derogation of constitutional support for such laws in Panama and the decriminalization of criticism when voiced by journalists in El Salvador. In Honduras, the Supreme Court, through the Criminal Chamber, ruled in favor of derogating the *desacato* law. In Mexico, to the contrary, the state of Chiapas adopted a legal reform to provide for stiffer penalties for crimes against honor provided for in the Criminal Code. The Member States need to bring their criminal legislation into line with the recommendations that emanate from the Declaration of Principles on Freedom of Expression, and the standards that emanate from the decisions, opinions, and reports of the organs of the inter-American system for the protection of human rights.

13. In the course of 2004, two important judgments on criminal defamation were handed down by the Inter-American Court of Human Rights, in the cases of *Mauricio Herrera v. Costa Rica* and *Ricardo Canese v. Paraguay*, which largely support the opinions that the Commission, and its Office of the Special Rapporteur, have stated with regard to criminal

defamation.<sup>8</sup> The Office of the Special Rapporteur urges the States to take these precedents into account in possible legal reforms.

14. Principle 8 of the Declaration clearly establishes: “Every social communicator has the right to keep his/her source of information, notes, personal and professional archives confidential.” In 2004, there were worrisome situations in which social communicators were placed on trial for refusing to reveal the identity of their sources. In other cases, their files were searched and their notes were seized, or they were asked to hand them over. Such situations were found in Argentina, Canada, Chile, the United States, Mexico, and Venezuela. By way of contrast, in El Salvador, and in the province of Tucumán, in Argentina, bills were passed that guarantee the confidentiality of sources.

15. Access to public information continued to be on the agenda of several Member States. This right is enshrined in Principle 4<sup>9</sup> of the Declaration. In Ecuador and the Dominican Republic, laws were adopted providing for access to public information. In Argentina, debate continued on a proposed access-to-information law. Nonetheless, the Office of the Special Rapporteur stated its concern over amendments made to the bill by the Argentine Senate that could be detrimental for access to information. In Honduras, proposed legislation was introduced on the matter.

16. Principle 7 of the Declaration establishes: “Prior conditioning of expressions, such as truthfulness, timeliness or impartiality is incompatible with the right to freedom of expression recognized in international instruments.” The Inter-American Court has also noted that “One cannot legitimately rely on the right of a society to be honestly informed in order to put in place a regime of prior censorship for the alleged purpose of eliminating information deemed to be untrue in the eyes of the censor.”<sup>10</sup> Nonetheless, Venezuela adopted the Law on Social Responsibility in Radio and Television, which contains conditions of accuracy and timing of informational programs, despite repeated reminders by the Office of the Special Rapporteur and by the Inter-American Commission itself that the bill could violate the freedom of expression.

17. While both the Declaration of Principles on Freedom of Expression, at Principle 6,<sup>11</sup> and the caselaw of the Inter-American Court of Human Rights have been clear in establishing that the compulsory membership in an association prescribed by law for the practice of journalism is incompatible with Article 13 of the American Convention on Human Rights, in Nicaragua the *Colegio de Periodistas* was established; it was a step towards enforcement of Law 372 of 2000, which requires such compulsory membership, and which continues to be the law in Nicaragua. The Constitutional Chamber of the Supreme Court of Venezuela issued a resolution requiring the compulsory membership in an association prescribed by law for the practice of journalism. Information was also received on the current law including such a requirement in Bolivia.

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<sup>8</sup> See Chapter VIII.

<sup>9</sup> Principle 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.

<sup>10</sup> I/A Court H.R., Advisory Opinion OC-5/85.

<sup>11</sup> Principle 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.

18. As in previous years, during this year the Office of the Special Rapporteur continued to view with concern the possibility that media organizations might not always act responsibly or ethically. It should be reiterated, however, that the media organizations are mainly answerable to the public, not to the government.

19. Principle 12 of the Declaration expressly states that monopolies or oligopolies in the ownership and control of media should be subject to antitrust laws, for they conspire against democracy on restricting the plurality and diversity ensured by the full exercise of the right of all citizens to information. The concentration of media ownership impedes the plural and diverse expression of the various sectors of society. In 2004, the Office of the Special Rapporteur received reports of problems involving the excessive concentration of radio and television ownership in Guatemala. The Office of the Special Rapporteur reiterates the importance of observing this principle.

20. In Mexico, Colombia, and Bolivia, major progress was made towards greater democratization in the assignment of radio frequencies.

21. Principle 5 notes in part: "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." In some countries of the region, however, the states have mechanisms for interfering in the expressions of individuals. The clearest case is Cuba, where in 2004 reports continued to come in describing acts of censorship and repression against those with a dissident voice towards the Government.

22. Article 13 of the American Convention on Human Rights expressly prohibits indirect violations of the freedom of expression,<sup>12</sup> this prohibition is echoed in Principle 13 of the Declaration.<sup>13</sup> In 2004, acts related to this principle were reported in Venezuela, Honduras, Guatemala, Cuba, Costa Rica, and Brazil.

23. As in the previous year, it was found that the journalists' situation is generally more precarious outside of the capital cities, where they face more violence and more frequent direct and indirect pressures, as is the case in Argentina, Brazil, Colombia, Guatemala, Mexico, and Peru.

24. Finally, and as has been noted in previous reports, the Office of the Special Rapporteur continues to consider it necessary to strengthen the political will of the Member States to carry out reforms in their legislation to ensure society the broad exercise of the freedom of expression and information. Democracy requires broad freedom of expression and it

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<sup>12</sup> Article 13(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."

<sup>13</sup> Principle 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.

cannot deepen if mechanisms continue in place that impede its broad exercise. The Office of the Special Rapporteur reiterates the need for the States to assume a more solid commitment to respect this right, so as to achieve the consolidation of democracies in the Hemisphere.

### **C. Situation of the freedom of expression in the Member States**

#### **ARGENTINA**

25. The Office of the Special Rapporteur is concerned that in some provinces of Argentina the journalists and other media workers and the citizens could face more difficult conditions for the full exercise of their right to freedom of expression as compared to the situation in the large urban centers, especially Buenos Aires. This becomes clear when one observes the map of reported cases of possible restrictions and pressures, contrary to the free dissemination of information, threats, and attacks on social communicators as well as pressures on journalists to reveal their sources of information.

#### **PRINCIPLE 4 OF THE DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION (Access to information in the hands of the state)**

26. The Office of the Special Rapporteur has closely followed congressional consideration of a bill on access to information. The bill was approved by the Chamber of Deputies in May 2003. The proposal is aimed at allowing individuals access to the data bases of official organs and it establishes administrative and judicial sanctions for public officials who fail to respond to the requests. In addition, it makes public those laws, decrees, and documents that have been kept secret by the State for more than 10 years, and those not classified based on the need for secrecy. Nonetheless, consideration of that proposed legislation had been held up in the Senate. In its annual report for 2003, the Office of the Special Rapporteur urged the Senate to debate and adopt the bill in question. Finally, the Senate approved the proposal on December 1, 2004, and after making some changes sent it back to the Chamber of Deputies. The Chamber of Deputies can veto the changes made by the Senate by a two-thirds vote. The Office of the Special Rapporteur is concerned about some of the changes made to the bill, especially the exceptions made to the principle of publicity, the requirement the request be justified in a form that would be in the nature of a sworn statement, the introduction of tariffs, and ambiguity in the definition of public information.<sup>14</sup>

27. There was a similar situation in the case of the provinces of Santa Fe and Mendoza, where the legislatures have had similar proposals before them. In these cases, the senators also introduced clauses that would require showing a legitimate interest in order to obtain information,<sup>15</sup> what is "legitimate" could be defined by state organs.<sup>16</sup>

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<sup>14</sup> International Freedom of Information Exchange (IFEX), [www.ifex.org](http://www.ifex.org), November 9, 2004.

<sup>15</sup> *Asociación para la Defensa del Periodismo Independiente* (PERIODISTAS), October 4, 2004, at [www.ifex.org](http://www.ifex.org).

<sup>16</sup> In the case of the province of Santa Fe, the clause, introduced August 26, 2004, established that the decision regarding the legitimacy of that interest would be up to a minister-coordinator of the Executive, the Presidents of both chambers of the Congress, and the President of the Judicial branch (see Inter-American Press Association, "Preocupa a la SIP restricción en Santa Fe y satisface decisión judicial en Córdoba," September 1, 2004).

**PRINCIPLE 5 OF THE DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION  
(Prior censorship, interference, direct or indirect pressures)**

28. The Office of the Special Rapporteur received information on a judicial decision<sup>17</sup> in the province of Salta that was said to have prohibited a media outlet from disseminating information about a man accused of murder that could call into question the presumption of innocence.<sup>18</sup>

29. In addition, on March 10, 2004, the news program *Telefe Noticias*, was said to have been taken off the air from *Canal 23*, a state-owned station, allegedly by order of the governor of the province of San Luis, when it was reporting on a protest march against the local government's education policy. Instead of the news program, a film was shown.<sup>19</sup>

**PRINCIPLE 8 OF THE DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION  
(Right of social communicators to keep sources, notes, and personal and professional files confidential)**

30. On August 6, 2004, the government of the province of Neuquén presented a complaint, before the provincial courts, against the daily newspaper *Río Negro* to reveal the origin of information published in an article on August 4, 2004. The Office of the Special Rapporteur considers it positive that attorney general Ricardo Trincheri dismissed the complaint, asserting that no judicial or police organ could engage in investigative practices that might endanger journalists' privilege of confidentiality.<sup>20</sup>

**PRINCIPLE 9 OF THE DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION  
(Murder, kidnapping, intimidation of and/or threats to social communicators, and material destruction of communications media)**

31. Following are some cases reported to the Office of the Special Rapporteur related to threats to and attacks on the personal integrity of social communicators and against the establishments of media outlets. All the cases mentioned here occurred in the interior.

32. On March 1, 2004, unknown persons threw paint on the car of Alfredo Valdez, host of the program *La Ciudad Despierta* on *Radio Nacional*, in the province of Tierra del Fuego. The car was parked in front of his home. The attack was similar to one that occurred days earlier against Héctor "Lito" Lavia, director and owner of the local daily newspaper *Prensa*,

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<sup>17</sup> On February 2, 2004, the editors of *El Tribuno*, in the province of Salta, received a notice in which judge Guillermo Félix Díaz ordered the paper, under threat of fines, to refrain from using "expressions, sentences, phrases, or words that might diminish in any way the presumption of innocence and from publishing the photograph of Francisco José Álvarez," accused of homicide.

<sup>18</sup> *El Tribuno/La Nación*, "Denuncian medida de censura previa contra diario," February 12, 2004, [www.lanacion.com](http://www.lanacion.com) and [www.eltribuno.com](http://www.eltribuno.com), and Inter-American Press Association, "La SIP rechaza censura impuesta por un juez en Argentina a un periódico," February 6, 2004.

<sup>19</sup> *Instituto Prensa y Sociedad (IPYS)*, "Canal de TV denuncia corte de transmisión en San Luis," June 25, 2004, at [www.ipys.org](http://www.ipys.org).

<sup>20</sup> Reporters without Borders, "Amenazado el secreto de las fuentes en la provincia de Neuquén," August 20, 2004, and "Una decisión judicial reconoce la importancia del secreto de las Fuentes," September 10, 2004, at International Freedom of Information Exchange (IFEX), [www.ifex.org](http://www.ifex.org).

after it published a report regarding a provincial official.<sup>21</sup> On March 6, 2004, in the early morning hours, the offices of *El Diario de El Fin del Mundo*, in Ushuaia, also in the province of Tierra del Fuego, were set on fire. The fire destroyed the newsrooms and the administrative offices. According to the forensic report, the fire was intentional. The Federal Government sent the deputy secretary for media, Gabriel Mariotto, to look into the matter. On March 8, Mario Jorge Colazo, Secretary of State for the province, undertook to "investigate in depth and ensure the security of the persons and their property."<sup>22</sup>

33. As regards the events in Tierra del Fuego, on March 1, at night, Carmen Miranda, a journalist with *El Diario del Fin del Mundo* and secretary general of the *Sindicato de Prensa* (trade union of media workers) in Ushuaia, province of Tierra del Fuego, was questioned in the street by two members of the investigations service (*Servicio de Investigaciones*) of the Provincial Police. The police wanted to learn the places of residence of other journalists in the city, arguing that they would be able to provide better protection and prevent attacks such as those suffered by Héctor Lavia and Alfredo Valdez. The next day, provincial Secretary of Security Rubén Cena apologized for the inadequacy of the procedure, though he made official the intent to draw up the list of journalists' places of residence.<sup>23</sup>

34. In January 2004, cameraman Gustavo Aguirre and journalist Heraldo Cruz, of a local cable television station in the tourist town of Paso de la Patria, Corrientes, were beaten by several individuals. One of the individuals was reportedly identified as the son of the local intendant, and another as the chief of personnel of the local government. The attack occurred when they were taping a news report for the program *Futura TV*.<sup>24</sup>

35. On June 11, 2004, members of the program *Puntodoc*, on *Canal América*, in Buenos Aires, were attacked by persons from a local night spot reported as an alleged place of sexual exploitation of young women, in the province of Córdoba. The local police refused to take the crime report from the journalists; accordingly, they had no guarantees of security.<sup>25</sup>

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36. On December 30, 2003, the First Court of Appeals (*Cámara de Apelaciones en lo Civil, Comercial, de Minas y del Trabajo de la Primera Nominación*) of the province of Catamarca, Argentina, overturned the judgment of liability imposed on the publisher of the daily

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<sup>21</sup> *La Nación* (Argentina); "Misión de gobierno a Tierra del Fuego, ante ataque a periodistas," March 12, 2004, at [www.lanacion.com.ar](http://www.lanacion.com.ar).

<sup>22</sup> *La Nación* (Argentina); "Misión de gobierno a Tierra del Fuego, ante ataque a periodistas," March 12, 2004, at [www.lanacion.com.ar](http://www.lanacion.com.ar), Committee to Protect Journalists (CPJ), [http://www.cpj.org/cases04/americas\\_cases04/argentina.html](http://www.cpj.org/cases04/americas_cases04/argentina.html).

<sup>23</sup> *La Nación* (Argentina); "Misión de gobierno a Tierra del Fuego, ante ataque a periodistas," March 12, 2004, at [www.lanacion.com.ar](http://www.lanacion.com.ar).

<sup>24</sup> *Federación Argentina de Trabajadores de Prensa*, "Grave agresión a periodistas en Paso de la Patria," January 5, 2004, [www.fatpren.org.ar](http://www.fatpren.org.ar).

<sup>25</sup> The team, directed by host Daniel Tognetti, investigated persons who by the use of deceit would take girls from the province of Misiones, in northeastern Argentina, to the province of Córdoba to coerce them into prostitution. When the journalists went to the place with a relative of one of the young women, they were attacked by personnel from the establishment. The *Puntodoc* team left in their vehicle. *Asociación para la Defensa del Periodismo Independiente* (PERIODISTAS), June 17, 2004, at [www.asociacionperiodistas.org/asociacion/asocia.htm](http://www.asociacionperiodistas.org/asociacion/asocia.htm).



newspaper *El Ancasti*.<sup>26</sup> On annulling the judgment, the court considered that, based on the doctrine of actual malice, in no way had the judge's right to honor been harmed, with which the caselaw of Catamarca for the first time accepted that doctrine, which is recognized by the federal Supreme Court of Justice.<sup>27</sup>

37. On May 6, 2004, the provincial law of Tucumán that protects the journalists' privilege of confidentiality with respect to their sources was adopted.<sup>28</sup>

38. On June 23, 2004, the law on freedom of the press ("*ley de libertad de imprenta*") was repealed by the governor of San Luis, Alberto Rodríguez Saá, deputies, and senators. That law, which dated from the 1940s, established "press crime" ("*delito de imprenta*") and punishments such as closing, imprisonment, or sequestration of copies for those who publish news that is "subversive, seditious, obscene, immoral, or slanderous."<sup>29</sup>

39. In September, Judge Raquel Villagra, of the province of Córdoba, issued a judgment favorable to a request for information by the daily newspaper *La Voz del Interior*. The paper had filed a writ of *amparo* against the Public Services Regulatory Entity (ERSEP: *Ente Regulador de Servicios Público*) of the province for delaying, without justification, access to the minutes of the regulatory agency's Board of Directors meetings. According to the judge, the refusal was arbitrary and illegal, while the request of the *La Voz del Interior* was part of the normal exercise of its right to inform.<sup>30</sup>

40. In November, the Chamber of Deputies of Argentina approved a bill to amend Article 45 of the Law on Radiobroadcasting, declared unconstitutional by the Supreme Court of Justice. The amendment would give social organizations and non-profit organizations access to radio licenses, which would do away with restrictions that require that one be a commercial enterprise to be able to provide radiobroadcasting services. As of the writing of this report, the bill had yet to be approved by the Senate, a necessary step for it to be adopted definitively.<sup>31</sup>

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<sup>26</sup> The newspaper had published a parody, in a supplement, that made reference to certain conduct by the judge, the truthfulness of which was shown.

<sup>27</sup> *El Clarín* (Argentina), "A favor de la libertad de prensa," April 20, 2004, at [www.clarin.com.ar](http://www.clarin.com.ar).

<sup>28</sup> *Asociación para la Defensa del Periodismo Independiente* (PERIODISTAS), analysis of March 2004, at [www.asociacionperiodistas.org/asociacion/asocia.htm](http://www.asociacionperiodistas.org/asociacion/asocia.htm).

<sup>29</sup> *Clarín* (Argentina), "Derogan en San Luis una polémica ley contra la libertad de prensa," June 24, 2004, [www.clarin.com](http://www.clarin.com).

<sup>30</sup> Inter-American Press Association, "Preocupa a la SIP restricción en Santa Fe y satisface decisión judicial en Córdoba," September 1, 2004.

<sup>31</sup> World Association of Community Radio Broadcasters (AMARC), "AMARC satisfecha con resolución parlamentaria que permite a sociedad civil tener frecuencias de radio y televisión," November 16, 2004, at International Freedom of Information Exchange [www.ifex.org](http://www.ifex.org).

## BOLIVIA

### **PRINCIPLE 4 OF THE DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION (Access to information held by the state)**

41. On January 31, 2004, Supreme Decree 27,329 was adopted. Some organizations petitioned the President of the Republic, Carlos Mesa Gisbert, to review it, for it included restrictions such as a prohibition keeping prosecutors from releasing information on a judicial investigation, and it categorized military and economic activities as classified, along with information on activities to ensure territorial integrity and on trade negotiations.<sup>32</sup> As this report was being prepared, a bill on access to information prepared by the Presidential Anti-corruption Office was being consulted and reviewed.

### **PRINCIPLE 6 OF THE DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION (Compulsory membership in an association for the practice of journalism)**

42. Bolivia requires a university degree in order to work as a journalist, and one must be entered in a National Registry.<sup>33</sup> While according to the information received most of those graduating from programs of study other than social communications can work as journalists, the Office of the Special Rapporteur urges that the provisions establishing those requirements be eliminated, in keeping with the caselaw of the Inter-American Court of Human Rights on this specific issue, and the Declaration of Principles on Freedom of Expression.

## PROGRESS

43. On May 14, 2004, the cabinet ministers and the President of the Republic, Carlos Mesa Gisbert, signed a Supreme Decree for Community Radiobroadcasting. In the regulations approved, there are no limitations on power or frequency, accordingly, it gives full access to the country's radio spectrum. The law gives the communities, mostly indigenous and rural, the capacity to run their own radio and television stations and opens the door to such stations having advertising.<sup>34</sup>

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<sup>32</sup> *El Diario* (Bolivia), "Decreto sobre transparencia de información será revisado," March 3, 2004, [www.eldiario.net](http://www.eldiario.net), Inter-American Press Association, Country-by-Country Reports, Annual Assembly, at [www.sipiapa.com](http://www.sipiapa.com), October 2004.

<sup>33</sup> Inter-American Press Association, Country-by-Country Reports, Annual Assembly, at [www.sipiapa.com](http://www.sipiapa.com), October 2004.

<sup>34</sup> International Freedom of Expression Exchange (IFEX), May 26, 2004, at [www.ifex.org](http://www.ifex.org), letter from AMARC-BOLIVIA.

## BRAZIL

### PRINCIPLE 6 OF THE DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION (Compulsory membership in an association for the practice of journalism)

44. In August, a legislative initiative proposed by professional organizations was sent for consideration to the Chamber of Deputies, which sought to oversee the activity of journalists and create a Federal Journalism Council and Regional Journalism Councils in the country's 26 states. The councils proposed would have the authority to "orient, discipline, and oversee" the exercise of journalism, and to impose sanctions on those who exercised it "irresponsibly," through warnings, fines, or suspension of professional registration for up to 30 days, or definitive expulsion. In addition, the proposal required that journalists be registered with the Council as a condition for exercising their profession. Nonetheless, the initiative was not well-received in Congress, where in November different parliamentary groups signed an agreement to vote on and squarely reject the proposal.<sup>35</sup>

### PRINCIPLE 9 OF THE DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION (Murder, kidnapping, intimidation of and/or threats to social communicators and the material destruction of communications media)

45. This year once again journalists were murdered in Brazil. On April 24, 37-year-old journalist José Carlos Araujo, of *Radio Timbaúba FM*, was murdered. Araujo addressed police-related issues. On April 27, 2004, Helton Jonas Gonçalves de Oliveira was arrested; he had reportedly confessed to the murder,<sup>36</sup> and had indicated that it was because Araujo had accused him, on his program *José Carlos Entrevista*, of being responsible for several crimes, which he denied.<sup>37</sup> On July 11, 2004, Jorge Lourenço dos Santos, owner and commentator on the radio station *Criativa FM*, was murdered in the state of Alagoas, in the Brazilian Northeast.<sup>38</sup> On his program, dos Santos criticized local politicians and businesspersons. He had received death threats and had been targeted in two prior assassination attempts. Dos Santos had also been involved in politics and had run for the local council in a neighboring community.<sup>39</sup>

46. On August 12, 2004, the daily *A Crítica* of Manaus, state of Amazonas, reported that its journalists had received death threats and had suffered persecution and intimidation. Among those impacted were the team made up of reporter Gerson Dantas, photographer Antônio Lima, and driver Ednelson Arruda.<sup>40</sup> The paper's columnist Orlando Farias de Lima,

<sup>35</sup> *Estado*, "Acordo enterra projeto que cria Conselho Federal de Jornalismo," at [www.estado.com.br](http://www.estado.com.br), November 12, 2004 and Inter-American Press Association, "Preocupa a la SIP proyecto de ley en Brasil, contrario a la libertad de expresión y de prensa," press release of August 10, 2004.

<sup>36</sup> The police unit at Timbaúba also established that Gonçalves de Oliveira was assisted by Marcelo Melo, and a third person who allegedly provided them with a motorcycle.

<sup>37</sup> Reporters without Borders, "Asesinado un periodista en el Estado de Pernambuco," [www.rsf.fr](http://www.rsf.fr) May 5, 2004. Committee to Protect Journalists, *Otro Periodista Asesinado*, April 30, 2004, at <http://www.ifex.org>.

<sup>38</sup> Dos Santos was killed in front of his house, in Santana do Ipanema, some 200 kilometers from Maceió.

<sup>39</sup> Committee to Protect Journalists, "Periodista radial muere asesinado en el estado nororiental de Alagoas," July 14 2004, at International Freedom of Information Exchange (IFEX), [www.ifex.org](http://www.ifex.org).

<sup>40</sup> The team was headed to the district of President Figueiredo to evaluate the conditions of the city and the repercussions of the jailing of the mayor, when it was followed by five cars. The team had to return, escorted by Military Police and the Civilian Police of Manaus.

editor-in-chief Taiza Brito, and other journalists also received death threats, after disseminating information on a police operation that culminated in the detention of several public officials and businesspersons.

**PRINCIPLES 10 AND 11 OF THE DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION (Use of defamation laws by public officials, and *desacato* laws)**

47. This year, the Office of the Special Rapporteur received information on a decision of July 6, 2004, by the Court of Appeals of Pará that confirmed a guilty judgment<sup>41</sup> against journalist Lúcio Flávio Pinto, director of the daily *Jornal Povo* of Belém, the capital of Pará. In 2000, Pinto published information criticizing a decision of a judge who brought the criminal action against him. Pinto appealed the decision to the same Court, but his appeal was rejected. Other remedies being pursued by Pinto may be analyzed in the Court of Appeals and in the Federal Supreme Court.<sup>42</sup> In previous reports, the Office of the Special Rapporteur has described proceedings against journalists who publish reports and criticisms of public officials, particularly those related to judicial decisions. These proceedings are possible due to the existence of criminal laws that may be invoked by public officials, and which could have a chilling effect for those who wish to participate in the free democratic debate. The Office of the Special Rapporteur urges Brazilian authorities to review this legislation in light of the standards established by the inter-American system.

**PRINCIPLE 13 OF THE DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION (Indirect violations of the freedom of expression)**

48. In May 2004, the Office of the Special Rapporteur expressed its concern through a press release<sup>43</sup> regarding the case of journalist Larry Rohter, correspondent of the U.S. newspaper *The New York Times*, whose visa was cancelled on May 11, 2004, by the government of Brazil after he published information on certain personal conduct by the President of Brazil.<sup>44</sup> The newspaper's attorneys sent a letter to the government, and on May 17, 2004, Minister of Justice Márcio Thomaz Bastos revoked the decision and closed the case.<sup>45</sup>

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<sup>41</sup> In February 2003, the 16<sup>th</sup> Criminal Jurisdiction of the Forum of Belém convicted Pinto and sentenced him to one year in prison, at trial. In its July decision, the appellate court modified the penalty to a fine of some US\$3,500, as it was his first conviction.

<sup>42</sup> *Asociación por la Defensa del Periodismo Independiente (PERIODISTAS)*, "Periodista apela condena penal," July 29, 2004 at [www.ifex.org](http://www.ifex.org).

<sup>43</sup> Press Release of the Special Rapporteur for Freedom of Expression 105/04 at [http://www.cidh.org/Office\\_of\\_the\\_Special\\_Rapporteur/English/Press\\_Rel04/PRlease10504.htm](http://www.cidh.org/Office_of_the_Special_Rapporteur/English/Press_Rel04/PRlease10504.htm), *O Estado de Minas*, "Lula só volta atrás com retratacao de jornalista do NYT," ([www.uai.com.br](http://www.uai.com.br)), May 13, 2004.

<sup>44</sup> Law on Foreigners (*Estatuto do Estrangeiro*) (Law 6,815, of August 19, 1980). [www.oas.org/juridico/mla/pt/bra/pt](http://www.oas.org/juridico/mla/pt/bra/pt), Ministry of Justice of Brazil, "Nota a Imprensa" ([www.mj.gov.br/noticias](http://www.mj.gov.br/noticias)), May 11, 2004.

<sup>45</sup> Ministry of Justice of Brazil. "Thomas Bastos assina despacho sobre caso New York Times" ([www.mj.gov.br/noticias](http://www.mj.gov.br/noticias)), May 17, 2004, *O Estado de Minas*, "Ministro revoga portaria que cassou visto de Larry Rohter" ([www.estadao.com.br](http://www.estadao.com.br)), May 17, 2004.

## CANADA

### PRINCIPLE 8 OF THE DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION (The right of social communicators to keep sources, notes, and personal and professional files confidential)

49. The Office of the Special Rapporteur received information during 2004 on subpoenas of and proceedings brought against journalists which could have a detrimental effect on the right to keep sources of information, files, and personal notes confidential. As the Office of the Special Rapporteur has indicated: "The main foundation of the right to confidentiality is that within the scope of their work, and in order to provide the public with the information needed to satisfy the right to information, journalists are performing an important public service when collecting and disseminating information that would not be divulged were the confidentiality of sources not protected. This right to confidentiality involves providing legal guarantees to sources to ensure their anonymity and to avoid possible reprisals against them for divulging certain information to the press. Confidentiality, therefore, is essential to journalists' work, and to the role that society has conferred upon them to report on matters of public interest."<sup>46</sup>

50. On January 21, 2004, the residence of Juliet O'Neill, of the daily *Ottawa Citizen*, was searched by the Royal Canadian Mounted Police. The search was pursuant to a judicial order and with the intent of discovering the governmental source who allegedly leaked information to O'Neill.<sup>47</sup> After the search, documentation was seized that included information on her contacts, including phone numbers, and her computer files were copied. The searches were said to have been carried out under the Security of Information Act, which prohibits the possession and dissemination of secret government information, for which the journalist and the newspaper could be subject to criminal charges.<sup>48</sup>

51. On December 1, 2004, *Hamilton Spectator* journalist Ken Peters was found guilty of contempt of court after refusing to reveal a confidential source for a publication on problems in a retirement home. Former local council member Henry Merling identified himself as the journalist's source. On December 7, a sanction was imposed that entailed paying US\$31,600. It was a civil matter, so it was decided not to bring criminal charges.<sup>49</sup>

## CHILE

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<sup>46</sup> Office of the Special Rapporteur for Freedom of Expression, press release of December 8, 2004.

<sup>47</sup> In 2003, O'Neill published reports on the case of Maher Arar, a Canadian citizen of Syrian origin who had been deported to Syria by the U.S. authorities in 2002, where, according to Arar, he was tortured. According to O'Neill's Article, the RCMP had identified links between Arar and the Al-Qaeda network.

<sup>48</sup> Committee to Protect Journalists (CPJ), [www.cpi.org](http://www.cpi.org), January 22, 2004, "Canadá: CPJ condena allanamiento de policía a la oficina y residencia de una reportera del *Ottawa Citizen*," and *Ottawa Citizen* of January 20, 2004, <http://www.canada.com/ottawa/ottawacitizen/news/story.html?i d=097e31a7-1ac2-4fdb-9daf-75b458fac7c7>.

<sup>49</sup> Reporters without Borders, "Un journaliste condamné pour avoir protégé ses sources: Reporters sans frontières dénonce un dangereux précédent," December 8, 2004.

**PRINCIPLE 8 OF THE DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION  
(Social communicators' right to keep sources, notes, and personal and professional files confidential)**

52. On April 26, 2004, two hard drives used by journalist Jorge Molina Sanhueza and by editor-in-chief Lino Solís de Ovando G. were seized from the e-daily *El Mostrador.cl*, to copy and analyze the computers' content in the context of an investigation into an attack on the embassy of Brazil that took place March 24, 2004.<sup>50</sup> The seizure was pursuant to the Anti-Terrorist Act.<sup>51</sup>

**PROGRESS**

53. The daily *El Comercio* of Lima and the Asociación Nacional de Prensa of Chile brought a motion against Chile's National Director of Customs to gain access to documents concerning alleged irregularities in the importation of a car for a Peruvian legislator. On July 9, 2004, the Third Civil Court of Valparaíso granted the motion for *amparo* and indicated that access to public information was included in Article 13 of the Constitutional Organic Law of the General Bases of State Administration (*Ley Orgánica Constitucional de Bases Generales de la Administración del Estado*).<sup>52</sup>

**COLOMBIA**

54. Since it was established, the Office of the Special Rapporteur has been reporting an anguishing annual account of the murders of journalists and media workers in Colombia, particularly those in which the relationship between their work in media and the crime was most apparent. This year, the Office of the Special Rapporteur received information on four assassinations of journalists and other media workers, without, as of the date of this report, having received confirmation of details so as to be able to establish a clear relationship between the homicides and their work as journalists.

55. The Office of the Special Rapporteur has received, with concern, the reports from different civil society organizations on impunity in cases of murders of and threats to journalists, as well as complaints regarding the sluggishness of the investigations and the delays in the judicial proceedings. The Office of the Special Rapporteur calls on the Colombian authorities to step up their efforts to undertake diligent and effective investigations that make it possible to identify and punish the persons responsible for these acts, and to establish clearly the motives in those cases in which there is no certainty as yet. The murder of social communicators has a profound chilling effect on society, even in those cases in which there is doubt (and in those cases precisely because of the doubt) as to the relationship between the crime and the victim's work in media. This effect is amplified if the citizens observe that these homicides are in impunity. The Inter-American Court of Human Rights has noted: "...the State has the obligation to use all the legal means at its disposal to combat that situation [of impunity], since impunity

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<sup>50</sup> Weeks earlier, with authorization from the publication, detectives from the Department of Investigations had already reviewed the computers.

<sup>51</sup> Reporters without Borders (RSF), May 3, 2004, at [www.rsf.org](http://www.rsf.org), *El Mostrador* (Chile), [www.elmostrador.cl](http://www.elmostrador.cl).

<sup>52</sup> Inter-American Press Association (SIP), Country-by-Country Reports, Annual Assembly, at [www.sipiapa.com](http://www.sipiapa.com).

fosters chronic recidivism of human rights violations, and total defenselessness of victims and their relatives.”<sup>53</sup>

56. Also of concern to the Office of the Special Rapporteur is that, in addition to the already-complex situation that the situation of armed conflict poses to the full exercise of the freedom of expression, threats and assaults have been increasingly common as a result of reports by news media and journalists of corruption cases involving public officials in the exercise of their duties.

**PRINCIPLE 9 OF THE DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION (Murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media)**

57. The Office of the Special Rapporteur considers worrisome the large number of cases reported that are related to this principle, which have diverse causes and are reported in different regions of the country. Journalists and media outlets continue to receive threats and suffer attacks in the context of the armed conflict, but also as a result of their reports of organized crime and corruption. Some journalists were forced to abandon their places of residence and even to flee the country, as has been the case of Cristian Herrero Nariño, Claudia Julieta Duque, and Luis Alberto Castaño. As for this last case, the program that Castaño directed on the radio was the only news programming in the municipality of Líbano, in Tolima, and it was suspended when he left.<sup>54</sup>

58. On September 7 and 8, 2004, independent journalist Claudia Julieta Duque received anonymous threats by phone. Duque had already been followed by vehicles. She continued to receive threats and continued to be followed; then, on November 17, she received a phone threat warning that they would kill her daughter. Since 1999 Duque has suffered intimidation, when she began to investigate the assassination of journalist and humorist Jaime Garzón. In the course of her investigations, she has pointed to the Administrative Security Department (*Departamento Administrativo de Seguridad, (DAS)*).<sup>55</sup> Considering the level of the threats and the difficulties plaguing the investigation, Duque opted to leave Colombia in November.<sup>56</sup>

59. The Office of the Special Rapporteur received information on cases of kidnappings, abductions, and threats in the context of the armed conflict. Among the journalists who were kidnapped or abducted, apparently by armed groups, have been Julien Fouchet, of

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<sup>53</sup> Inter-American Court of Human Rights, *Paniagua Morales et al. v. Guatemala Case*.

<sup>54</sup> On September 9, 2004, Luis Alberto Castaño, director of information for the community radio station *Café 93.5*, was forced to leave the municipality of Líbano, in the department of Tolima, due to threats received and the alleged existence of a plan by the paramilitaries to assassinate him.

<sup>55</sup> Reporters without Borders, “*Una periodista víctima de repetidas amenazas*,” at [http://www.rsf.fr/Article.php3?id\\_Article=11364](http://www.rsf.fr/Article.php3?id_Article=11364), September 10, 2004, and Inter-American Press Association, Country-by-Country Reports, Annual Assembly, at: [www.sijiapa.com](http://www.sijiapa.com), October 2004.

<sup>56</sup> *Fundación para la Libertad de Prensa*, “*Amenazas obligan al exilio de periodistas*,” <http://www.ifex.org/es/content/view/full/62914>, November 30, 2004.

*Radio Nova*,<sup>57</sup> detained in Santa Marta<sup>58</sup>; Inés Peña,<sup>59</sup> of *Enlace 10*, kidnapped and tortured in Barrancabermeja,<sup>60</sup> and Luis Carlos Burbano Carvajal, of *Caracol Noticias Televisión* and his cameraman *Mauricio Mesa Lancheros*.<sup>61</sup> The Office of the Special Rapporteur received reports of threats against Garibaldi López<sup>62</sup>

and Diego Waldrón<sup>63</sup> of *Calor Estéreo*,<sup>64</sup> Barrancabermeja; the daily newspaper *El Nuevo Día*,<sup>65</sup> in Ibagué,<sup>66</sup> and Luis Alberto Castaño, mentioned above.<sup>67</sup>

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<sup>57</sup> Reporters without Borders, [www.rsf.org](http://www.rsf.org), February 19, 2004, Reporters without Borders, [www.rsf.org](http://www.rsf.org), citing information from the French news agency AFP, Reporters without Borders, [www.rsf.org](http://www.rsf.org), February 28, 2004, [http://www.rsf.org/Article.php3?id\\_Article=9296](http://www.rsf.org/Article.php3?id_Article=9296).

<sup>58</sup> On January 15, 2004, Julien Fouchet, 27 years of age, of French origin, who worked with *Radio Nova* and was a law student in Bogotá, Colombia, disappeared when at the Sierra Nevada de Santa Marta, situated by the Caribbean coast. The French Embassy officially announced his disappearance February 18, 2004. On February 27, 2004, a French diplomatic source finally reported that Fouchet had been released.

<sup>59</sup> Committee to Protect Journalists, [www.cpj.org](http://www.cpj.org), February 4, 2004. An analysis of the freedom of the press in Colombia presented by FLIP in February 2004 denounced threats and attacks on the freedom of the press. See <http://www.flip.org.co/informes/2004/Enero.PDF>.

<sup>60</sup> On January 28, 2004, armed paramilitaries from the *Autodefensa Unidas de Colombia* (AUC) kidnapped journalist Inés Peña, 22 years of age, in Barrancabermeja, Santander, in northeastern Colombia. Peña hosts the *Cultura por la vida* segment on the news program *La Mohana*, produced on the private channel *Enlace 10*. On her program she levels criticisms at the paramilitaries in the region, in addition to denouncing human rights violations. She also works with youths on human rights issues, and is a leader of the *Organización Femenina Popular*. Peña and the organization she led had been threatened previously. The police in Barrancabermeja initiated an investigation into the incident.

<sup>61</sup> On October 10, 2004, Luis Carlos Burbano Carvajal of *Caracol Noticias Televisión* and his cameraman *Mauricio Mesa Lancheros* were held for several hours by members of the *Fuerzas Armadas Revolucionarias de Colombia* (FARC) in the municipality of La Divina Pastora, by the border between the departments of Nariño and Putumayo, in southern Colombia. They were producing a story on a painter's exhibit in the upper Putumayo region. Burbano was wearing his vest and ID identifying him as a journalist; even so, the members of the FARC accused him of doing work not related to journalism. They were released the next day.

<sup>62</sup> On February 9, 2004, Garibaldi López, director of two radio programs on *Calor Estéreo: Actualidad en Estéreo* and *Controversia*, was threatened. That day a phone call was received at his home supposedly from the *Autodefensas Unidas de Colombia* (AUC) in which they told him: "The first was José Emeterio Rivas [journalist assassinated in April 2003], the second will be Garibaldi López, and the third Diego Waldrón." López covers various issues, including human rights violations by paramilitaries.

<sup>63</sup> On February 14, 2004, journalist Diego Waldrón, 37 years of age, director of the weekly *Siete Días* and host of the radio program *Noticias Calientes* broadcast by *Calor Estéreo* in Barrancabermeja, in northern Colombia, received a death threat at home, by the alleged bodyguard of someone close to the mayor's office. The threat was said to have been in retaliation for his comments on designations in the municipal police. He was warned to halt the criticisms of local officials or accept the consequences.

<sup>64</sup> Committee to Protect Journalists (CPJ), March 5, 2004, <http://www.cpj.org/cases04/americas/cases04/colombia.html>, Reporters without Borders, [www.rsf.org](http://www.rsf.org), February 25, 2004, Committee to Protect Journalists (CPJ), [www.cpj.org](http://www.cpj.org).

<sup>65</sup> On August 17, 2004, *El Nuevo Día*, a daily newspaper in the city of Ibagué, received a death threat by email that had the letterhead of the *Autodefensas Unidas de Colombia*. The email made reference to an Article from a news agency published in the paper that referred to the alleged purchase by the paramilitary group known as "Centaurus" of another group called "El Bloque de Tolima." The spokespersons for the Bloque Centauro denied responsibility for the threat.

<sup>66</sup> *Fundación para la Libertad de Prensa*, (FLIP), "Diagnóstico de la libertad de prensa, agosto de 2004," at [www.flip.org](http://www.flip.org), September 16, 2004.

<sup>67</sup> Reporters without Borders, "Black-out informativo en una ciudad del Departamento de Tolima," in [http://www.rsf.org/Article.php3?id\\_Article=11477](http://www.rsf.org/Article.php3?id_Article=11477), September 29, 2004, and Inter-American Press Association, Country-by-Country Reports, Annual Assembly, at: [www.sipiapa.com](http://www.sipiapa.com), October 2004.



60. The Office of the Special Rapporteur was also informed of several cases in the city of Cúcuta, in Norte de Santander, by the border with Venezuela. One of these was the case of Cristian Herrera Nariño,<sup>68</sup> who received several threats that led him to leave the country.<sup>69</sup> Journalist Jorge Elías Corredor Quintero,<sup>70</sup> director of the program *El Pregón del Norte*, was the target of an assassination attempt in which his step-daughter was killed.<sup>71</sup> In June, journalists Olga Lucía Cotamo, director of regional information for RCN in Cúcuta, Angela Echeverri, host, and Fernando Fonseca, all of RCN in Cúcuta,<sup>72</sup> received a threat by a pamphlet that was apparently signed by the *Ejército de Liberación Nacional* (ELN).<sup>73</sup>

61. The Office of the Special Rapporteur was informed of other cases such as that of threats to journalist and human rights defender Ademir Luna,<sup>74</sup> and which also extended to taxi driver Fabián Correo,<sup>75</sup> in the Magdalena Medio region; and the case of columnist Luis Eduardo Gómez,<sup>76</sup> who was said to have received threats from officials in the municipality of Arboletes,<sup>77</sup> Silvio Sierra Sierra,<sup>78</sup> threatened in the city of Popayán,<sup>79</sup> and Geovanny Serrano,<sup>80</sup> intimidated

<sup>68</sup> Reporters without Borders, "Varios periodistas amenazados en Cúcuta (Norte de Santander)," in: [http://www.rsf.fr/Article.php?id\\_Article=10650](http://www.rsf.fr/Article.php?id_Article=10650), June 16, 2004, *Fundación para la Libertad de Prensa (FLIP)*, "Diagnóstico de la libertad de prensa, septiembre 2004," at: [www.flip.org](http://www.flip.org), October 7, 2004.

<sup>69</sup> In March and April, Cristian Herrera Nariño, in charge of the judicial section of the daily *La Opinión*, of Cúcuta, received six anonymous threats and insults after publishing, in April, an article about the increase in car theft in the city. On June 10, Herrera and his photographer Carlos Patiño were assaulted by an agent from the judicial police (DIJIN) while they were taking photographs of an alleged drug trafficker during a police operation. That same night, two men passed by Herrera's home to warn him not to publish the photographs. In addition, he had been warned of a plan to assassinate him. Finally, in September, Herrera opted to leave Colombia.

<sup>70</sup> Committee to Protect Journalists (CPJ), April 27, 2004, [http://www.cpj.org/news/2004/Colombia27apr04na\\_Sp.html](http://www.cpj.org/news/2004/Colombia27apr04na_Sp.html), and Inter-American Press Association, Country-by-Country Reports, [www.sipiapa.com](http://www.sipiapa.com).

<sup>71</sup> On April 22, 2004, at night, two men arrived at the home of journalist Jorge Elías Corredor Quintero, who directs the radio program *El Pregón del Norte* for the radio station *La Voz del Norte* in the city of Cúcuta. One of the men took out a weapon and shot at him. Corredor tried to defend himself but a bullet hit his step-daughter Livy Sierra Maldonado, 20 years old, who died instantly. He was under police protection, and the security forces offered 50 million pesos (about US\$19,000) as a reward for information leading to the arrest of the killers.

<sup>72</sup> International Freedom of Expression Exchange, [www.ifex.org](http://www.ifex.org), June 11, 2004, "Amenazados periodistas de RCN en Cúcuta," Reporters without Borders, "Varios periodistas amenazados en Cúcuta (Norte de Santander)," at [http://www.rsf.fr/Article.php?id\\_Article=10650](http://www.rsf.fr/Article.php?id_Article=10650), June 10, 2004, and Inter-American Press Association, Country-by-Country Reports, Annual Assembly, at: [www.sipiapa.com](http://www.sipiapa.com), October 2004.

<sup>73</sup> On June 8, 2004, threats were made, by means of a pamphlet, against Olga Lucía Cotamo, director of regional information, Angela Echeverri, host, and Fernando Fonseca, journalist and manager, all of the local RCN station in Cúcuta. According to information received by the Office of the Special Rapporteur, the threat declared them military targets because of their alleged political sympathy for President Álvaro Uribe, and they were threatened to leave the country. That pamphlet was left during the nighttime hours at the local radio station. It was denounced by the respective authorities. The pamphlet was apparently signed by the *Frente Carlos Germán Velasco* of the *Ejército de Liberación Nacional* (ELN).

<sup>74</sup> Reported by the *Corporación Regional para la Defensa de los Derechos Humanos* (CREDHOS) in Barrancabermeja, Colombia, on March 30, 2004. See [http://www.caritaspanama.org/accionesolidaria/credho\\_sos\\_periodista.htm](http://www.caritaspanama.org/accionesolidaria/credho_sos_periodista.htm).

<sup>75</sup> On March 29, 2004, in the Magdalena Medio region, at night, two men got in a taxi that belonged to Eduardo Luna, the father of journalist and human rights defender Ademir Luna, and driven by Fabián Correo. They mistook Correo for Ademir Luna, had him turn into a dead-end street, where they threatened to kill him. Correo insisted on identifying himself by his name. The assailants transmitted a death threat for Luna and then left him. Correo reported the incident to the police.

<sup>76</sup> Inter-American Press Association, Country-by-Country Reports, Annual Assembly, at: [www.sipiapa.com](http://www.sipiapa.com), October 2004.

<sup>77</sup> On September 21, 2004, Luis Eduardo Gómez, director and owner of *Revista Urabá* and columnist with the local daily newspaper of Arboletes, in the department of Antioquia, denounced having received threats from officials of the local government after he reported on irregularities in the local administration.

<sup>78</sup> *Fundación para la Libertad de Prensa*, "Diagnóstico de la libertad de prensa, octubre de 2004," at: [www.flip.org](http://www.flip.org).

<sup>79</sup> On October 14, 2004, in the city of Popayán, in southwestern Colombia, Silvio Sierra Sierra, host of the program *Quéjese* on *Radio Super* and correspondent for the daily *El País*, of Cali, was threatened. The intimidation was received by the continued...

by unknown persons.<sup>81</sup> On October 2, 2004, *Semana* magazine reported in an editorial that some of its journalists had received threats, yet it was impossible to determine if they were from drug traffickers or members of the military. In addition, according to the magazine, several telephone conversations had been illegally wiretapped.<sup>82</sup>

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62. In November, a process of awarding radio frequencies began for 400 community radio stations in different communities of Colombia, which would join 476 such radio stations already existing in the country.<sup>83</sup> The Office of the Special Rapporteur considers this process auspicious in light of Principle 12 of the Declaration of Principles on Freedom of Expression, according to which the assignment of radio and television frequencies should consider democratic criteria that guarantee equal opportunities for all individuals to access them.

63. On October 12, 2004, the Constitutional Court handed down a ruling in which it recognized journalism as a profession, but rejected all the articles of a bill that sought to set a *priori* requirements, such as having an official journalist card, or compulsory certification by the State. One is a journalist, according to the Constitutional Court, if he or she is involved in handling information, independent of having a university degree; recognition as such does not depend on the Government.<sup>84</sup> This judgment is consistent with Principle 6 of the Declaration of Principles on Freedom of Expression, which states, in part: "Compulsory membership or the requirements of a university degree for the practice of journalism constitute unlawful restrictions of freedom of expression."

## COSTA RICA

### PRINCIPLE 13 OF THE DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION (Indirect violations of the freedom of expression)

64. During the month of May 2004, the Office of the Special Rapporteur received information that the government had decided not to place public announcements in the daily newspaper *La Nación*,<sup>85</sup> which may have been a reprisal for that paper's critical attitude.<sup>86</sup> The

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National Police, in the form of an anonymous phone call warning of an alleged planned to assassinate Sierra. His program has included accusations concerning common criminals and gangs in Popayán.

<sup>80</sup> Assessment of the freedom of press in Colombia presented by FLIP in February 2004 on threats and attacks on the freedom of press, <http://www.flip.org.co/informes/2004/Enero.PDF>.

<sup>81</sup> On January 17, 2004, Geovanny Serrano, journalist with the *Sindicato de Trabajadores de las Empresas Públicas de Cali* (Sintraemcali), who has worked for *Caracol*, *Colmundo Radio*, *Todelar* and *Telepacífico*, in Valle del Cauca, east of Bogotá, received threats from unknown persons by telephone. The threats came after the broadcast of a television program in which he denounced alleged irregularities in municipal enterprises of Cali. In early 2003, Serrano had also denounced threats against him.

<sup>82</sup> Reporters without Borders, "Los periodistas de *Semana* amenazados y vigilados Telefónicamente," October 5, 2004, in [http://www.rsf.fr/Article.php3?id\\_Article=11518](http://www.rsf.fr/Article.php3?id_Article=11518).

<sup>83</sup> World Association of Community Radio Broadcasters (AMARC), at: <http://www.ifex.org/es/content/view/full/62665>, November 19, 2004, at International Freedom of Information Exchange (IFEX), [www.ifex.org](http://www.ifex.org).

<sup>84</sup> Inter-American Press Association. Country-by-Country Reports, Annual Assembly 2004. At [www.sipiapa.org](http://www.sipiapa.org), October 2004.

<sup>85</sup> Asked by the press, then-Minister of the Presidency Ricardo Toledo asserted that the definition of investment in media was based on "scientific criteria" related to credibility, circulation, and price (he noted as means of measurement a survey of the

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Office of the Special Rapporteur recalls that the American Convention prohibits restrictions on the freedom of expression by indirect means.

## CUBA

65. During 2004, the Office of the Special Rapporteur continued to receive reports of acts of repression and censorship of those who wish to express themselves freely in Cuba. Since its creation, the Office of the Special Rapporteur has noted that Cuba is the only country of the Hemisphere in which one can state categorically that there is no freedom of expression. This characterization still holds this year.

66. Cuba is the only country in the Hemisphere in which there is an evident and clear violation of Principle 1 of the Declaration of Principles on Freedom of Expression, which recognizes: "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." Not having a society open to pluralism in Cuba entails, therefore, a clear and systematic violation of the freedom of expression.

67. The prison conditions of dissidents who were detained and placed on trial in 2003, among them several journalists, continue to be objects of concern to the international community. Several detainees began hunger strikes to protest their conditions of detention,<sup>87</sup> including Léster Téllez Castro,<sup>88</sup> Manuel Vázquez Portal,<sup>89</sup> Normando Hernández González,<sup>90</sup> and Fabio Prieto Llorente.<sup>91</sup>

68. Last year (2004) saw the release<sup>92</sup> of independent journalists Carlos Alberto Domínguez González,<sup>93</sup> Carmelo Díaz,<sup>94</sup> Manuel Vázquez Portal,<sup>95</sup> Raúl Rivero, and Oscar

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Internet search engine *Google*, measurements of the Office of the Presidency, as well as the unit price of a page). Those criteria were refuted by the National Chamber for Measurements of the National Institute of Advertising and other specialists in advertising.

<sup>86</sup> *La Nación*, "Gobierno justifica distribución de su propaganda en medios," May 28, 2004, at: [www.nacion.com](http://www.nacion.com), *La Nación*, "Refutan criterios de Gobierno para pautar su publicidad," June 1, 2004, at: [www.nacion.com](http://www.nacion.com).

<sup>87</sup> Inter-American Press Association (IAPA), press release, January 23, 2004, Committee to Protect Journalists (CPJ), "Periodista preso se declara en huelga de hambre," May 7, 2004, at [www.cpi.org](http://www.cpi.org), Reporters without Borders (RSF), May 26, 2004, at [www.rsf.org](http://www.rsf.org), Reporters without Borders (RSF), "Fabio Prieto Llorente ha puesto fin a su huelga de hambre," September 4, 2004, at [http://www.rsf.fr/Article.php3?id\\_Article=11235](http://www.rsf.fr/Article.php3?id_Article=11235).

<sup>88</sup> On January 12, 2004, independent journalist Léster Téllez Castro, director of the *Agencia de Prensa Libre Avileña* (APLA), began a hunger strike to protest his imprisonment for almost two years without having been tried.

<sup>89</sup> On April 30, 2004, journalist Manuel Vázquez Portal, one of the independent journalists convicted in April 2003 and sentenced to 18 years in prison, and member of the independent news agency *Grupo de Trabajo Decoro*, declared he was going on a hunger strike to protest his prison conditions.

<sup>90</sup> On May 7, 2004, journalist Normando Hernández González, director of the agency *Colegio de Periodistas Independientes de Camagüey (CPIC)*, and sentenced to 25 years in prison in 2003, began a hunger strike to protest his transfer to a cell with common criminals; it ended May 26.

<sup>91</sup> On August 11 2004, journalist Fabio Prieto Llorente declared he was initiating a hunger strike over his conditions of detention; he ended it on September 2.

<sup>92</sup> Reporters without Borders (RSF), June 11, 2004, at [www.rsf.org](http://www.rsf.org), Reporters without Borders (RSF), June 24, 2004, at [www.rsf.org](http://www.rsf.org), Reporters without Borders (RSF), June 23, 2004, [www.rsf.org](http://www.rsf.org), Reporters without Borders, (RSF), November 30, at: [http://www.rsf.fr/Article.php3?id\\_Article=11972](http://www.rsf.fr/Article.php3?id_Article=11972), Committee to Protect Journalists, "Liberados el escritor Raúl Rivero y el periodista Oscar Espinosa Chepe," November 30, 2004, at [www.cpi.org](http://www.cpi.org).

Espinosa Chepe.<sup>96</sup> The release of these persons is positive, but as of the preparation of this report, of the 75 dissidents detained in 2003, 60 remain imprisoned, including 24 journalists, and the risk persisted that those released might go back to prison since they are subject to rules that keep them from expressing themselves freely. These circumstances indicate that the structural reasons for the violation of the freedom of expression persist in Cuba.

**PRINCIPLE 5 OF THE DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION  
(Prior censorship, interference, or direct or indirect pressures)**

69. In January, the Office of the Special Rapporteur received information on searches of the homes of journalists and independent libraries in which several books, political pamphlets, and instruments of communication such as radios and fax machines were seized.<sup>97</sup> The agents warned that no information should be put out regarding the searches and seizures.<sup>98</sup>

70. In the course of the year, several communicators were reportedly intimidated with the possibility that they might be targeted by trials similar to those faced by the dissidents detained in 2003. Some journalists were forced to sign letters in which they undertook not to continue their work of disseminating information, under threat of being tried on charges of violating the Law for the Protection of the National Independence and Economy of Cuba.<sup>99</sup> These include Isabel Rey of *CubaPress*, who was accused of disseminating “enemy propaganda.” Similar pressures were received by Fara Armenteros,<sup>100</sup> director of the news agency *Unión de Periodistas y Escritores de Cuba Independientes (UPECI)*,<sup>101</sup> Héctor Riverón

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<sup>93</sup> On June 8, 2004, independent journalist Carlos Alberto Domínguez González, of the agency *Cuba Verdad*, was released after spending 27 months in prison, having been detained on February 23, 2003, as he was considered guilty of *desacato* and public disorder. He was imprisoned yet charges were never brought against him.

<sup>94</sup> On June 18, 2004, independent journalist Carmelo Díaz Fernández was released after 15 months in prison after being detained and sentenced in March 2003. He was given extra-penitentiary leave for health reasons; this is the legal equivalent of having one's residence under surveillance. He is the director of the *Agencia de Prensa Sindical Independiente de Cuba (APSIC)*.

<sup>95</sup> On June 23, 2004, independent journalist Manuel Vásquez Portal was released after being given extra-penitentiary leave for health reasons. This release is conditional and lasts for the time considered necessary. He was detained on March 19, 2003. The Chamber for Crimes against State Security of the People's Provincial Court of Havana convicted him and sentenced him, on April 4, 2004, to 18 years of prison, pursuant to Law 88, of acts against national independence. He was accused of having published Articles on the website *cubanet.org*, collaborating with *Radio Martí*, a radio station broadcast by the U.S. federal government to Cuba, having received transfers in dollars from the United States as payment for his articles, and visiting regularly with officials from the U.S. Interests Section in Havana. Vásquez is co-founder of *CubaPress*, of the *Cooperativa de Periodistas Independientes*, and he established the *Grupo de Trabajo Decoro*, a press agency devoted to current literary and cultural affairs.

<sup>96</sup> On November 29 and 30, journalists Raúl Rivero and Oscar Espinosa Chepe, detained during the wave of repression in March 2003, were released, on extra-penitentiary authorization, for health reasons. Espinosa Chepe, 64 years old, was in the hospital of the *Combinado del Este* prison in Havana, as of September 2004. Rivero, 59 years of age, had been transferred to that same medical center on November 26, 2004. Chepe was warned to refrain from engaging in journalism.

<sup>97</sup> On January 28, 2004, several journalists' homes were searched by state security agents, including that of José Antonio Reyner, in *El Cuabito*, where the agents found a journalist's tape recorder, a Samsung radio, and books, for which a document was drawn up according to which he would be subject to the courts. Also searched was the home of Robert Perera, where the “*Mártires del 13 de Marzo*” library is located; books were seized. All the books containing political writings, and a fax machine, were taken from the home of Ana María Espinosa Escobedo.

<sup>98</sup> *La Voz de Oriente* (Cuba), “*Realiza la seguridad del Estado registros y decomisos a periodistas independientes en Santiago*,” January 29, 2004.

<sup>99</sup> Inter-American Press Association, Country-by-Country Reports, Annual Assembly, October 2004, at [www.sipiapa.com](http://www.sipiapa.com).

<sup>100</sup> On April 16, she was harassed and threatened by state security agents in Havana. Three individuals stopped her and questioned her about her work as a journalist, and she was warned that she could be placed on trial for her publications.

of the agency *Libertad en Las Tunas*, *CubaPress* correspondent Jesús Álvarez, Gilberto Figueredo, correspondent of the agency *Lux-info-Press*,<sup>102</sup> Juan González González, assistant director of the agency *Línea Sur Press*, and journalist Carlos Serpa Maceira.<sup>103</sup>

71. Some of the wives of the political prisoners detained in 2003, who have spoken out against the detentions and the prison conditions of their family members and husbands, were reportedly subject to repressive acts, such as subpoenas and measures to thwart the meetings of prisoners' family members.<sup>104</sup>

**PRINCIPLE 9 OF THE DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION (Murders, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media)**

72. The Office of the Special Rapporteur received information on mistreatment of the dissident prisoners which in some cases, as mentioned above, has led some of them to stage hunger strikes. Among those targeted by the assaults and reported to the Office of the Special Rapporteur are Normando Hernández González (director of the *Colegio de Periodistas Independientes*, who works with *CubaNet*), Adolfo Fernández Saín and Víctor Rolando Arroyo, who on January 26, 2004, were beaten by an officer at the Kilo 5½ prison, resulting in damage to their health.<sup>105</sup> After the beating, Hernández was confined to a prison cell for 100 days. On September 1, journalist Víctor Rolando Arroyo, sentenced to 26 years in prison, was assaulted by officers at the Guantánamo prison, and was later confined for 15 days to solitary confinement.<sup>106</sup> On October 13, 2004, journalist Juan Carlos Herrera, sentenced to 20 years in prison, was beaten by six prison officers at the Kilo 8 prison in Camagüey, for demanding that his rights be respected in the prison.

**PRINCIPLES 10 AND 11 OF THE DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION (Use of defamation laws by public officials, and *desacato* laws)**

73. On April 26, 2004, convictions were handed down against human rights activists and independent journalists accused of *desacato* for expressions directed against the president of Cuba, resistance, disobedience, and public disorder. The persons convicted were detained on March 4, 2002, when they peacefully protested the beating of journalist Jesús Álvarez Castillo, in the province of Ciego de Ávila. Those sentenced included Juan Carlos González

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<sup>101</sup> Committee to Protect Journalists, May 11, 2004, at [www.cpi.org](http://www.cpi.org).

<sup>102</sup> In July, they were stopped by the police and warned of the possibility of being placed on trial because of the information they put out. See Inter-American Press Association, Country-by-Country Reports, Annual Assembly, October 2004, in [www.sipiapa.com](http://www.sipiapa.com).

<sup>103</sup> On July 22, 2004, he was threatened, apparently by a state security agent, who warned him that he would shoot him if he continued disseminating information outside of Cuba. See Inter-American Press Association, Country-by-Country Reports, Annual Assembly, October 2004, at [www.sipiapa.com](http://www.sipiapa.com).

<sup>104</sup> On May 22, 2004, journalist María Elena Alpízar was detained by the police in Havana when she was on her way to cover the activities of the so-called "Ladies in White," as the women with family members in prison are called. Alpízar was sent to Placetás, where she lives. An activist was fined for putting her up in her home. See Inter-American Press Association, Country-by-Country Reports, Annual Assembly, October 2004, at [www.sipiapa.com](http://www.sipiapa.com).

<sup>105</sup> *Cubanet* (Cuba), February 6, 2004, [www.cubanet.org](http://www.cubanet.org).

<sup>106</sup> Inter-American Press Association, Country-by-Country Reports, Annual Assembly, October 2004, at [www.sipiapa.com](http://www.sipiapa.com).

Leiva, sentenced to four years of house arrest; Delio Laureano Requijo Rodríguez, sentenced to two years and six months of prison with release on probation, and Virgilio Mantilla Arango, of the *Fundación Cubana de Derechos Humanos*, sentenced to seven years of imprisonment. Lázaro Iglesias Estrada and Carlos Brizuela Yera, of the *Colegio de Periodistas Independientes de Camagüey*, Ana Peláez García, and Odalmis Hernández Márquez, of the *Fundación Cubana de Derechos Humanos*, were sentenced to three years of imprisonment. Brothers Antonio and Enrique García Morejón, of the *Movimiento Cristiano de Liberación*, and promoters of the Varela Project,<sup>107</sup> as well as Léster Téllez Castro, of the *Agencia de Prensa Libre Avileña*, were sentenced to three years and six months in prison.<sup>108</sup>

### **PRINCIPLE 13 OF THE DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION (Indirect violations of the freedom of expression)**

74. Since January 24, 2004, the use of the regular phone network, invoiced in pesos, has been prohibited for connecting to the Internet. Web access is now available only to persons directly authorized by the "person with responsibility of an organ or organization of the central administration." The Cuban government decided this to fight clandestine use of the Internet.<sup>109</sup> In addition, it asked Etecsa, the only Cuban telecommunications operator, to employ "all technical means necessary" to detect and impede access to the Internet by unauthorized persons.<sup>110</sup>

75. Some journalists reported that the authorities had been conditioning the issuance of housing permits or rationing cards to pressure them. Such is the case of independent journalists María Elena Alpízar,<sup>111</sup> Juan Carlos Garcell Pérez,<sup>112</sup> and Richard Roselló, who works with *Cubanet* and *Carta de Cuba*.<sup>113</sup>

## **ECUADOR**

<sup>107</sup> The Varela Project proposes a referendum on the freedom of expression and association, the possibility of establishing companies, the release of all political prisoners, and an amendment to the electoral law. In May 2002, 11,000 signatures had been obtained.

<sup>108</sup> *Observatorio para la Protección de los Derechos Humanos*, press release, May 5, 2004.

<sup>109</sup> To access the Internet, Cubans are still able to use Internet cafes. Yet it costs US\$2.50 for 15 minutes, inaccessible for the vast majority of the population.

<sup>110</sup> Reporters without Borders (RSF), January 15, 2004, at [www.rsf.org](http://www.rsf.org).

<sup>111</sup> On February 9, 2004, she reported that she was being subjected to a campaign of harassment by state security. In Havana she was not given the ration card that is generally distributed in December upon presentation of the expired card from the previous year, and one's ID card. She was also required to show her ownership of her residence, a requirement only for those who have changed domicile, even though Alpízar has lived in the same house for almost 35 years. See *Cubanet*, February 19, 2004.

<sup>112</sup> On March 18, 2004, Garcell Pérez, resident in Sagua de Tánamo, province of Holguín, denounced that he and his family were being stalked, forcing him to leave his mother-in-law's house on Calle de Moa, in Holguín, since agents from the State Security Department indicated that he was there illegally. See *Cubanet* (Cuba), March 19, 2004, [www.cubanet.org](http://www.cubanet.org).

<sup>113</sup> In April 2004, he was expelled from a residence for the third time, by the state security political police, who said that he was there illegally. See *Cubanet* (Cuba), April 13, 2004.

**PRINCIPLE 9 OF THE DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION (Murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media)**

76. In early 2004, the Office of the Special Rapporteur received information on two cases of threats to and assassination attempts directed against journalists. On January 26 and 27, 2004, Miguel Rivadaneira, director of *Radio Quito*, received several death threats.<sup>114</sup> Rivadaneira reported that he had received threats since late 2003. The Office of the Special Rapporteur values the public condemnation of this act by government authorities, who ordered it be investigated. Information was also received about the attack on Carlos Muñoz Insúa, executive president of *Telesistema*, which took place February 9, 2004, in which his driver, Ricardo Mendoza, was killed.<sup>115</sup> This attack was claimed by the Milicias Revolucionarias del Pueblo,<sup>116</sup> a self-proclaimed terrorist group, which accused *Telesistema* of not broadcasting its communiqués, and threatened to carry out other attacks against communications media and journalists.<sup>117</sup>

77. On April 4, 2004, during the coverage of several riots in prisons in five cities of Ecuador, journalist Daniel Montalvo and cameraman Eduardo De la Cruz, of *TC Televisión*, reporter Freddy Paredes and cameraman Robert Molina, of *Teleamazonas*, and cameraman Robert Tapia along with his assistant Carlos Torres, of *Cablevisión*, were taken hostage in a women's prison in Quito.<sup>118</sup> Torres, Paredes, and Molina were released in consideration of health problems on April 10. The others were released the next day.<sup>119</sup>

**PRINCIPLES 10 AND 11 OF THE DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION (Use of defamation laws by public officials and *desacato* laws)**

78. On October 29, 2004, the Supreme Court of Justice of Ecuador upheld the guilty verdict against journalist Rodrigo Fierro Benítez, imposed December 12, 2003, and in which he was sentenced to 30 days in prison for the crime of slander (*injurias calumniosas*) against former president León Febres Cordero, and ordered to pay US\$100 in costs. The members of the Supreme Court suspended execution of the sentence imposed on Fierro since he had no criminal record, and because the sentence was no more than six months.<sup>120</sup>

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<sup>114</sup> The anonymous threats were apparently related to an interview with one of the generals of the Ecuadorian armed forces concerning possible arms trafficking in which Army involvement was suspected.

<sup>115</sup> Two armed men shot at Carlos Muñoz Insúa's car; he was not injured.

<sup>116</sup> Agence France Presse, at Reporters without Borders, February 13, 2004, [www.rsf.fr](http://www.rsf.fr).

<sup>117</sup> International Freedom of Expression Exchange (IFEX), February 13, 2004, Reporters without Borders, February 13, 2004, at [www.rsf.org](http://www.rsf.org).

<sup>118</sup> The journalists were trying to interview some of the women in prison when they were taken, but they were allowed to continue to broadcast. On April 8, however, *Teleamazonas* decided not to continue disseminating information from the prison until the team was released.

<sup>119</sup> Committee to Protect Journalists, April 14, 2004, at [www.cpi.org](http://www.cpi.org).

<sup>120</sup> *La Hora*, "Corte Analiza recurso de Casación en Caso Fierro Benítez" ([www.lahora.com.ec](http://www.lahora.com.ec)), January 23 2004, Committee to Protect Journalists, "La Corte Suprema ratifica sentencia contra periodista," November 11, 2004, at [www.cpi.org](http://www.cpi.org).

79. On May 11, 2004, the Ecuadorian President Lucio Gutiérrez gave his approval to the Organic Law on Transparency and Access to Public Information. The Office of the Special Rapporteur issued a press release on May 21, 2004, in which it stated that such laws "must also be accompanied by regulations and interpretations that are adequate to guarantee respect for principles such as the principle of maximum disclosure, a presumption of publicity with respect to meetings and official documents...."<sup>121</sup> The Office of the Special Rapporteur will continue to observe the process of implementing that law, which is necessary, as a practical matter, for the law to come fully into force.

## EL SALVADOR

### PRINCIPLE 9 OF THE DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION (Murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media)

80. The Office of the Special Rapporteur was informed that on April 28, 2004, several journalists covering the taking of the Metropolitan Cathedral in downtown San Salvador by trade unions had been physically assaulted. In addition, a car belonging to the team from *Noticiero Teledos* was destroyed, and the vehicle of *TCS Noticias* was damaged. Both are owned by *Telecorporación Salvadoreña*. Photographic equipment belonging to journalists with print media was also stolen and destroyed.<sup>122</sup>

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81. On October 28, 2004, a reform was adopted to add Article 187-A<sup>123</sup> to the Code of Criminal Procedure of El Salvador, which protects the right of journalists to keep their sources confidential when they are called to testify in judicial proceedings. This reform was reportedly adopted after several cases in which pressure was brought to bear by judges on journalists to reveal their sources of information.

82. On the same date, an amendment was adopted to Article 191 of the Criminal Code decriminalizing the dissemination of unfavorable opinions by the press. The Rapporteur had informed the President of the Republic, Antonio Saca, during a meeting in July 2004, of his concern regarding the existence of laws on defamation and *desacato* in El Salvador's criminal legislation.

## UNITED STATES

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<sup>121</sup> Office of the Special Rapporteur for Freedom of Expression, Press Release PREN/106/04; [http://www.cidh.org/Office\\_of\\_the\\_Special\\_Rapporteur/Spanish/Compren10604.htm](http://www.cidh.org/Office_of_the_Special_Rapporteur/Spanish/Compren10604.htm).

<sup>122</sup> *Asociación de Periodistas de El Salvador* (APES), April 28, 2004, press release.

<sup>123</sup> Article 187-A. "Professional journalists and those persons who, though having another profession, practice journalism, shall have the right to refrain from testifying about the facts that have come to their attention by the exercise of their profession or trade, under penalty of nullity.

Similarly, professional journalists and those persons who, though having another profession, practice journalism, will have the right to refrain from revealing to any police authority, public official, or judicial official the source of the information that appears in the news, opinions, reportage, editorials they may publish in the legitimate exercise of their right to inform."



**PRINCIPLE 5 OF THE DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION  
(Prior censorship, interference, and direct or indirect pressure)**

83. From August 29 to September 2, in the context of protests during the Republican National Convention in New York City, several journalists were detained by the police. Some were held for several hours, and there was confusion as to the accreditations that would be recognized as valid (some journalists had accreditation from the New York City Police, while others had been accredited by the organizers of the Republican Convention). Those detained included Moisés Saman, *Newsday* photographer; Jeannette Warner and Tim Kulick of *Associated Press* and the photographer who accompanied her; Daniel Jones, of *WRDR radio*; Jennifer Whitney, of the Internet news service *Narco News Bulletin*; Nick Gehring and Beth Rankin, unaccredited journalists with the *Daily Kent Stater* of Kent State University; freelance photojournalist Geoffrey O'Connor; Kelley Benjamin, of a weekly newspaper out of Tampa, Florida; and Daniel Cashin of *Democracy Now*.<sup>124</sup> The Office of the Special Rapporteur was also informed of a large number of demonstrators being detained that week. The interference that those detentions may have caused in the free flow of plural information in the context of an electoral process is of concern to the Office of the Special Rapporteur.

84. In late 2004, Iranian human rights defender and Nobel Peace Prize winner Shirin Ebadi filed suit against the Treasury Department for keeping her from publishing a book in the United States. The Department's Office of Foreign Assets Control (OFAC) had warned some publishing houses, in late 2003 and early 2004, that they might face some type of legal consequence for editing writings from countries subject to trade sanctions (Cuba, Iran, and Sudan), but not for printing or publishing them.<sup>125</sup> In April 2004, the Treasury Department rectified its position, noting that the style corrections were permitted, and peer review for academic publications.<sup>126</sup> Finally, on December 17, the Treasury Department amended the regulations to allow the publishing houses to enter into contracts with writers from those countries so long as they are not representatives of their governments.<sup>127</sup>

**PRINCIPLE 8 OF THE DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION  
(Right of social communicators to keep sources of information, notes, and personal and professional files confidential)**

85. In the course of 2004, the Office of the Special Rapporteur received information on several journalists who were subpoenaed to court to reveal their sources of information. In some cases they were held in contempt, including criminal contempt, for keeping their sources confidential. One such case merited a pronouncement by the Office of the Special Rapporteur in a press release of December 8; it involved a journalist from television station *WJAR-TV10*, Jim Taricani. On March 16, 2004, Taricani was fined US\$1,000 a day by District Judge Ernest C.

<sup>124</sup> Reporters Committee for Freedom of the Press, "Convention ends with numerous and lengthy journalist detentions," September 3, 2004, at: <http://www.rcfp.org/news/2004/0903rncarr.html>.

<sup>125</sup> The New York Times, [www.nytimes.com](http://www.nytimes.com) February 28, 2004, <http://www.nytimes.com/2004/02/28/national/28PUBL.html?ex=1078977845&ei=1&en=Geebed16934e1508>

<sup>126</sup> U.S. Center of PEN International, at International Freedom of Information Exchange: <http://www.ifex.org/es/content/view/full/62553>.

<sup>127</sup> The New York Times, "Government Eases Rules on Writers in Sanctioned Nations," December 18, 2004, at: <http://query.nytimes.com/mem/tnt.html?oref=login&tntget=2004/12/16/books/16rule.html&tntemail>.

Torres, of the United States District Court of Rhode Island, who found him in civil contempt for his refusal to reveal the name of the source who gave him a video showing an official from the mayor's office in Providence receiving a bribe from an informant for the Federal Bureau of Investigation (FBI).<sup>128</sup> The tape in question was protected by an order that prohibited its broadcast as it was part of an investigation into corruption. As Taricani persisted in his refusal to reveal the source, on November 4, 2004, Judge Torres began a criminal action for the crime of obstruction of justice (criminal contempt), of which he was convicted on November 18, 2004. After this verdict, Joseph Bevilacqua, a local attorney, admitted to having provided him the FBI tape. Nonetheless, on December 9, Taricani received the verdict sentencing him to six months house arrest.

86. Another case involved journalists Tim Russert,<sup>129</sup> host of *NBC's* news program *Meet the Press*, Judith Miller, of *The New York Times*, and Matthew Cooper, of *Time* magazine, who on May 21, 2004, were subpoenaed by a grand jury in the context of an investigation to determine who revealed the identity of an undercover CIA agent in 2003 to several journalists. Federal Judge Thomas F. Hogan, of the U.S. District Court for the District of Columbia, found Cooper<sup>130</sup> and Miller guilty of contempt, in August and October, respectively, after they refused to reveal their sources and hand over documentation. Hogan ordered their arrest until they agree to testify and for up to 18 months. *Time* magazine was ordered to pay a penalty of US\$1,000 daily for its refusal to hand over documentation that had been sought by the prosecutors investigating the case. The judgment was appealed. On December 8, 2004, the Circuit Court of Appeals for the District of Columbia heard oral arguments. As of the writing of this report, no decision had been issued.<sup>131</sup>

87. In August 2004, U.S. District Court Judge Thomas Penfield Jackson held the following journalists in contempt of court: Josef Hebert of *Associated Press*, James Risen and Jeff Perth of *The New York Times*, Robert Drogan of the *Los Angeles Times*, and Pierre Thomas *CNN*. The journalists were ordered to pay US\$500 daily for refusing to reveal their sources of information in relation to information concerning Wen Ho Lee,<sup>132</sup> a nuclear scientist who in 1999 was working at the Los Alamos National Laboratory, in New Mexico.<sup>133</sup>

88. A similar case involved the *Associated Press*, *National Public Radio*, and *CBS*, which in December received subpoenas to produce documents and testimony in the trial brought by Steven J. Hatfill against former Attorney General John Ashcroft and other public

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<sup>128</sup> International Freedom of Expression Exchange, [www.ifex.org](http://www.ifex.org), citing Reporters without Borders, April 2, 2004.

<sup>129</sup> Russert agreed to speak with prosecutors in August; they did not ask that he reveal any source.

<sup>130</sup> In August 2004, Cooper had testified on a specific source after the source released him of the pledge of confidentiality, but in October he was ordered to turn over his notes.

<sup>131</sup> Committee to Protect Journalists, "Contempt ruling dismissed: source waives confidentiality," at: <http://www.cpj.org/news/2004/USA24aug04na.html>. "Judge Holds *Times* reporter in contempt in CIA case," October 7, 2004, at: <http://www.cpj.org/news/2004/USA07oct04na.html>.

"Judge Orders Second Journalist to Jail," October 13 2004, at: <http://www.cpj.org/news/2004/USA13oct04na.html>. Reporters Committee for Freedom of the Press, "Appeals court hears case over sources in CIA operative disclosure," December 8, 2004, at: <http://www.rcfp.org/news/2004/1208inregr.html>.

<sup>132</sup> Lee had been suspected of espionage, but the charges were never brought.

<sup>133</sup> Committee to Protect Journalists, "Contempt ruling sends disturbing message worldwide," August 18, 2004, at <http://www.cpj.org/news/2004/USA18nov04na-2.html>.

officials, for having been declared a “person of interest” in the investigation into the anthrax attacks that occurred in 2001. Hatfill invoked the Privacy Act. District Judge Reggie B. Walton ordered about 100 federal prosecutors, FBI agents, and federal employees connected to the investigation to sign documents in which they agreed to waive any confidentiality agreement with reporters.<sup>134</sup>

89. As noted by the Office of the Special Rapporteur in its pronouncement over the Taricani case: “The main foundation of the right to confidentiality is that within the scope of their work, and in order to provide the public with the information needed to satisfy the right to information, journalists are performing an important public service when collecting and disseminating information that would not be divulged were the confidentiality of sources not protected. This right to confidentiality involves providing legal guarantees to sources to ensure their anonymity and to avoid possible reprisals against them for divulging certain information to the press. Confidentiality, therefore, is essential to journalists' work, and to the role that society has conferred upon them to report on matters of public interest.”<sup>135</sup>

90. On April 7, 2004, Antoinette Konz of the *Hattiesburg American*, and Denise Grones of *Associated Press*, after covering a speech by Supreme Court Justice Antonin Scalia, in Hattiesburg, Mississippi, received orders from U.S. marshals to destroy their tape of the speech.<sup>136</sup> The journalists took the case to the courts. On September 10, 2004, the Justice Department recognized that it had violated the federal law, and that the reporters and their employees would receive US\$1,000 for damages and attorney's fees. The Privacy Protection Act prohibits the government from searching or seizing journalists' tools of the trade, unless the journalist has committed a crime, or if in so doing one can prevent a death or serious bodily injury.<sup>137</sup>

## GRENADA

### PRINCIPLES 10 AND 11 DE THE DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION (Use of defamation laws by public officials, and *desacato* laws)

91. In May 2004, the director of the Government Information Service, Selwyn Noel, warned the media that they could face legal proceedings if they reproduced an Article published May 15 in *KYC News* (a Miami-based newspaper) that included reports of alleged irregularities said to have been committed by the Prime Minister of Grenada, Keith Mitchell. On May 27, 2004, journalist Leroy Noel was arrested and detained at the Saint George's police post for questioning on his responsibility in disseminating information that appeared in the weekly *Spice Isle Review* related to Mitchell's alleged corruption. Leroy Noel was released after being questioned for four hours. Nonetheless, the journalist's lawyer did not discard the possibility that

<sup>134</sup> Reporters Committee for Freedom of the Press, “Media subpoenaed in anthrax case,” December 17, 2004, at: <http://www.rcfp.org/news/2004/1217hatfill.html>.

<sup>135</sup> Office of the Special Rapporteur for Freedom of Expression, press release of December 8, 2004.

<sup>136</sup> Justice Scalia's policy is to prohibit the taping of his speeches, but at that event he had given no such indication. Scalia apologized.

<sup>137</sup> Reporters Committee for Freedom of the Press, “Government concedes wrongdoing in tape seizure,” September 15, 2004, at: <http://www.rcfp.org/news/2004/0915hattie.html>.

his client might be detained once again or sued for defamation.<sup>138</sup> On June 2, Noel received an anonymous death threat suggesting he stop writing about the Prime Minister. Related to the same case, on June 1, 2004, Odette Campbell, host and program director, announced she was stepping down from her position at the *Grenada Broadcasting Network (GBN)*, in which the state is a 40% shareholder. That was her response to a one-week suspension after protesting against the government threat to bring charges against anyone who reproduces information implicating the prime minister in the above-mentioned corruption case.<sup>139</sup>

## GUATEMALA

92. According to information received by the Office of the Special Rapporteur, in 2004 there was an improved climate for the exercise of the freedom of expression in Guatemala, in relation to 2003. Nonetheless, there continued to be some cases of attacks on journalists, and there are worrisome aspects, such as the monopoly over open television.

93. In July, the Guatemalan State admitted to the Inter-American Court of Human Rights its responsibility in the assassination of journalist and politician Jorge Carpio Nicolle, which occurred in 1993.

### PRINCIPLE 4 OF THE DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION (Access to information held by the state)

94. On May 7, 2004, the municipality of Quetzaltenango made known its decision to refuse to provide information about the work of its offices, and to impede coverage of its working meetings. The prohibition was reportedly adopted after publications about the increase in the value of the stipends for the council sessions.<sup>140</sup>

### PRINCIPLE 9 OF THE DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION (Murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media)

95. Based on the information received by the Office of the Special Rapporteur, several journalists suffered assaults during their coverage of the conflicts and confrontations between the police and certain social groups. On August 31, 2004, in the department of Retalhuleu, journalists Mario Morales of *Nuestro Diario* and Edward Morales of *Guatevisión* were assaulted and had their cameras taken when they were covering an eviction from a farm. Four police and seven campesinos died in that incident. On that occasion, the following journalists were threatened and assaulted: Fredy Rojas of *Prensa Libre*, William Meoño and Marvin Guillén, of *Nuestro Diario*, Mynor Toc and Luis Romero of *Cable DX*, and Gerardo Montenegro, a journalist with *El Regional*.<sup>141</sup> A similar incident occurred on August 14, 2004,

<sup>138</sup> Reporters without Borders (RSF), June 3, 2004, [www.rsf.org](http://www.rsf.org), and International Freedom of Expression Exchange (IFEX), June 1, 2004, at [www.ifex.org](http://www.ifex.org).

<sup>139</sup> Reporters without Borders (RSF), June 3, 2004, [www.rsf.org](http://www.rsf.org).

<sup>140</sup> *Centro de Reportes Informativos sobre Guatemala, "Comuna de Quetzaltenango niega información a la prensa,"* [www.cerigua.org](http://www.cerigua.org), May 7, 2004.

<sup>141</sup> Inter-American Press Association, Country-by-Country Reports, Annual Assembly, October 2004, at [www.sipiapa.com](http://www.sipiapa.com). Committee to Protect Journalists, September 9, 2004, at [www.cpi.org](http://www.cpi.org), *Centro de Reportes Informativos sobre Guatemala (CERIGUA), "Periodistas agredidos por policías,"* at International Freedom of Information Exchange, [www.ifex.org](http://www.ifex.org).

when journalists from *Prensa Libre*, *El Periódico*, and the Office of the Human Rights Ombudsperson (*Procuraduría de Derechos Humanos*) were assaulted as they witnessed at a confrontation between vendors in the informal economy and members of the Transit Police in Guatemala City.<sup>142</sup>

96. Two cases of threats to local journalists that were reported to the Office of the Special Rapporteur from the Alta Verapaz region. On May 29, 2004, journalist Eduardo Maaz Bol, correspondent for *Radio Punto y Correo del Norte* and *Radio Mía*, in Cobán, received a death threat from a group allegedly linked to organized crime that operates in the zone. The group, not identified, gave him a deadline for carrying out the threat.<sup>143</sup> On September 13, 2004, also in Cobán, journalist and correspondent Ángel Martín Tax, reporter for *Radio Sonora* and correspondent for *Prensa Libre* and *Nuestro Diario*, was the object of threatening telephone calls, which were received at a colleague's telephone number. They gave him 24 hours to leave the place. Tax had received threats in 2003.<sup>144</sup>

97. Another case of threats reported in Guatemala occurred September 25, 2004. That day the director of the magazine *Panorama*, in Retalhuleu, César Augusto López Valle, received a death threat, apparently from a member of the Association of Military Veterans (*Asociación de Veteranos Militares*) of Guatemala, who warned him about information he had put out concerning the activities of that group.<sup>145</sup>

**PRINCIPLE 12 OF THE DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION  
(Existence of monopolies or oligopolies, and the lack of democratic criteria in assigning radio frequencies)**

98. The Office of the Special Rapporteur received information on proceedings brought against community radio stations. As the Commission has noted before, community radio stations are positive because they foster the culture and history of the communities, so long as they do so legally.<sup>146</sup> The Office of the Special Rapporteur reiterates the importance of establishing democratic criteria for the assignment of radio frequencies.

**PRINCIPLE 13 OF THE DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION  
(Indirect violations of the freedom of expression)**

99. On February 26, 2004, the mayor of the city of Flores, in Petén, had reportedly gone, accompanied by another official, to the home of the owner of the radio station *Radio Petén*, and reportedly demanded of him that he return the property where the radio station was

<sup>142</sup> Centro de Reportes Informativos sobre Guatemala (CERIGUA), "Policías agreden a periodistas", August 17 2004, at International Freedom of Information Exchange, [www.ifex.org](http://www.ifex.org).

<sup>143</sup> Asociación de Periodistas de Guatemala, "Periodistas amenazados de muerte," press release by International Freedom of Information Exchange (IFEX), June 2, 2004.

<sup>144</sup> Centro de Reportes Informativos sobre Guatemala (CERIGUA), "Periodista recibe amenazas de muerte," September 22, 2004, at International Freedom of Information Exchange, [www.ifex.org](http://www.ifex.org).

<sup>145</sup> Centro de Reportes Informativos sobre Guatemala, "Periodista Asesinado, Otro Amenazado," October 1, 2004, at International Freedom of Information Exchange, [www.ifex.org](http://www.ifex.org).

<sup>146</sup> IACHR, "Justicia e Inclusión Social: Los desafíos de la democracia en Guatemala." Chapter VII, "La Situación de la libertad de expresión en Guatemala." OEA/Ser. L/V/II.118 Doc. 5 rev. 2, December 29, 2003.

located in exchange for a 30-year usufruct contract. The official was said to have warned that he would expropriate the property after the radio station reported that the local government had contracted machinery owned by the mayor to repair some streets.<sup>147</sup>

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<sup>147</sup> "Alcalde de Flores intenta Expropiar inmueble de Radio Petén," *Periodistas Frente a la Corrupción*, at: <http://portal-pfc.org/infex>, March 23, 2004.

## PROGRESS

100. On January 30, 2004, the Twelfth Criminal Court acquitted Bruce Harris, then-Regional Director for Latin America of Casa Alianza (Covenant House), in a trial that began in 1997.<sup>148</sup>

## HAITI

101. The situation of instability that Haiti suffered in early 2004, in the framework of a series of demonstrations and disputes between the opposition and pro-government groups, led to a climate of violence that had a negative impact on the work of journalists and the media. At that time there were grave incidents, such as the death of a journalist, attacks, assaults, and threats against social communicators, as well as the destruction of media facilities. These incidents led several media to suspend their operations or shut down entirely. The situation was the subject of a pronouncement by the Office of the Special Rapporteur in a press release of January 22, 2004.

102. While in the last months of the year the situation was more stable, the Office of the Special Rapporteur is still concerned about the reports on the situation in some regions of the interior, with a major presence of irregular armed groups<sup>149</sup> said to be threatening the work of journalists.

103. In its 2003 report on the Situation of Freedom of Expression in Haiti, the Office of the Special Rapporteur had recommended to the State that it should “[a]dopt the measures needed to bring about a complete, exhaustive, and independent inquiry into the assassinations of journalists Jean Léopold Dominique and Brignol Lindor, and particularly to protect the persons linked to these proceedings.” Nonetheless, the Office of the Special Rapporteur is concerned that the investigations went nowhere in 2004, and particularly that it was reported that many documents that have been introduced as evidence in the April 3, 2000 murder of journalist Jean Dominique have disappeared.

## PRINCIPLE 5 OF THE DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION (Prior censorship, interference, and direct or indirect pressure)

104. After the departure of former president Jean Bertrand Aristide, acts were reported against those who were identified as favorable to the former president or critical of the rebels. This was the case of the correspondent of *Tropic FM*, Charles Edmón Prosper, who in May 2004 was arrested as he was accused of belonging to a group of journalists critical of the rebels.<sup>150</sup> In addition, on May 18, several police and a justice of the peace shut down the offices of *Radio Ti Moun* and *Télé Ti Moun*, which belonged to the Aristide Foundation for Democracy

<sup>148</sup> Harris had been sued by attorney Susana Luarca, who asked that he be imprisoned and made to pay US\$125,000 in civil damages after reports by Harris regarding adoptions of children in Guatemala. See International Federation for Human Rights, [www.fidh.org](http://www.fidh.org), February 2, 2004.

<sup>149</sup> Reporters without Borders, “*Recuperada la libertad de prensa: una esperanza que hay que mantener*,” July 2004, at [www.rsf.fr](http://www.rsf.fr), Committee to Protect Journalists, [http://www.cpi.org/Briefings/2004/haiti\\_7\\_04/haiti\\_7\\_04.html](http://www.cpi.org/Briefings/2004/haiti_7_04/haiti_7_04.html).

<sup>150</sup> Inter-American Press Association, Country-by-Country Reports, Annual Assembly, October 2004, at: [http://www.sipiapa.com/espanol/pulications/informe\\_haiti2004o.cfm](http://www.sipiapa.com/espanol/pulications/informe_haiti2004o.cfm), and Committee to Protect Journalists, May 26, 2004.

(founded by Jean Bertrand Aristide) and prevented its employees from entering the offices.<sup>151</sup> These two media had suspended their broadcasts on February 29, 2004, after Aristide's departure from Haiti.<sup>152</sup>

**PRINCIPLE 9 OF THE DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION (Murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media)**

105. As mentioned, the first months of the year saw a series of acts of violence and threats to journalists which even led to the suspension or shutdown of the media for which they worked. Several communications media, mainly broadcasters, were attacked and looted, and even set afire, in many cases leading to their suspension or definitive shutdown. The events of those months took the life, on March 7, 2004, of the journalist for the Spanish television network *Antena 3*, Ricardo Ortega, in Port-au-Prince, after he was shot while covering a protest.<sup>153</sup> In that same incident, the photographer for the U.S. daily *Sun Sentinel*, Michael Laughlin, was wounded.<sup>154</sup> The Office of the Special Rapporteur received information reporting the detention of two persons allegedly responsible for those incidents.<sup>155</sup>

106. During those weeks, also wounded were Roberto Andrade, of *Televisa* of Mexico, Carlos Loret, and cameramen Raúl Guzman and Jorge Pliego, of *TV Azteca*, also of Mexico, a photographer with *Agence France Presse (AFP)*,<sup>156</sup> and Claude Bellevue, of *Radio Ibo*,<sup>157</sup> when they were covering a student demonstration in Port-au-Prince.

107. Among the attacks on and assassination attempts targeting social communicators, on February 21, 2004, attacks were reported against the director of *Radio Hispagnola*, in Trou du Nord, and the correspondent of the radio station *Radio Métropole*, Pierre Elisem, in Cap-Haïtien, after he denounced having received threats.<sup>158</sup> On February 24, 2004, journalist Michel Jean and cameraman Sylvain Ricard, of *Radio Canada*, were shot at in northern Port-au-Prince.<sup>159</sup> On February 25, 2004, journalist Jenny Favélus and cameraman Claude Cléus, of *Télé Haïti*, were threatened and attacked when they sought to reach the

<sup>151</sup> Committee to Protect Journalists, "Cameraman detained without charge," June 2, 2004.

<sup>152</sup> Reporters without Borders, "Al día siguiente de la partida de Jean-Bertrand Aristide la prensa continúa en alerta," March 1, 2004, at [www.rsf.org](http://www.rsf.org).

<sup>153</sup> Armed persons opened fire on the demonstrators, resulting in seven dead and about 30 wounded.

<sup>154</sup> Inter-American Press Association, Country-by-Country Reports, Annual Assembly, October 2004, at: [http://www.sipiapa.com/espanol/pulications/informe\\_haiti2004o.cfm](http://www.sipiapa.com/espanol/pulications/informe_haiti2004o.cfm), Reporters without Borders, "Muerto un periodista español, herido un fotógrafo norteamericano," March 8, 2004, and "Detenido un inspector de policía en la investigación sobre la violencia que causó la muerte de Ricardo Ortega," March 28, 2004, at [www.rsf.org](http://www.rsf.org).

<sup>155</sup> On March 22, the police detained Yvon Antoine, and on March 28, 2004, division inspector Jean-Michel Gaspard, both for allegedly being linked to the events of March 7.

<sup>156</sup> This happened February 20, 2004. The demonstrators threw rocks at them and forced them to turn over their material. Reporters without Borders, "Muerto un periodista español, herido un fotógrafo norteamericano," March 8, 2004, at [www.rsf.org](http://www.rsf.org), Committee to Protect Journalists, "CPJ decries increasing violence against journalists," at [www.cpi.org](http://www.cpi.org).

<sup>157</sup> He was wounded with shrapnel. Reporters without Borders, "Fin de semana sangriento para la libertad de prensa: siete periodistas agredidos y tres radios incendiadas," February 23, 2004, at [www.rsf.org](http://www.rsf.org).

<sup>158</sup> Reporters without Borders, "Fin de semana sangriento para la libertad de prensa: siete periodistas agredidos y tres radios incendiadas," February 23, 2004, at [www.rsf.org](http://www.rsf.org).

<sup>159</sup> Reporters without Borders, "Muerto un periodista español, herido un fotógrafo norteamericano," March 8, 2004.



offices of that station. On March 12, Lyonel Lazarre, correspondent for *Radio Solidarité* and the *Agence Haïtienne de Presse* in Jacmel, in southern Haiti, was held and beaten, allegedly by former soldiers.<sup>160</sup> On March 13, 2004, the home of Elysée Sincère, correspondent for *Radio Vision 2000* in Petit Goave, was shot at. One of her family members was wounded.<sup>161</sup>

108. The facilities of several communications media were also the target of attacks. On January 13, 2004, eight radio stations and one television network left the air due to the destruction, in Boutilliers, in upper Port-au-Prince, of the transmission equipment by a commando of armed men. The media knocked off the air were: *Radio Commerciale*, *Radio Plus*, *Radio Kiskeya*, *Magic Stereo*, *Signal FM*, *Mélo die FM*, *Radio Ti Moun*, *Idoie FM*, and *Radio Galaxie*. The television network *Télé Ti Moun*<sup>162</sup> also had to stop broadcasting. These persons<sup>163</sup> allegedly destroyed the equipment using mallets and hammers.

109. Among the radio stations hit by arson during January and February, some of them after being threatened or looted, were *Radio Pyramide* and *Radio America*,<sup>164</sup> *Lumière de la jeunesse saint-marcoise (LJS)* and *Radio Delta*<sup>165</sup> in the city of Saint Marc, north of

Port-au-Prince; *Radio Vision 2000*<sup>166</sup> in Cap-Haïtien; *Radio Hispagnola*, in Trou du Nord,<sup>167</sup> and *Radio Echo 2000*,<sup>168</sup> in the city of Petit-Goave. Also looted and attacked were *Radio Afrika* and *Radio Télé Kombit*,<sup>169</sup> in Cap Haïtien; *Radio Pasion* in Léogane,<sup>170</sup> *Radio Vision 2000*, *Radio*

<sup>160</sup> Inter-American Press Association, Country-by-Country Reports, Annual Assembly, October 2004, at: [http://www.sipiapa.com/espanol/pulications/informe\\_haiti2004o.cfm](http://www.sipiapa.com/espanol/pulications/informe_haiti2004o.cfm).

<sup>161</sup> Inter-American Press Association, Country-by-Country Reports, Annual Assembly, October 2004, at: [http://www.sipiapa.com/espanol/pulications/informe\\_haiti2004o.cfm](http://www.sipiapa.com/espanol/pulications/informe_haiti2004o.cfm), Committee to Protect Journalists, March 24, 2004, at [www.cpi.org](http://www.cpi.org).

<sup>162</sup> Reporters without Borders, "Neuf médias victimes d'actes de sabotage," January 14, 2004.

<sup>163</sup> On January 26, the National Coalition for Haitian Rights reported alleged anomalies in the action of the prosecutorial office in charge of the investigation, which pointed to former government officials. NCHRhaiti, "Sabotage of Broadcasting Equipment of Radio and Televisión in Boutilliers: NCHR denounces the actions of the State Prosecutor," January 26, 2004, OAS Special Mission in Haiti.

<sup>164</sup> On January 15, Radio Pyramide was allegedly attacked by partisans of the opposition who, after staging a demonstration against the government of Jean Bertrand Aristide, entered the radio station, destroyed the equipment, and threatened to kill the staff and the director. The Police had to intervene. *Radio America* operated out of the home of prosecutor Freneau Cajuste, which was set on fire. See Reporters without Borders, "Deux radio privées incendiées à Saint-Marc," January 16, 2004.

<sup>165</sup> They were set afire on January 17 and 18, 2004, allegedly by sympathizers of the then-government of the Lavalas party. See Reporters without Borders, "Reporteros sin Fronteras alarmada por el grave deterioro de la situación de la libertad de prensa," February 11, 2004, at [www.rsf.org](http://www.rsf.org).

<sup>166</sup> On February 7, 2004, the antenna was destroyed and set on fire by unknown persons. See Reporters without Borders, "Reporteros sin Fronteras alarmada por el grave deterioro de la situación de la libertad de prensa," February 11, 2004, at [www.rsf.org](http://www.rsf.org).

<sup>167</sup> It was set on fire February 22, one day after its director was the target of an assassination attempt.

<sup>168</sup> On February 26, 2004, alleged partisans of Aristide set its offices on fire. Reporters without Borders, "Al día siguiente de la partida de Jean-Bertrand Aristide la prensa continúa en alerta," March 1, 2004, at [www.rsf.org](http://www.rsf.org).

<sup>169</sup> On February 22, 2004, the offices of these radio stations were looted, purportedly by rebel groups, see Committee to Protect Journalists, "CPJ decries increasing violence against journalists," at [www.cpi.org](http://www.cpi.org).

<sup>170</sup> Reporters without Borders, "Al día siguiente de la partida de Jean-Bertrand Aristide la prensa continúa en alerta", March 1, 2004, at [www.rsf.org](http://www.rsf.org).

*Kiskeya*,<sup>171</sup> *Radio Ibo*, and *Radio Signal FM*<sup>172</sup> in Port-au-Prince; and the facilities of *Télé Haïti*,<sup>173</sup> from which *Radio France International (RFI)*<sup>174</sup> also operated in Port-au-Prince.

110. The threats to journalists and media reached the point that some radio stations were forced to suspend their work. This was the case of *Radio Métropole*,<sup>175</sup> in Port-au-Prince; *Sud FM*,<sup>176</sup> in Cayes; and *Radio Sans-Souci* and *Radio Cap Haïtien*.<sup>177</sup> The Office of the Special Rapporteur also received information about threats to radio station *Paradis FM* and community radio station *Claudy Museau*, in Cayes,<sup>178</sup> *Radio Caraïbes*

*FM*,<sup>179</sup> and *Radio Solidarité*.<sup>180</sup> In addition, Yves Marie Jasmin<sup>181</sup> of *Radio Métropole* was subject to intimidation.

111. Other incidents reported to the Office of the Special Rapporteur were the detention, on April 16, of the correspondent of *Radio Solidarité* in Mirebalais, allegedly by a group of former soldiers,<sup>182</sup> as well as the arrest, by Haiti's transition government, on May 28, 2004, of the cameraman for *Télé Ti Moun*, Ayns Laguerre, though no charges were brought against him (the Government alleges that he had bullets on him).<sup>183</sup> On August 30, Lyonel

<sup>171</sup> From February 27 to 29, 2004, the main offices of *Radio Vision 2000*, of Port-au-Prince, was the target of attacks with machine-gun fire, allegedly by partisans of Fanmi Lavalas, and a fire, which forced it to suspend its broadcasts temporarily. These attacks also provoked the temporary suspension of the transmissions of *Radio Kiskeya*. See Reporters without Borders, "Al día siguiente de la partida de Jean-Bertrand Aristide la prensa continúa en alerta," March 1, 2004, at [www.rsf.org](http://www.rsf.org).

<sup>172</sup> On February 29, 2004, *Radio Ibo* of Port-au-Prince was forced to suspend its broadcasts after being attacked. That same day, *Radio Signal FM* was targeted by gunfire. See Reporters without Borders, "Al día siguiente de la partida de Jean-Bertrand Aristide la prensa continúa en alerta," March 1, 2004, at [www.rsf.org](http://www.rsf.org).

<sup>173</sup> Reporters without Borders, "Al día siguiente de la partida de Jean-Bertrand Aristide la prensa continúa en alerta", March 1, 2004, at [www.rsf.org](http://www.rsf.org).

<sup>174</sup> RFI temporarily suspended its broadcasts from Haiti.

<sup>175</sup> On February 29 *Radio Métropole* received threats that forced it to suspend its broadcasts for two hours.

<sup>176</sup> On January 14, 2004, the Office of the Special Rapporteur received information on threats to Jean Robert Ballant, director of *Sud FM*, a radio station in Cayes. Ballant had allegedly been threatened by armed individuals who warned him that they would attack his station, for they considered that he worked for the opposition. The threats forced the radio station to shut down. The individuals also threatened to attack all of the radio stations that are members of the National Association of Media of Haiti. Committee to Protect Journalists, February 27, 2004, at [www.cpij.org](http://www.cpij.org).

<sup>177</sup> Committee to Protect Journalists, February 26, 2004, at [www.cpij.org](http://www.cpij.org).

<sup>178</sup> Committee to Protect Journalists, February 27, 2004, at [www.cpij.org](http://www.cpij.org).

<sup>179</sup> Copy of the communication of January 21, 2004, from the directors of *Radio Caraïbes* to the National Police, in which the directors of *Radio Caraïbes FM* informed the National Police of Haiti of an alleged plot to set fire to the radio station and to murder some of its journalists. The station requested police protection.

<sup>180</sup> On February 26, it reported threats against it.

<sup>181</sup> On January 19, the Office of the Special Rapporteur received information that *Radio Métropole* journalist Yves Marie Jasmin was receiving continuous death threats.

<sup>182</sup> He was finally released on April 19, at the request of the Association of Journalists of Haiti. See Inter-American Press Association, Country-by-Country Reports, Annual Assembly, October 2004, at: [http://www.sipiapa.com/espanol/pulications/informe\\_haiti2004o.cfm](http://www.sipiapa.com/espanol/pulications/informe_haiti2004o.cfm), Committee to Protect Journalists, April 16, 2004, at [www.cpij.org](http://www.cpij.org).

<sup>183</sup> Committee to Protect Journalists, "Cameraman detained without charge," June 2, 2004.

Louis, a journalist with the weekly *Haïti en Marche*, was assaulted in Cité-Soleil, a marginal neighborhood of Port-au-Prince, allegedly by a group of sympathizers of former president Jean Bertrand Aristide.<sup>184</sup>

## HONDURAS

### **PRINCIPLE 9 OF THE DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION (Murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media)**

112. On March 12, 2004, in the city of San Pedro Sula, journalist Edgardo Castro of *Canal 6*, was wounded by a youth who approached him and shot at him five times; one of the shots slightly wounded him. The Honduran police reported on March 17, 2004, that sectors of organized crime were thought to be involved in the attack.<sup>185</sup>

113. On October 1, 2004, the facilities of the daily newspaper *La Tribuna*, in Tegucigalpa, were the target of two shots fired from a police vehicle. The police were said to have characterized the act as in the nature of a “contingency” caused by a “cobra” agent who was handling the weapon while reviewing his equipment. The Ministry of Security investigated the case.<sup>186</sup> Several reporters from the paper had received threatening phone calls.

114. Beginning November 24, 2004, journalist Jhony Lagos, director of *El Libertador*, reported being followed and receiving phone calls with death threats.<sup>187</sup>

115. In December 2004, journalist Rodolfo Montalbán of the station *STC Noticias* reported that he had received threats. He reported receiving a phone call on November 21 in which he was warned that he should stop criticizing the mayor of Tegucigalpa.<sup>188</sup>

### **PRINCIPLES 10 AND 11 OF THE DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION (Use of defamation laws by public officials and *desacato* laws)**

116. The Office of the Special Rapporteur was concerned at the increase in the number of criminal defamation charges being brought against journalists by public officials or in cases related to publications of public interest.

117. On February 18, 2004, journalist Renato Álvarez, of the program *Frente a Frente*, broadcast on *Corporación Televicentro*, was convicted of defamation and slander in a proceeding brought by a political leader of the governing Partido Nacional and former deputy Eduardo Sarmiento, who was on a list of 15 persons mentioned in a report disseminated by Álvarez in June 2003. The journalist was sentenced to two years and eight months in prison; however the judges suspended the sentence, conditioned on his conduct during the next five

<sup>184</sup> Committee to Protect Journalists, October 4, 2004, at [www.cpj.org](http://www.cpj.org).

<sup>185</sup> One month earlier, Castro and his colleague Davis Yáñez had been threatened while covering a story on the dismemberment of corpses, which was presumed to be the work of gangs. See *Periodistas Frente a la Corrupción* (PFC), [www.portal-pfc.org](http://www.portal-pfc.org).

<sup>186</sup> The incident occurred after the newspaper published a series of reports on organized crime.

<sup>187</sup> *Comité por la Libre Expresión* (C-Libre), December 9, 2004.

<sup>188</sup> *Comité por la Libre Expresión* (C-Libre), December 7, 2004.

years, in which there must be no recidivism on his part. Accessory penalties were imposed on Álvarez, including the suspension of civil rights such as *patria potestas*, the administration of his assets, the right to vote, and the choice to run for public office, at the same time as he was ordered to pay personal costs and other expenses caused by the trial. The sentence was appealed to the Supreme Court. Álvarez had been acquitted in another trial, on charges of crimes against honor, in January 2004,<sup>189</sup> over the same publication.

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118. On March 19, 2004, the Supreme Court, through the Chamber for Criminal Matters, ruled in favor of repealing the *desacato* law, which is found at Article 345 of the Criminal Code, in Honduras, considering that it represents a breach of the freedom of expression by creating a privilege that unnecessarily protects public officials in the exercise of their duties, and violates the principle of equality established in the Constitution.<sup>190</sup> The Rapporteur for Freedom of Expression had requested information from the Honduran State on this case.<sup>191</sup>

119. On October 26, 2004, a proposed access-to-public information act was introduced to Congress by consensus of the five delegations of political parties represented in the legislative body.<sup>192</sup> The bill was forwarded to a committee that will study it and issue an opinion.<sup>193</sup>

## MEXICO

### PRINCIPLE 9 OF THE DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION (Murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media)

120. This year, the Office of the Special Rapporteur received information on violent acts against social communicators, especially in the interior. Particularly worrisome are reports on murders of journalists, some possibly in retaliation for their coverage of organized crime. In such cases, the Office of the Special Rapporteur was informed that the federal authorities had undertaken investigations and had placed great value on the condemnation of such acts at the highest levels of the Government. The Office of the Special Rapporteur made public its concern in a press release of September 2, 2004.

121. On March 19, 2004, the editorial director of the daily *El Mañana*, of Nuevo Laredo (state of Tamaulipas), Roberto Javier Mora García, was assassinated. Mora, 44 years of

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<sup>189</sup> *Periodistas Frente a la Corrupción* (PFC), [www.portal-pfc.org](http://www.portal-pfc.org), Reporters without Borders, "Reporteros sin Fronteras protesta por la condena de Renato Álvarez," February 20, 2004, at [www.rsf.org](http://www.rsf.org).

<sup>190</sup> *Comité por la Libre Expresión* (C-Libre), "Corte emite resolución favorable para derogar figura del desacato," April 14, 2004, at [c-libre@multivisionhn.net](mailto:c-libre@multivisionhn.net).

<sup>191</sup> Foreign Minister Leonidas Rosa Bautista, answered the Rapporteur's request on April 27, 2004, and sent the Court's opinion favorable to derogating Article 345 of the Criminal Code.

<sup>192</sup> On May 20, 2004, the President of the National Congress, Porfirio Lobo Sosa, had received the proposed Law on Access to Public Information from the organization *Comité por la Libre Expresión* (C-Libre).

<sup>193</sup> *El Tiempo* (Honduras), "Proyecto de ley de acceso a la información," May 21, 2004, at [www.tiempo.hn](http://www.tiempo.hn), *Comité por la Libre Expresión* (C-Libre), October 27, 2004.

age, had published various articles on organized crime. Two of his neighbors, identified as Mario Medina Vásquez, a U.S. citizen, and Hiram Olivero Ortiz, were detained on March 26, 2004.<sup>194</sup> The Office of the Special Rapporteur received expressions of concern from civil society organizations regarding the seriousness of the investigation in this case.<sup>195</sup>

122. On June 22, 2004, the editor of the weekly *Zeta*, Francisco Javier Ortiz Franco, was murdered in Tijuana, Baja California.<sup>196</sup> Ortiz was a co-founder and editorial writer of *Zeta*, where he wrote about drug-trafficking and corruption.<sup>197</sup> On June 29, 2004, the Office of the Attorney General of Baja California appointed a special judge to investigate the homicide. Nonetheless, on August 18, the federal authorities took over the case because of its possible relationship with organized crime.<sup>198</sup>

123. On August 31, 2004, columnist Francisco Arratia Saldierna, 55 years of age, died of a heart attack after having been brutally beaten in the city of Matamoros, by the border with the United States. Arratia published his columns in four newspapers in the state of Tamaulipas: *El Imparcial* and *El Regional*, in Matamoros, and *Mercurio* and *El Cinco*, in Ciudad Victoria. He also published an Internet publication, *En Línea Directa*, he was a schoolteacher, and he had a used car business. Arratia wrote about corruption, organized crime, and education. According to the reports received by the Office of the Special Rapporteur, he had been tortured prior to being pushed out of a vehicle. On September 24, Tamaulipas police arrested Raúl Castelán Cruz, in the city of Matamoros, who confessed to having participated in Arratia's murder, saying the crime was motivated by his columns. On September 30, the federal authorities took over the investigation due to a possible nexus between the assassination and organized crime.<sup>199</sup>

124. On January 12, 2004, Irene Medrano Villanueva, of the newspaper *El Sol*, of Culiacán (state of Sinaloa), received a death threat by telephone. The next day, two individuals damaged her vehicle. The intimidation by telephone recurred on January 22.<sup>200</sup> Medrano had published articles on child prostitution; threats against her have been reported since then.<sup>201</sup>

<sup>194</sup> *Comisión en Memoria*, in *Reporteros sin Fronteras*, "Un nuevo elemento inquietante en la investigación sobre el asesinato del periodista José Roberto Mora," June 4, 2004, [www.rsf.fr](http://www.rsf.fr).

<sup>195</sup> *El Mañana*, "EU exige a Fox investigar asesinato," May 21, 2004. [www.elmanana.com.mx](http://www.elmanana.com.mx), *Comisión en Memoria*, in *Reporteros Sin Fronteras*, "Un nuevo elemento inquietante en la investigación sobre el asesinato del periodista José Roberto Mora," June 4, 2004, [www.rsf.fr](http://www.rsf.fr), *El Mañana of Nuevo Laredo*, "Da positivo muestra de sangre dice PGJE," May 12, 2004, [www.elmanana.com.mx](http://www.elmanana.com.mx), *Comisión en Memoria*, in *Reporters without Borders*, "Un nuevo elemento inquietante en la investigación sobre el asesinato de José Roberto Mora," June 4, 2004, [www.rsf.fr](http://www.rsf.fr).

<sup>196</sup> *El Universal*, "Exigen indagación seria del crimen de periodista," [www.eluniversal.com](http://www.eluniversal.com), June 23, 2004, ZETA, Press release, [www.zetatijuana.com](http://www.zetatijuana.com), June 22, 2004; *El Universal*, "Exigen indagación seria del crimen de periodista," [www.eluniversal.com](http://www.eluniversal.com), June 23, 2004.

<sup>197</sup> *El Universal*, "Tijuana: matan a periodista del semanario Zeta," [www.eluniversal.com](http://www.eluniversal.com), June 23, 2004, and Committee to Protect Journalists, at [www.cpi.org](http://www.cpi.org), *El Universal*, "Ofrece Fox ayuda a pesquisas," [www.eluniversal.com](http://www.eluniversal.com), June 23, 2004, *Reporters without Borders*, "Asesinato de Francisco Javier Ortiz Franco: las pistas de Zeta," [www.rsf.fr](http://www.rsf.fr), June 28, 2004.

<sup>198</sup> Committee to Protect Journalists, at: <http://www.cpi.org/killed/killed04.html#unconfirmed>, *Agence France Presse*, *El Universal*, "Demanda SIP investigar asesinato de periodista," [www.wluniversal.com.mx](http://www.wluniversal.com.mx), June 23, 2004.

<sup>199</sup> Committee to Protect Journalists, at: <http://www.cpi.org/killed/killed04.html>.

<sup>200</sup> *Reporters without Borders*, "Reporteros sin Fronteras preocupada por las amenazas recibidas por la periodista Irene Medrano Villanueva," [www.rsf.fr](http://www.rsf.fr), February 3, 2004.

<sup>201</sup> Committee to Protect Journalists (CPJ), "El CPJ preocupado por amenazas a periodista," February 11, 2004, at International Freedom of Information Exchange (IFEX): <http://www.ifex.org/es/content/view/full/56747>.

125. On July 12, 2004, unknown persons tried to set afire the home of Gerardo Ponce de León Moreno, columnist with the weekly *Crítica*, in Hermosillo, Sonora. The incident did not cause major damages to the house. Ponce found an anonymous note with a threat related to his work. Ponce has made comments on matters involving local politics, security, and corruption.<sup>202</sup>

126. On May 22, 2004, alleged police agents attacked the director of *Diario Tribuna*, Martín Serrano Herrera. The newspaper, in the city of Jalapa, had published articles that tied public officials in Veracruz to alleged acts of corruption and enrichment.<sup>203</sup>

127. On May 23, 2004, Maximiliano Cortez Zepeda, of *Radio Variedades*, and Mario Solís Espinoza and Edgar Badilio Mena, of the *Diario de Colima*, were attacked by about 20 youths, apparently led by a relative of a former governor of the state of Colima. The journalists were pursued by the youths and beaten repeatedly, apparently in retaliation for their work as journalists.<sup>204</sup> The State Director of Public Security, Fernando Díaz Cendejas, admitted that the attack occurred in front of police agents, but denied that he prohibited them from stopping it.<sup>205</sup>

128. In June, Álvaro Delgado, a journalist with the magazine *Proceso*, received threats by email<sup>206</sup> allegedly related to his investigations into the infiltration of extreme right-wing groups in power.<sup>207</sup>

129. On September 9 and 11, the main door and two windows of the facilities of the newspaper *Frontera de Tijuana*<sup>208</sup> were destroyed by weapons fire.

130. On November 1, in the state of Tabasco, Víctor Manuel Ulín Fernández, who publishes the column *Sin Remitente*, in the daily *La Verdad del Sureste*, was kidnapped for several hours by two individuals who beat him, threatened him because of the information he had put out, and simulated his execution. Ulín has taken a position against the local governor.<sup>209</sup>

131. On November 17, 2004, in the state of Sinaloa, politician Saúl Rubio Ayala was celebrating his victory in the election for local deputy when he denounced the stories that

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<sup>202</sup> Committee to Protect Journalists, at [http://www.cpj.org/cases04/americas\\_cases04/mexico.html](http://www.cpj.org/cases04/americas_cases04/mexico.html).

<sup>203</sup> Reporters without Borders, "La libertad de prensa amenazada en las provincias," June 2, 2004, [www.rsf.fr](http://www.rsf.fr).

<sup>204</sup> *El Universal*, "Hijos de ex funcionario golpean a periodistas," May 25, 2004, [www.eluniversal.com.mx](http://www.eluniversal.com.mx).

<sup>205</sup> *La Jornada*, "Sobrino de Moreno Peña golpea a tres periodistas de Colima," May 28, 2004, [www.jornada.unam.mx](http://www.jornada.unam.mx).

<sup>206</sup> Committee to Protect Journalists at: [http://www.cpj.org/cases04/americas\\_cases04/mexico.html](http://www.cpj.org/cases04/americas_cases04/mexico.html).

<sup>207</sup> In 2003, Delgado published the book "El Yunque, la ultraderecha en el poder," in which he made reference to a movement called "el Yunque," with anti-communist positions and an anti-semitic agenda. In June, Delgado had published information in the magazine and had made comments on the radio on possible relationships between this group and the organizers of an anti-crime march. On June 30, Delgado received another threat from the same email address as the June 25 threats, and on July 21 he received another one in which an offer was made to sell him information about "el Yunque."

<sup>208</sup> Inter-American Press Association, "Preocupación de la SIP por agresiones contra periódico del norte de México," September 21, 2004. On June 7, unknown persons abandoned a car in the newspaper's parking lot with 800 kilos of marijuana, which was interpreted by the paper as an act of intimidation.

<sup>209</sup> Inter-American Press Association, "La SIP deplora violencia contra periodistas en México," November 24, 2004. At International Freedom of Information Exchange: <http://www.ifex.org/es/content/view/full/62772>.

appeared in the newspaper *El Debate*, set fire to some copies, and insulted its two journalists Resina Ávila and Alonso Sánchez, who were there, and called on his followers to assault them. Ávila and Sánchez had to be protected by the police in order to leave.<sup>210</sup>

**PRINCIPLES 10 AND 11 OF THE DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION (Use of defamation laws by public officials and *desacato* laws)**

132. On May 26, 2004, in the state of Chiapas, a stiffening of the penalty for those guilty of crimes of defamation or libel entered into force, to up to nine years prison and a fine of up to 1,000 times the minimum daily wage. These penalties reflect an amendment to the Criminal Code of Chiapas, which was passed February 17, 2004. Before the change, a person guilty of defamation or slander was subject to a sanction of imprisonment of two to five years and a fine of 75 times the minimum daily wage. With the change, the prison term is from three to nine years, and the fine ranges from 100 to 1,000 times the minimum daily wage. Other provisions include the obligation of the owners of communications media, independent of whether they have committed violations, to print the complete judgment, in the same space or time where the crime for which the trial took place was disseminated.<sup>211</sup>

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133. On March 19, 2004, the Government of Baja California joined the special group reviewing the murder of journalist Héctor Félix Miranda, which occurred in 1988. It joined as the result of the agreements reached in a hearing before the Inter-American Commission on Human Rights in October 2003. The group was constituted on March 15, 2004, by the government of Mexico and the Inter-American Press Association, to clear up the crime that took Miranda's life as well as the crime in which Víctor Manuel Oropeza, also a journalist, was killed.<sup>212</sup>

134. On March 30, 2004, the Supreme Court and the Federal Judicial Council adopted the regulation that allows for public review of judicial proceedings and resolutions adopted in litigation.<sup>213</sup> The regulation includes posting the rulings on the Internet. The regulation was issued as part of compliance with the Federal Law on Transparency and Access to Public Information, promulgated in June 2002.

135. The Office of the Special Rapporteur has received information on progress in the negotiations for the Government to continue the process of awarding frequencies to community radio stations. In December, the Government of Mexico issued five permits for indigenous community radio stations. In its 2003 report, the Office of the Special Rapporteur had described the complaints it had received over the delays in the process of assigning frequencies to community radio stations. Despite some difficulties during the year in the dialogue process that

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<sup>210</sup> Inter-American Press Association, "*La SIP deplora violencia contra periodistas en México*," November 24, 2004. At International Freedom of Information Exchange: <http://www.ifex.org/es/content/view/full/62772>.

<sup>211</sup> *Libertad de Información México-A.C.*, May 26, 2004, [www.limac.org.mx](http://www.limac.org.mx).

<sup>212</sup> *Centro Nacional de Comunicación Social (CENCOS)*, "*Reabren en BC el caso de crimen de periodista*," at International Freedom of Expression Exchange (IFEX), [www.ifex.org](http://www.ifex.org), March 21, 2004.

<sup>213</sup> *El Universal*, "*Toda la información del Poder Judicial es pública*," [www.eluniversal.com.mx](http://www.eluniversal.com.mx), March 31, 2004, Inter-American Press Association, "*Complace a la SIP aprobación de nuevo reglamento del Poder Judicial mexicano sobre acceso a la información*," April 21, 2004.

got under way between the government and representatives of these media, the Office of the Special Rapporteur considers it auspicious that, as it has been informed,<sup>214</sup> progress is taking place in the negotiations to facilitate the operation of these radio stations, and towards the consideration of more democratic criteria in assigning radio frequencies, as indicated by Principle 12 of the Declaration of Principles on Freedom of Expression. The Office of the Special Rapporteur urges the State to continue the negotiation process and to take into account the preliminary observations made by the Special Rapporteur upon the conclusion of his official visit in August 2003, and taken up by the Office of the United Nations High Commissioner for Human Rights in its assessment of the human rights situation in Mexico.

## NICARAGUA

### PRINCIPLE 6 OF THE DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION (Compulsory membership in an association for the practice of journalism)

136. In December 2004, the Board of Directors of the *Colegio de Periodistas* was installed, constituting that organ, and, therefore, making it possible to enforce Law 372, whose Article 6 requires journalists to join the Colegio as a condition for exercising their profession. It had not been possible to enforce that law, on the books since 2000, because the Colegio had not been formed. A lawsuit was filed challenging the constitutionality of this law, which has yet to be resolved. The Office of the Special Rapporteur recalls that the Inter-American Court of Human Rights, in its advisory opinion OC-5/85, determined that the requirement of compulsory membership in an association as a condition for working as a journalist violates Article 13 of the American Convention on Human Rights.<sup>215</sup>

### PRINCIPLE 9 OF THE DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION (Murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media)

137. On February 10, journalist Carlos José Guadamuz Portillo was murdered; he was 59 years old, and hosted the program “*Dardos al centro*” [“Darts to the Bull’s Eye”], broadcast on *Canal 23*, in Managua, Nicaragua. The person responsible was identified as William Hurtado García, who confessed to the crime.<sup>216</sup> On April 19, 2004, Hurtado García was convicted and sentenced to 21 years in prison for the crimes of murder and attempted murder of Guadamuz and his son, who was accompanying him.<sup>217</sup> The Office of the Special Rapporteur learned that Guadamuz had received death threats earlier.<sup>218</sup>

<sup>214</sup> See: World Association of Community Radio Broadcasters (AMARC), “AMARC reconoce señales positivas del gobierno mexicano para reconocer radios comunitarias,” October 29, 2004; at International Freedom of Expression Exchange (IFEX), <http://www.ifex.org/es/content/view/full/62232>.

<sup>215</sup> *Diario La Prensa*, “UPN Y APN pretendieron que votaran sólo sus afiliados,” December 11, 2004, at [www.laprensa.com.ni](http://www.laprensa.com.ni), and Inter-American Press Association, Country-by-Country Reports, Annual Assembly, October 2004, [www.sipiapa.com](http://www.sipiapa.com).

<sup>216</sup> Committee to Protect Journalists, [www.cpj.org](http://www.cpj.org), February 11, 2004, Committee to Protect Journalists (CPJ), [www.cpj.org](http://www.cpj.org), *El Nuevo Diario*, [www.elnuevodiario.com](http://www.elnuevodiario.com), April 20, “Condenan a 21 años a William Hurtado.”

<sup>217</sup> *La Prensa* [www.laprensa.com.ni](http://www.laprensa.com.ni), April 20, 2004, “21 años de cárcel a William Hurtado,” *La Prensa* [www.laprensa.com.ni](http://www.laprensa.com.ni), May 12, 2004, “Testigos certifican cooperación en caso Guadamuz”.

<sup>218</sup> Committee to Protect Journalists (CPJ), [www.cpj.org](http://www.cpj.org), February 10, 2004, “La policía estaría investigando la vinculación de Ortega con la muerte de Guadamuz,” [http://www.cpj.org/cases04/americas\\_cases04/nica.html](http://www.cpj.org/cases04/americas_cases04/nica.html).



138. On November 9, 2004, the correspondent for the daily papers *La Prensa* and *Hoy*, María José Bravo, was murdered outside the elections office in the city of Juigalpa, department of Chontales, when covering the protests of political groups over the results of the November 7 elections in Juigalpa. That same day, the police arrested Eugenio Hernández González, former mayor of the municipality of El Ayote, as the main suspect in the assassination, along with two other suspects. As of the writing of this report, the motive of the murder had not been determined.<sup>219</sup>

139. In August 2004, the Office of the Special Rapporteur received information on acts of intimidation against journalist Sergio León Corea, correspondent of *La Prensa* in Bluefields. León published information on a criminal gang. In 2003, the Office of the Special Rapporteur also received information on threats to and intimidation of León.<sup>220</sup>

140. On August 20, 2004, journalist Mirna Velásquez, of *La Prensa*, was intimidated by a judge from Managua, who reportedly warned her that he had information about her activities and that they would continue watching her, after she reported on complaints against him.<sup>221</sup>

## PANAMA

### PRINCIPLE 4 OF THE DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION (Access to information held by the state)

141. On January 4, 2004, the President of the Supreme Court of Panama, César Pereira Burgos, announced restrictions on journalists who cover the Supreme Court, based on the argument that abuses were being committed in the handling of information. Among the measures, only one journalist per media outlet will be accredited to cover the Judicial

branch.<sup>222</sup> The provisions were rejected by several journalists' organizations in Panama,<sup>223</sup> as of this writing the Office of the Special Rapporteur has not received any information on changes.

### PRINCIPLES 10 AND 11 OF THE DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION (Use of defamation laws by public officials and *desacato* laws)

<sup>219</sup> Committee to Protect Journalists, "Matan a reportera frente a oficina electoral," November 10, 2004, [www.cpj.org](http://www.cpj.org), Reporters without Borders, November 10, 2004, "Una periodista muerta por disparos mientras cubría manifestaciones post-electorales," November 10, 2004, [www.rsf.org](http://www.rsf.org) at International Freedom of Information Exchange, <http://www.ifex.org/es/content/view/full/62428>.

<sup>220</sup> Committee to Protect Journalists, August 27, 2004. "Preocupan al CPJ denuncias de intimidación a periodista," at: International Freedom of Information Exchange: <http://www.ifex.org/es/content/view/full/60955>.

<sup>221</sup> PROBIDAD, "Juez intimida a periodista," August 31, 2004, at International Freedom of Information Exchange, <http://www.ifex.org/es/content/view/full/60990>, and Inter-American Press Association, Country-by-Country Reports, Annual Assembly, October 2004, at [www.sipiapa.com](http://www.sipiapa.com).

<sup>222</sup> Inter-American Press Association, at International Freedom of Expression Exchange (IFEX),

"Preocupación de la SIP por restricciones a la información judicial," [www.ifex.org](http://www.ifex.org), January 13, 2004.

<sup>223</sup> *El Siglo*, "Periodistas cuestionan a Pereira Burgos," [www.elsiglo.com](http://www.elsiglo.com), January 8, 2004.

142. On March 24, 2004, the founder of the daily *La Prensa*, Roberto Eisenmann Jr., was compelled to appear before the Attorney General (Fiscal General) to answer in a libel and slander action brought against him by the Procurador General, José Antonio Sosa.<sup>224</sup> Eisenmann was compelled to testify since he had failed to heed three previous subpoenas, for which he was found in contempt. An order preventing Eisenmann from leaving the country has been in force since January 15, 2004.<sup>225</sup>

## PROGRESS

143. On November 15, 2004, Legislative Act No. 1 of July 27, 2004, was promulgated; accordingly, the Constitution of Panama was amended, and the constitutional basis for laws on *desacato* was removed. That reform occurred after a request from the Human Rights Ombudsperson of Panama. The change also introduced in the Constitution the right of access to public information, and the *habeas data* action.<sup>226</sup>

144. In the area of access to public information, in 2004, Decree 124 of May 21, 2002, was repealed. In 2003, the Office of the Special Rapporteur had expressed concern because that law was at odds with some of the principles established in Panama's law on access to public information.

## PARAGUAY

### PRINCIPLE 9 OF THE DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION (Murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media)

145. On April 20, journalist Bernardo Vera Roa of radio *Tavaguá FM* in Ciudad del Este, to the east of Asunción, was the victim of a kidnapping by three persons, torture, and death threats. While he was held, it was demanded of him that he reveal the addresses of three social leaders who he had interviewed. Vera Roa was released the next morning.<sup>227</sup>

146. On May 20, 2004, the daily *ABC Color* received an anonymous phone call on the alleged placement of an explosive artifact at the newspaper's offices, which turned out to be false.<sup>228</sup>

147. On July 29, 2004, photographer Daniel Duarte of the daily *La Nación* was physically assaulted, his equipment destroyed, and his material taken after covering a political

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<sup>224</sup> Reporters without Borders, "*Reporteros sin Fronteras denuncia el acoso judicial contra la prensa*," [www.rsf.fr](http://www.rsf.fr), March 25, 2004.

<sup>225</sup> Committee to Protect Journalists, March 24, 2004, at [www.cpi.org](http://www.cpi.org).

<sup>226</sup> Communication from the Special Delegate for Freedom of Expression and Access to Information of the Office of the Human Rights Ombudsman of the Republic of Panama, Guido Rodríguez, December 14, 2004.

<sup>227</sup> Inter-American Press Association, Country-by-Country Reports, Annual Assembly, October 2004, at [www.sipiapa.com](http://www.sipiapa.com).

<sup>228</sup> Neike (Paraguay), "*Otra falsa amenaza de bomba, ahora en ABC Color*," May 20, 2004, at [www.neike.com.py](http://www.neike.com.py). The phone call was said to have been made by a person who identified himself as homosexual and who was bothered by the way the religion section handled information.

meeting in Asunción. His assailants were said to have been youth leaders from the Colorado party.<sup>229</sup>

**PRINCIPLES 10 AND 11 OF THE DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION (Use of defamation laws by public officials and *desacato* laws)**

148. In February 2004, journalists Nacha Sánchez and Mabel Rehnfeldt, of the daily *ABC Color*, were sued by former Paraguayan President Juan Carlos Wasmosy, who also sought compensation for moral injury in the amount of US\$10 million. Sánchez and Rehnfeldt published a series of articles on the handling of fuel during the Wasmosy administration. In April, the newspaper filed a motion to dismiss the suit.<sup>230</sup>

**PROGRESS**

149. On May 23, 2004, the Court of Appeals overturned the order to pay a fine of US\$15,000 imposed, in October 2003, by Judge Dionisio Nicolás Frutos on the director of the daily *ABC Color*, Aldo Zuccolillo, in an action brought by former minister Juan Ernesto Villamayor for publications related to a financial scandal at the *Banco Nacional de Trabajadores*. In releasing the director of ABC of the punishment, it was considered that the complaint was brought by a public official, and that the publications called into question referred to a matter of general interest. According to the judgment, the newspaper's publications (which date back to 1999) could not constitute the crime "because the media, based on their function of providing information, are within their right to disseminate all kinds of news."<sup>231</sup>

**PERU**

**PRINCIPLE 9 OF THE DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION (Murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media)**

150. In 2004, as in prior years, the Office of the Special Rapporteur received information on threats to and assault on journalists in the interior, particularly in the context of social protest or as the result of reports alleging corrupt practices by local officials. In two cases, the social communicators had to leave the regions in which they worked. The Office of the Special Rapporteur also received reports on two cases of assassinations that could be related to the journalists' professional work.

151. On February 14, 2004, Antonio de la Torre Echandía, who directed the news program *El equipo de la Noticia*, broadcast by *Radio Orbita*, was assassinated in the Pampac neighborhood, in Yungay, Ancash, north of Lima.<sup>232</sup> According to the investigations, Moisés David Julca had been identified as the alleged direct perpetrator of the murder. Another suspect

<sup>229</sup> *Sindicato de Periodistas del Paraguay*, "SPP repudia agresión a reportero gráfico perpetrada por dirigentes del partido de gobierno," July 30, 2004 at: International Freedom of Information Exchange, [www.ifex.org](http://www.ifex.org).

<sup>230</sup> *Sindicato de Periodistas del Paraguay* (SPP), press release, "Coacción e intento de censura previa," February 6, 2004.

<sup>231</sup> *ABC Color* (Paraguay), "Tribunal notifica la sentencia que exime de pena a director de ABC," May 24, 2004, at [www.abc.com.py](http://www.abc.com.py), Inter-American Press Association, Country-by-Country Reports, Annual Assembly, October 2004, at [www.sipiapa.com](http://www.sipiapa.com).

<sup>232</sup> Committee to Protect Journalists, April 6, 2004, [http://www.cpi.org/cases04/americas\\_cases04/peru.html](http://www.cpi.org/cases04/americas_cases04/peru.html).

was the mayor, Amaro León, who allegedly was the mastermind. As of the writing of this report, Julca was at large, as was the mayor's daughter, Enma León Martínez, who is also being investigated.<sup>233</sup>

152. On April 21, 2004, Alberto Rivera Fernández, 54 years of age, was assassinated; he directed the program *Transparencia* broadcast daily on the *Oriental* radio station in the city of Pucallpa in the department of Ucayali, east of Lima, and president of the journalists' association (*Federación de Periodistas*) of that region.<sup>234</sup> On June 1, the police detained Roy Gavino Cullqui Saurino, and three days later Martín Ignacio Flores Vásquez. The first worked as a journalist and public relations director for the municipal government, and the second as an employee of the municipal water and sewerage company.<sup>235</sup>

153. The Office of the Special Rapporteur received reports of several cases of attacks and threats in the Ancash region, in northern Peru. In late January and early February, journalists from local media received threats and were assaulted, allegedly by members of a vigilante group in the locality of Santa, after the communicators covered the suspension of the local mayor by the municipal council.<sup>236</sup> From April 20 to 28, 2004, journalist Rocío Vásquez Goicoechea, of *Las Últimas Noticias*, a daily in El Chimbote, received several threats on her cell phone, and at home. Unknown persons tried to run her over on April 27. The acts of intimidation occurred after Vásquez published a report on illegal fishing.<sup>237</sup> On June 15, 2004, in Pomabamba, journalist Fernando Valverde Lavado, of *El Equipo de la Noticia*, received a threat by phone in which he was told he had two days to leave the region, or he would meet the same fate as his colleague Antonio de La Torre, who was assassinated on February 14. Valverde had undertaken investigations into local officials. He left the city.<sup>238</sup> On June 19, 2004, journalists Fredy Valenzuela Robles, reporter with *Noticiero Regional* on the channel ATV, Luis Hermosa Gloria of the news program on *Canal 2*, and Ladizlao Cruz Villachica, reporter with *Radio Armonía*, were assaulted in the city of Caraz while covering confrontations between

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<sup>233</sup> Inter-American Press Association, Country-by-Country Reports, Annual Assembly, at [www.sipiapa.com](http://www.sipiapa.com), October 2004. *Asociación Nacional de Periodistas de Perú* (ANP), March 22, 2004, "Alcalde de Yungay acusado por muerte del periodista Antonio de la Torre Echandía," and IFEX, February 23, which cites RSF, "Reporteros sin Fronteras condena asesinato de periodista." International Freedom of Expression Exchange, [www.ifex.org](http://www.ifex.org), March 22, 2004, which cites the Latin American human rights section of the International Federation of Journalists (IFJ), *Instituto de Prensa y Sociedad*, [www.ipys.org](http://www.ipys.org), April 7, 2004, "Perú: Identificado y con orden de captura otro de los asesinos del periodista Antonio de la Torre."

<sup>234</sup> According to information received from the Office of the Special Rapporteur, Rivera was assassinated when two men entered a glass store he owned, and one of them shot him in the chest several times. There were no signs of robbery. In late May, the police had declared that the killing was a crime of passion, but this hypothesis was later refuted. See Committee to Protect Journalists, April 23, 2004, [http://www.cpj.org/cases04/americas\\_cases04/peru.html](http://www.cpj.org/cases04/americas_cases04/peru.html) and Inter-American Press Association, Country-by-Country Reports, Annual Assembly, at [www.sipiapa.com](http://www.sipiapa.com), October 2004.

<sup>235</sup> Inter-American Press Association, Country-by-Country Reports, Annual Assembly, at [www.sipiapa.com](http://www.sipiapa.com), October 2004, and Reporters without Borders, "Tres nuevas detenciones en el caso del asesinato de Alberto Rivera Fernández," June 9, 2004, at [www.rsf.fr](http://www.rsf.fr).

<sup>236</sup> The mayor had become entrenched with his officials in City Hall. On February 2, when they attempted to evict him, the journalists were attacked with bricks cast from inside the place, but none was injured. *Asociación Nacional de Periodistas de Perú*, February 2, 2004, "Perú: Periodistas hostilizados y agredidos en Chimbote," at: *Instituto de Prensa y Sociedad*, [www.ipys.org](http://www.ipys.org).

<sup>237</sup> *Instituto Prensa y Sociedad*, "Amenazan de muerte a periodista de Chimbote," April 28, 2004, at International Freedom of Expression Exchange, [www.ifex.org](http://www.ifex.org). On August 2, the Office of the Fourth Provincial Prosecutor of Santa, archived the case. *Asociación Nacional de Periodistas del Perú*, "Fiscalía archiva caso de periodista amenazada," alert of August 6, 2004.

<sup>238</sup> *Instituto Prensa y Sociedad*, "Periodista obligado a dejar su ciudad tras amenaza de muerte," August 3, 2004, at International Freedom of Information Exchange, [www.ifex.org](http://www.ifex.org).

demonstrators and police; the demonstrators were expressing their rejection of the local mayor's performance.<sup>239</sup>

154. Following are other cases reported during the year to the Office of the Special Rapporteur.

155. In February 2004, journalist Jaime Díaz and cameraman Jaime Vidal Torres, of the evening news team for *Frecuencia Latina*, of *Canal 2*, were assaulted by unknown persons in the early morning hours. The assailants apparently sought to keep them from covering an emergency in the district of San Borja, in Lima.<sup>240</sup>

156. On February 7, 2004, in Chepen, José Mendoza Saldaña, director of the news program *El Informativo* on the radio station *Estación Latina*, was reportedly assaulted by the director of transit of the local government, who reportedly beat him and publicly threatened to kill him. Days earlier, relatives of the director of transit had burst into the radio station to threaten him over information that had been broadcast related to the official's performance.<sup>241</sup>

157. On March 11, 2004, the regional director of education for Junín, Juan Carvo Iparraguirre, and his two children, reportedly attacked journalist Ginés Barrios Alderete and his wife, Clorinda Romero Quispe, who were wounded in the face and on the head.<sup>242</sup>

158. On May 23, 2004, in the district of Ilave, Puno region, in southeast Peru, a group of persons attacked journalists Juan Rizo Patrón and Dante Piaggio of *El Comercio*, Elena Cano and Daniel Contreras of *La Razón*, and Mónica Cépeda and Óscar Echevarría of *Frecuencia Latina*. The journalists were attacked with stones when they were covering a demonstration.<sup>243</sup> The next day, several journalists who covered the demonstrations were hit with stones, among them the correspondent for the daily *La República*, Christian Ticona Coahuila, who suffered a deep wound in the head. Also present were reporters from the daily *Correo* and the magazine *Caretas*. The journalists had to be evacuated from Puno.<sup>244</sup>

159. On July 1, 2004, in the context of a demonstration by teachers in the city of Huamanga, Ayacucho region, in southwestern Peru, several social communicators who were covering the event were attacked. They included José Atauje, correspondent for *América Televisión*, whose materials were taken from him; a cameraman from the program *Confirmado Regional* of *Radio Televisión Peruana* in Ayacucho; Rocío Paredes, of *Radio Televisión Peruana*; Walter Huayanay, owner of *Radio Televisión Atlantis Canal 25*, and his cameraman. These attacks occurred after a confrontation with the police, who threw tear gas at the teachers

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<sup>239</sup> *Instituto de Prensa y Sociedad*, [www.ipys.org](http://www.ipys.org), June 30, 2004.

<sup>240</sup> *Asociación Nacional de Periodistas de Perú*, February 24, 2004 at: International Freedom of Expression Exchange, [www.ifex.org](http://www.ifex.org).

<sup>241</sup> International Freedom of Expression Exchange, [www.ifex.org](http://www.ifex.org), February 11, 2004.

<sup>242</sup> The incident occurred during a press conference called by Barrios to report on an incident involving Carvo and a student that took place in 1997. Carvo apologized for the attack and accepted that he had assaulted the student.

<sup>243</sup> International Freedom of Expression Exchange, [www.ifex.org](http://www.ifex.org), May 25, 2004, and *Instituto de Prensa y Sociedad*, [www.ipys.org](http://www.ipys.org), May 25, 2004.

<sup>244</sup> *Instituto Prensa y Sociedad*, "Hieren gravemente a periodista durante violenta protesta," May 26, 2004, at International Freedom of Expression Exchange, [www.ifex.org](http://www.ifex.org).

to drive them out of the offices of the regional government, the local government, and the police station, which had been taken over by the demonstrators.<sup>245</sup>

160. From November 20 to 29, 2004, Renán Palacios, a journalist with *Radio Constelación*, of Ica, to the south of the Peruvian capital, received 19 messages on his cell phone with death threats. Even though he sought protection from the police sub-station on November 23, he obtained no result. He had to leave and take refuge in Lima.<sup>246</sup>

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<sup>245</sup> *Instituto Prensa y Sociedad*, "Reporteros agredidos mientras cubrían manifestación," July 6, at International Freedom of Information Exchange (IFEX).

<sup>246</sup> Since August, Palacios had been denouncing alleged irregularities in the running of the *Instituto Nacional de Cultura of Ica*. On November 12, the brother of the Institute's administrator "advised" him not to continue reporting on the matter. See Reporters without Borders, "Un periodista obligado a refugiarse en Lima a causa de las amenazas recibidas," at [http://www.rsf.fr/Article.php3?id\\_Article=12001](http://www.rsf.fr/Article.php3?id_Article=12001), December 2, 2004.

## DOMINICAN REPUBLIC

161. In September 2004, the intervention of the newspaper *Listín Diario* of Santo Domingo was ended, after a Supreme Court decision ordered that it be returned to its owners. The company *Editora Listín Diario*, which owns *Listín Diario* and other media, was intervened in May 2003, based on accusations of financial irregularities and violations by its owners through the Banco Intercontinental (Baninter). The newspapers *Última Hora*, *El Financiero*, and *El Expreso*, which were also part of the group, were shut down by the government in office at that time.<sup>247</sup> In its 2003 report, the Office of the Special Rapporteur had included information about this situation.

### PRINCIPLE 5 OF THE DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION (Prior censorship, interference, and direct or indirect pressure)

162. On January 12, 2004, a radio program, "*El Poder de la Tarde*," was shut down by order of the Minister of Press of the Presidency, Luis González Fabra. The program was broadcast by *Radio Cielo*, a radio station that has been administratively intervened by the government, as it is owned by one of the companies of the owner of the bankrupt Banco Intercontinental.<sup>248</sup>

### PRINCIPLE 9 OF THE DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION (Murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media)

163. In the months of September and October, the Office of the Special Rapporteur received reports that in Azua, in the southern Dominican Republic, a journalist had been assassinated, several had been targets of violent acts, and others had reported receiving threats.<sup>249</sup> The Office of the Special Rapporteur also received information on expressions of repudiation voiced at the highest levels of the government, and offers by the authorities to provide protection for the journalists.

164. On September 14, 2004, journalist Juan Emilio Andujar was assassinated in front of the offices of *Radio Azua*, in Azua. Andujar, who was a correspondent for *Listín Diario* and hosted the weekly program *Encuentro Mil 60*, was accompanied by his colleague Juan Sánchez, who survived the attack. Andujar had reported on a crime wave in which six journalists had been threatened. A reporter for *Enriquillo Radio*, Juan Luis Sención, who witnessed the attack and sought to help Andujar, was also attacked by the same persons and had to be hospitalized.<sup>250</sup>

<sup>247</sup> Inter-American Press Association, "*La SIP saluda el fin de la intervención estatal en el Listín Diario*," September 8, 2004.

<sup>248</sup> The program's host, César Medina, had reported that the administrator of the radio station had confirmed the order given by the official. See Inter-American Press Association, "*Preocupa a la SIP cierre de un programa radial*," at International Freedom of Expression Exchange, IFEX, [www.ifex.org](http://www.ifex.org), January 12, 2004.

<sup>249</sup> Among the threatened journalists are Domingo Corcino, Héctor Caamaño, Narciso Mariñez, Christian Ramírez, and Rafael Vargas.

<sup>250</sup> One of the alleged assailants was killed in an exchange of gunfire with the police, while another was at large as of the preparation of this report. International Freedom of Information Exchange (IFEX), at: <http://www.ifex.org/es/content/view/full/61451> and Committee to Protect Journalists, "*El CPJ insta a las autoridades investigar a fondo asesinato de periodista*," September 20,

165. Another case involved Euri Cabral, director of *Canal 23* and host of the radio program *El gobierno de la mañana* on *Radio Z-101*, who on the night of September 29, 2004, was travelling in his vehicle in Santo Domingo when two persons on a motorcycle shot at him several times. He had received death threats earlier.<sup>251</sup>

## TRINIDAD AND TOBAGO

### PRINCIPLE 9 OF THE DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION (Murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media)

166. On June 15, 2004, Phil Britton, cameraman for Trinidad and Tobago Television (TTT), was reportedly attacked by a person accused of drug trafficking. In addition to being beaten, his equipment was damaged. Apparently, Britton sought help from the authorities who were near the court house, but no one came to his aid.<sup>252</sup>

## URUGUAY

### PRINCIPLES 10 AND 11 OF THE DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION (Use of defamation laws by public officials and *desacato* laws)

167. The Office of the Special Rapporteur received information that during 2004, more than a dozen journalists were subject to criminal prosecution. One media outlet and two reporters were required to disseminate court judgments. In addition, four journalists and one media outlet were ordered to compensate public officials for information whose veracity was not doubted.<sup>253</sup>

168. These included the case of Marlene Vaz, columnist with the weekly *Opción Cero*, of Río Branco, department of Cerro Largo, who on April 22 was found guilty of defamation and libel and sentenced to 20 months in prison; the sentence was suspended and commuted to one year under police surveillance. Vaz was sued by Jorge Antonio Rivas, an official with the local council.<sup>254</sup> She was also ordered to publish, on her own account, the court judgment in *Opción Cero* and in another newspaper in Melo, the capital of the department. On June 30, 2004, the Court of Appeals threw out the conviction for defamation but affirmed the judgment for libel; accordingly, the sentence was reduced to 10 months in prison, suspended.

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2004, [www.cpi.org](http://www.cpi.org), and Inter-American Press Association, "Condena la SIP asesinato y agresiones contra periodistas," [www.sipiapa.com](http://www.sipiapa.com), September 15, 2004.

<sup>251</sup> Reporters without Borders, "RSF preocupada por intento de asesinato contra director de canal de television," October 5, 2004, at <http://www.ifex.org/es/content/view/full/6172>.

<sup>252</sup> Trinidad Express, <http://www.trinidadexpress.com/>, June 15, 2004, "Licks for Camarea."

<sup>253</sup> Inter-American Press Association, Country-by-Country Reports, Annual Assembly, [http://www.sipiapa.com/espanol/pulications/informe\\_uruguay2004o.cfm](http://www.sipiapa.com/espanol/pulications/informe_uruguay2004o.cfm).

<sup>254</sup> Inter-American Press Association, Country-by-Country Reports, Annual Assembly, [http://www.sipiapa.com/espanol/pulications/informe\\_uruguay2004o.cfm](http://www.sipiapa.com/espanol/pulications/informe_uruguay2004o.cfm), and Committee to Protect Journalists, at [www.cpi.org](http://www.cpi.org), June 16, 2004.



169. On March 10, 2004, in the department of San José, journalists Raúl Alejandro Laguna y Susana Tomás Falero, of the program *Agendario*, were ordered to pay compensation to two persons who had been accused of having mistreated a woman in an interview with her. The conviction was based on the argument that the interview should not be broadcast without verifying the accuracy of the accusations.<sup>255</sup> In addition, the journalists were ordered to pay compensation of US\$1,200 for moral injury. According to the information received by the Office of the Special Rapporteur while preparing this report, the ruling was appealed.

170. In May 2004, a criminal action was brought against journalists Ignacio Álvarez and Gustavo Escanlar of the program *Las cosas en su sitio*, on *Radio Sarandí* of Montevideo, for defamation and libel by a journalist.<sup>256</sup> The plaintiff sought a three-year prison sentence. She also brought a civil action against the radio station and the journalists for US\$150,000. The trial ended in an order for the journalists to read a retraction on their program and to publish it in the daily *El País*.

171. On August 13, in the department of Salto, journalist Diego Fernández and the daily newspaper *La República* were ordered to pay US\$4,000 to four officials of a customs post, after having published a document from the local police that had a heading indicating that it was confidential. The customs officials mentioned in the document felt that their honor had been injured, and they instituted proceedings against the police chief and the journalist. The judge acquitted the police, but found the journalist liable for “moral injury.” The judgment was appealed. According to the judgment: “Although the media may try to answer that there is no information or document whatsoever that cannot be disseminated, that secrecy is not consistent with a democratic society, and similar arguments, clearly there are specific circumstances in which confidentiality—if not secrecy—may be in the nature of things, and its violation is only possible by the use of unlawful means.”

172. On September 22, 2004, journalists Ignacio Álvarez, Gabriel Pereyra, and Cecilia Bonino of the program *Zona Urbana*, of *Canal 10*, were indicted on charges of defamation and libel by an official of the state postal service.

173. On December 14, in Paysandú, journalist Carlos Digliani of the weekly *El Regional* was convicted and sentenced to five months in prison for defamation and libel, after a complaint filed by the local intendant. According to information received by the Office of the Special Rapporteur, the ruling was to be appealed.

## VENEZUELA

174. In 2004, the IACHR published a report on the situation of human rights in Venezuela<sup>257</sup> that included a chapter of the situation of the freedom of expression in Venezuela, which was prepared by the Office of the Special Rapporteur at the Commission’s request. The Office of the Special Rapporteur is concerned that many of the situations described in that report and in the Annual Report on 2003 are continuing to recur. Some of these led the IACHR

<sup>255</sup> Inter-American Press Association, Country-by-Country Reports, Annual Assembly, [http://www.sipiapa.com/espanol/pulications/informe\\_uruguay2004o.cfm](http://www.sipiapa.com/espanol/pulications/informe_uruguay2004o.cfm).

<sup>256</sup> On the program allusions were apparently made to the sexuality of the journalist in a joking tone.

<sup>257</sup> See: <http://www.cidh.org/Relatoria/listDocuments.asp?categoryID=10>.

to issue precautionary measures or to seek the adoption of provisional measures by the Inter-American Court of Human Rights to protect the fundamental rights of media workers.<sup>258</sup> Therefore, Venezuela continues to be a country of special concern for the Office of the Special Rapporteur.

175. This year, threats against and assaults on social communicators who were covering political demonstrations and elections continued. In addition, public messages were repeated, at the highest levels of the State, particularly from President Hugo Chávez, against the media, and which could be misinterpreted by his followers.<sup>259</sup> The Office of the Special Rapporteur reiterates, as it did in its report for 2003, that the government's perceptions about the lack of impartiality and political motivations in the coverage of some media, particularly on political events, in no way justify restrictions or attacks on the freedom of expression.

#### **PRINCIPLE 4 OF THE DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION (Access to information held by the State)**

176. The Office of the Special Rapporteur received information that the *Programa Venezolano de Educación-Acción en Derechos Humanos* (PROVEA) had brought five *amparo* actions before the Supreme Court to invoke the right of petition. These included one against the Human Rights Ombudsman of Venezuela, who in September had refused to provide information on human rights violations.<sup>260</sup>

#### **PRINCIPLE 6 OF THE DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION (Compulsory membership in an association prescribed by law for the practice of journalism)**

177. On July 27, 2004, the Constitutional Chamber of the Supreme Court of the Bolivarian Republic of Venezuela handed down a resolution upholding the compulsory membership in a professional association for the exercise of journalism. The decision declared inadmissible a motion for annulment brought against several articles of the Law on the Exercise of Journalism. The Office of the Special Rapporteur issued a press release expressing its concern over the decision of August 2, 2004, and recalling that the Inter-American Court of Human Rights, in its Advisory Opinion OC-5/85 on the compulsory membership of journalists

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<sup>258</sup> In the case of the television station *Globovisión*, on August 3, 2004, the President of the Inter-American Court granted urgent provisional measures, which were ratified by the Court on September 4. In the case of *El Nacional* and *Así es la Noticia*, the Inter-American Court granted provisional measures in a resolution of July 6, 2004.

<sup>259</sup> The Office of the Special Rapporteur received information that on February 14, 2004, President Hugo Chávez threatened to take control of the antennas that broadcast the signal of *Globovisión* and *Venevisión* if the opposition carried out activities similar to those of April 11, 2002, when there was a coup d'état. After the recall referendum, the elections director, Jorge Rodríguez, stated that he would send to prison anyone who spoke of electoral fraud. After these and other statements describing any number of complaints about the referendum were published in the daily *El Universal* of September 26, 2004, President Chávez, in his weekly radio and television program "Aló Presidente," stated that the editor of *El Universal*, Andrés Mata "has no homeland ... and is playing to the transnational interests that are eager to make themselves the owners of Venezuela."

<sup>260</sup> On September 23, 2004, the *Programa Venezolano de Educación-Acción en Derechos Humanos* (PROVEA) brought an *amparo* action after the refusal of the Human Rights Ombudsman to respond to a request for information, made on May 27, 2004. PROVEA had sent a written communication to the Office of the Human Rights Ombudsman requesting general information on cases of human rights violations, and some statistical data to be used by PROVEA in preparing its annual report on the human rights situation in Venezuela. On September 24, 2004, the Office of the Human Rights Ombudsman issued a communiqué by which it noted that the Organic Law on the Office of the Human Rights Ombudsman establishes at its Article 64 that the information in the Office of the Human Rights Ombudsman is confidential, and that the annual report of that office is available to the public.

stated: "...a law licensing journalists, which does not allow those who are not members of the 'colegio' to practice journalism and limits access to the 'colegio' to university graduates who have specialized in certain fields, is not compatible with the Convention. Such a law would contain restrictions to freedom of expression that are not authorized by Article 13(2) of the Convention and would consequently be in violation not only the right of each individual to seek and impart information and ideas through any means of his choice, but also the right of the public at large to receive information without any interference."

**PRINCIPLE 7 OF THE DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION  
(Prior conditioning of truthfulness, impartiality, or timeliness by the states)**

178. In April 2004 the political organization *Un Solo Pueblo* asked the National Telecommunications Commission (CONATEL) to institute an administrative proceeding against *Canal 8*, state-owned, for not transmitting accurate information.<sup>261</sup>

179. On concluding its 121<sup>st</sup> regular session, in October 2004, the IACHR reiterated its concern over the Draft Law on Social Responsibility in Radio and Television, which at that time was being debated in the National Assembly of Venezuela. As the IACHR indicated at that time, several articles of the law did not reflect the international standards for the protection of human rights, the caselaw of the inter-American system on the subject, or the recommendations of the IACHR.<sup>262</sup> Despite these observations by the IACHR and the recommendations that have been made since 2003 in several press releases, letters, and reports of the Office of the Special Rapporteur and the Commission,<sup>263</sup> the National Assembly of Venezuela adopted the draft law, known as the "Law on Contents," in November. The Inter-American Commission on Human Rights, in a press release of November 30, after receiving a report from the Office of the Special Rapporteur on the law, stated its concern over the adoption of the legislation, as it contains conditions on accuracy and timeliness of information programs. The Inter-American Court of Human Rights, in its advisory opinion on Compulsory Membership in an Association Prescribed by Law for the Practice of Journalism of 1985 (OC-5/85), noted: "One cannot legitimately rely on the right of a society to be honestly informed in order to put in place a regime of prior censorship for the alleged purpose of eliminating information deemed to be untrue in the eyes of the censor." The law in question establishes extensive limitations on the content of radio and television programs that could undermine provisions of the American Convention. In addition, as the IACHR indicated, the use of vague terms, together with the existence of sanctions that could be excessive, may have a chilling effect on the informational work of the media and journalists, limiting the flow of information to Venezuelan society on matters of public interest. The IACHR also expressed its concern over the creation of a Bureau of Social Responsibility (*Directorio de Responsabilidad Social*) and a Council on Responsibility (*Consejo de Responsabilidad*) with very broad powers. The Commission concludes that, as it is a bill that imposes numerous

<sup>261</sup> *Globovisión*, [www.globovision.com](http://www.globovision.com), April 12, 2004, "Un Solo Pueblo solicitó a CONATEL apertura de procedimiento contra el canal 8."

<sup>262</sup> Press Release 23/04 of the Inter-American Commission on Human Rights at: <http://www.cidh.oas.org/Comunicados/Spanish/2004/23.04.htm>.

<sup>263</sup> See *Informe sobre Derechos Humanos en Venezuela*, at: <http://www.cidh.oas.org/relatoria/listDocuments.asp?categoryID=10>; Press Release 111/04 of the Office of the Special Rapporteur for Freedom of Expression, at: <http://www.cidh.oas.org/relatoria/showArticle.asp?artID=287&IID=2>, and Annual Report of the IACHR 2003, Volume III, Chapter II, at: <http://www.cidh.oas.org/relatoria/showArticle.asp?artID=139&IID=2>.

sanctions, the powers it grants to the oversight and sanctioning organs, the majority of whose members are state representatives, may limit the full exercise of the freedom of expression.<sup>264</sup>

180. The Office of the Special Rapporteur echoes the concern of the Commission and the disquiet of many international organizations for the promotion of the freedom of expression<sup>265</sup> as it calls on the Venezuelan authorities to review that legislation in light of the standards set forth in many reports, decisions, opinions, and judgments of the organs of the inter-American system for the protection of human rights in regard to the freedom of expression.

**PRINCIPLE 8 OF THE DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION  
(Right of every social communicator to keep confidential his or her sources, notes, and personal and professional files)**

181. On June 11, 2004, there was a search of the offices of the *Venevisión* television network by officials from the Investigations Division (*División de Investigaciones*) of the National Guard, based in La Guadalupe, in Caracas. The search was part of a follow-up on investigations into the incursion of Colombian paramilitaries into Venezuelan territory.<sup>266</sup> On June 23, 2004, a commission formed to investigate the search suspended 11 agents of the intelligence service known as the DISIP (*Dirección de los Servicios de Inteligencia y Prevención*) for having acted beyond the scope of their authority when they carried out the search of the television station in a search for weapons,<sup>267</sup> and for having allowed the place to be contaminated on allowing the television press that was present to enter the place searched.<sup>268</sup>

**PRINCIPLE 9 OF THE DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION  
(Murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media)**

182. In February and March 2004, the groups that constitute the opposition to the government of President Hugo Chávez Frías organized many demonstrations in different parts of the country, several of which led to confrontations between sympathizers of the Government and the opposition. In this context, several journalists and media workers were assaulted or threatened. The Office of the Special Rapporteur received reports that more than 20 social communicators, media, and media workers in general received some sort of threat during the demonstrations and disturbances. While it is true that in some cases reported one cannot conclude that the assaults were aimed directly against the journalists who were covering those events, in other cases one can conclude that they were. This situation led the Inter-American Commission to issue a press release on March 3, 2004, expressing its concern over the acts of violence and urging the authorities to guarantee the security of the journalists and media

<sup>264</sup> Press Release 25/04 of the IACHR, at: <http://www.cidh.oas.org/Comunicados/Spanish/2004/25.04.htm>.

<sup>265</sup> Reporters without Borders, [http://www.rsf.fr/Article.php3?id\\_Article=11641](http://www.rsf.fr/Article.php3?id_Article=11641), Human Rights Watch, [www.hrw.org](http://www.hrw.org); and Inter-American Press Association, [www.sipiapa.com](http://www.sipiapa.com).

<sup>266</sup> *El Universal*, [www.eluniversal.com](http://www.eluniversal.com), June 11, 2004.

<sup>267</sup> A total of 26 Smith and Wesson revolvers, one .38 caliber revolver, two pistols, one sports rifle, one FN30 carbine, and one .12 caliber shotgun were found there.

<sup>268</sup> *El Universal*, June 24, 2004, "Suspenden a 11 Disip que allanaron a Venevisión," at: [http://www.eluniversal.com/2004/06/24/ccs\\_art\\_24278F.shtml](http://www.eluniversal.com/2004/06/24/ccs_art_24278F.shtml).

workers so that they could continue their work of informing Venezuelan society. On March 8, 2004, the Public Ministry of Venezuela issued measures of protection for 27 individuals—15 journalists, five cameramen, and seven photographers—who were injured or assaulted while covering incidents from February 27 to March 3, 2004.<sup>269</sup> Following are some of the incidents reported to the Office of the Special Rapporteur.

183. On February 12, 2004, journalist Víctor Sierra, of the daily *Cambio de Siglo*, was assaulted by antiriot police while covering a demonstration<sup>270</sup> of university students who asked the National Electoral Council to respond positively to the request for a referendum to revoke the presidential mandate.

184. On February 27, 2004, in the context of a march in opposition to President Hugo Chávez, cameraman Carlos Montenegro of the *Televen* network suffered a gunshot wound to the leg, in the Bello Monte area of Caracas.<sup>271</sup> Photographer Luis Vladimir Gallardo of the regional daily *El Impulso* was wounded by shot in the back and face when a tear-gas bomb hit him in the back. These two cases occurred when the National Guard tried to disperse a demonstration in opposition to the government using tear gas and shot.

185. That same day, Berenice Gómez, a journalist with the Caracas daily *Últimas Noticias*, was beaten along with the driver (unidentified) from the same daily.<sup>272</sup> Three workers (two of them minors) from the community radio station *Radio Perola*, of Caracas, who had received death threats by telephone and email, were assaulted by eight individuals, who allegedly belonged to the organizations *Bandera Roja*, *Acción Democrática*, and *Primero Justicia*, which oppose the government of President Chávez.<sup>273</sup>

186. On February 28, 2004, Jorge Ortuño, photographer with the regional daily *Avance*, was threatened by directors of the National Guard (GN: *Guardia Nacional*) while covering protests in the area of San Antonio de los Altos, near Caracas, and had to leave the place while working after receiving an order from a soldier. Tito Díaz was hit by shot fired by GN officers after witnessing how some officials were assaulting an individual.<sup>274</sup> In that same place, another *Avance* photographer, Juan Calabres, also had to maneuver to avoid being hit by shot. On March 1, Antonio González, photographer with *Avance*, had guns trained on him and was threatened by military personnel.<sup>275</sup>

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<sup>269</sup> *Instituto de Prensa y Sociedad*, [www.ipys.org](http://www.ipys.org), March 8, 2004.

<sup>270</sup> International Freedom of Expression Exchange, February 13, 2004, and IFEX alert dated February 16, 2004, “*Policías antimotines golpean a periodista*,” at: <http://www.ifex.org/es/content/view/full/56841/>.

<sup>271</sup> *Instituto de Prensa y Sociedad*, [www.ipys.org](http://www.ipys.org), March 5, 2004.

<sup>272</sup> Gómez received death threats and had his equipment taken by alleged sympathizers of President Chávez when traveling along Avenida Andrés Bello in Caracas. *Instituto de Prensa y Sociedad*, [www.ipys.org](http://www.ipys.org), March 5, 2004.

<sup>273</sup> *Instituto de Prensa y Sociedad*, [www.ipys.org](http://www.ipys.org), March 8, 2004.

<sup>274</sup> Initially they tried to take his camera, they then beat him with the butt of their weapons, and finally they fired shot at him.

<sup>275</sup> *Instituto de Prensa y Sociedad*, [www.ipys.org](http://www.ipys.org), March 8, 2004.

187. On Sunday, February 29, 2004, photographer Billy Castro and journalist Wilmar Rodríguez, both of the daily *Impacto*,<sup>276</sup> were attacked. That same day Janeth Carrasquilla, correspondent for *Globovisión*, received a head injury in the city of Valencia when she was covering an opposition demonstration that turned violent when the protesters confronted the GN.<sup>277</sup>

188. On February 29, 2004, Juan Barreto, photographer with *Agence France Presse* (AFP), received a bullet wound while covering disturbances in the Plaza Altamira in

Caracas.<sup>278</sup> That same day Felipe Izquierdo, cameraman for the international television network *Univisión*, received a bullet wound in the foot while covering a protest staged by the opposition to the government of President Hugo Chávez near the Plaza Francia in Altamira, in eastern Caracas.<sup>279</sup>

189. On March 1, 2004, journalist Jhonny Figarrella of the *Globovisión* television network was threatened with a weapon while covering a demonstration in opposition to President Chávez that turned violent; he was later injured by a tear-gas bomb that hit him in the chest while he was working in the Caurimare district, in Caracas. That same day photographer Henry Delgado of the daily *El Nacional* had his camera taken from him by members of the GN while he was covering a demonstration organized by opponents to the Chávez government in the Terrazas del Ávila area of Caracas. In the same place journalist Edgar López was assaulted; he is a reporter with the daily *El Nacional*, for whom he was covering the demonstration.<sup>280</sup>

190. On March 2, 2004, Frank Molina, cameraman with *Telegen*, was beaten and had his camera taken from him.<sup>281</sup> That same day Juan Carlos Aguirre, a journalist with the Caracas television outlet *CMT*, was wounded when beaten by GN soldiers while covering protests in opposition to the government of Hugo Chávez in Altamira, in eastern Caracas. Along with Aguirre was the cameraman for the same station, Alejandro Marcano, who had his equipment taken from him. After the protest, the National Guard fired tear gas and shot at them.<sup>282</sup>

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<sup>276</sup> Castro was beaten and kicked by a group of persons who presumably support President Hugo Chávez, when covering a protest outside the Chamber of Commerce in the city of Anaco, in the state of Anzoátegui. Castro filed a complaint with the local prosecutor's office.

<sup>277</sup> *Instituto de Prensa y Sociedad*, [www.ipys.org](http://www.ipys.org), March 2, 2004.

<sup>278</sup> The bullet hit him in the chest but, as he was wearing a bulletproof vest, the projectile rebounded and he suffered injuries to his hand. The shot was said to have been fired by a youth who was participating in a demonstration organized by supporters of the opposition to the government of President Hugo Chávez. *Instituto de Prensa y Sociedad*, [www.ipys.org](http://www.ipys.org), March 1, 2004.

<sup>279</sup> *Instituto de Prensa y Sociedad*, [www.ipys.org](http://www.ipys.org), March 1, 2004.

<sup>280</sup> GN forces seized his notebook, and then a group of sympathizers of President Chávez insulted him, shouted at him, and hit him in the head and chest. *Instituto de Prensa y Sociedad*, [www.ipys.org](http://www.ipys.org), March 1, 2004.

<sup>281</sup> Molina filmed from a distance a group of 20 hooded armed persons who were traveling in several vehicles in the area of El Marqués, in eastern Caracas, where along with another journalist he was covering protests opposing the government of President Hugo Chávez; they were firing shots in streets and buildings. The unknown persons seized the taped material. *Instituto de Prensa y Sociedad*, [www.ipys.org](http://www.ipys.org), March 5, 2004, Committee to Protect Journalists, [www.cpj.org](http://www.cpj.org), March 5, 2004.

<sup>282</sup> *Instituto de Prensa y Sociedad*, [www.ipys.org](http://www.ipys.org), March 3, 2004.

191. On March 2, 2004, Víctor Yépez and Adda Pérez, owners and hosts of Radio Máxima FM, in the city of Ojeda, in the northeastern part of the department of Zulia, were attacked by sympathizers of the opposition to the government of Hugo Chávez, who were participating in a protest. Yépez and Pérez sought precautionary measures from the IACHR, which were granted on March 11, 2004.<sup>283</sup>

192. On March 2, 2004, the main facility of the state-owned television station *Venezolana de Televisión (VTV)* was attacked, as denounced by the company in a press conference. According to the information received, the persons responsible had been opponents to the government of Hugo Chávez; they shot several times and threw bottles, stones, and Molotov cocktails at the offices of the station and at the personnel, who emerged unscathed.<sup>284</sup>

193. On March 3, 2004, Carlos Colmenares, cameraman with *Canal Radio Caracas Televisión (RCTV)*, was injured while covering a protest in opposition to the government of Hugo Chávez, at the Plaza Francia of Altamira, in eastern Caracas. Colmenares was with other journalists when he received a gunshot wound in the right ankle.<sup>285</sup> Precautionary measures had previously been issued by the IACHR on behalf of Colmenares.<sup>286</sup>

194. On March 3, Ana Marchese, photographer with the daily *Correo de Caroni*, was wounded while covering a march called by the opposition in Ciudad Bolívar, capital of the state of Bolívar, in southern Venezuela. She was injured by a tear-gas canister that was fired to disperse the demonstrators.<sup>287</sup>

195. On March 6 and 7, 2004, several threats were made to the workers at *Radio Llovizna (FM 95.7)* in the city of Guayana, in the state of Bolívar.<sup>288</sup>

196. On May 21, 22, 23, 28, 29, and 30, 2004, the signatures of Venezuelans on petitions to request a referendum on revoking the mandate of President Hugo Chávez underwent a verification process (known as “*reparos de firmas*”). Several journalists were assaulted while covering that process. There were also acts of violence against journalists during the referendum held in August.

197. Among the journalists assaulted during the coverage of that process were Sandra Sierra and Pedro Rey of the news program *Notitarde*, assaulted May 29.<sup>289</sup> Minutes

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<sup>283</sup> Yépez and Pérez, a couple and co-owners of the station, went to their home, in an apartment complex, in their vehicle. The opposition sympathizers blocked their way and burned tires; when they tried to enter their house the demonstrators shouted at and insulted them, saying they were pro-government, and then beat and intimidated them. Committee to Protect Journalists, [www.cpi.org](http://www.cpi.org), April 2, 2004.

<sup>284</sup> Committee to Protect Journalists [www.cpi.org](http://www.cpi.org), March 5, 2004.

<sup>285</sup> Based on the trajectory of the bullet, it is presumed that it came from one of the nearby buildings.

<sup>286</sup> *Instituto de Prensa y Sociedad*, [www.ipys.org](http://www.ipys.org), March 4, 2004.

<sup>287</sup> *Instituto de Prensa y Sociedad*, [www.ipys.org](http://www.ipys.org), March 5, 2004.

<sup>288</sup> The threats were made Saturday night February 6 and/or Sunday morning February 7. A group of armed individuals appeared in front of the radio stations at approximately 10 p.m. and took aim at the people who were entering and leaving. This action continued until 10 a.m. International Solidarity Network of AMARC, of March 10, which cites the *Red Venezolana de Medios Comunitarios (RVMC)*, which is affiliated with AMARC.

later, Marta Palma Troconis and Joshua Torres of *Globovisión* were assaulted in the same place.<sup>290</sup> Nahjla Isaac Pérez and Johathan Fernández of the regional channel *TVS* were also assaulted in San Diego, state of Carabobo.<sup>291</sup>

198. On June 3, 2004, around noon, several persons attacked the facilities of *Radio Caracas Televisión (RCTV)*, located in Quinta Crespo.<sup>292</sup> That same day, about 20 persons went to the main offices of the daily papers *El Nacional* and *Así es la Noticia*.<sup>293</sup>

199. During the same process it was reported that a vehicle had been burned at Plaza O'Leary in Caracas that was owned by the daily paper *Meridiano*.<sup>294</sup>

200. On June 27, 2004, Romelia Matute, of the state-owned *Radio Nacional de Venezuela (RNV)*, was attacked, apparently by opponents of the government of Hugo Chávez.<sup>295</sup> She filed a complaint with the prosecutor's office.

201. On August 11, government sympathizers attacked a team from *Globovisión* after their coverage, in Caracas, of a meeting between government officials and international observers on the recall referendum.<sup>296</sup> That same day, Spanish photographer Eduard Giménez

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<sup>289</sup> On May 29, they were attacked in the municipality of Sucre, east of Caracas, by several persons who were allegedly followers of the government. After a few minutes the police arrived and after firing three shots into the air established security around the journalists. See Inter-American Press Association, Country-by-Country Reports, at: [http://www.sipiapa.com/espanol/pulications/informe\\_venezuela2004o.cfm](http://www.sipiapa.com/espanol/pulications/informe_venezuela2004o.cfm) and Committee to Protect Journalists, [http://www.cpi.org/cases04/americas\\_cases04/ven.html](http://www.cpi.org/cases04/americas_cases04/ven.html), June 9, 2004.

<sup>290</sup> Troconis and Torres were beaten about the head, arms, and legs by government sympathizers who wanted to keep the journalists from reporting from the location. The attack did not stop until they took Torres's camera from him.

<sup>291</sup> According to the information received by the Office of the Special Rapporteur, the attacks were by government sympathizers. The journalists were pushed, beaten, and insulted, as a result of which they had to seek refuge in a commercial establishment, until the police escorted them out. See Committee to Protect Journalists, [http://www.cpi.org/cases04/americas\\_cases04/ven.html](http://www.cpi.org/cases04/americas_cases04/ven.html), June 9, 2004, and Inter-American Press Association, Country-by-Country Reports, at: [http://www.sipiapa.com/espanol/pulications/informe\\_venezuela2004o.cfm](http://www.sipiapa.com/espanol/pulications/informe_venezuela2004o.cfm).

<sup>292</sup> A dozen government sympathizers had thrown stones and other objects at the channel's locale, and crashed a truck into the entrance; they then set it on fire.

<sup>293</sup> Stones and objects were hurled at them, causing damage to the building; they burned a delivery truck, and damaged several employees' vehicles and office equipment. The attackers were presumably sympathizers of the government of Hugo Chávez, who were protesting over the announcement of the CNE that the opposition had reached the number of signatures to require a referendum to recall the mandate of President Hugo Chávez. See *Globovisión*, [www.globovision.com](http://www.globovision.com), June 3, 2003, "Disturbios en el centro de Caracas, atacan sedes de Alcaldía Mayor y medios," Committee to Protect Journalists, [http://www.cpi.org/cases04/americas\\_cases04/ven.html](http://www.cpi.org/cases04/americas_cases04/ven.html), June 4, 2004.

<sup>294</sup> *Venevisión*, [www.venevision.com](http://www.venevision.com), June 3, 2004, and *El Nacional*, June 3, 2004.

<sup>295</sup> She was covering an activity organized by government followers who were rallying support with a view to the referendum held August 15 when, according to the reports received, she was attacked by opposition sympathizers, who took her press credential and tape recorder, and beat her. Committee to Protect Journalists, [http://www.cpi.org/cases04/americas\\_cases04/ven.html](http://www.cpi.org/cases04/americas_cases04/ven.html), July 2, 2004.

<sup>296</sup> According to the reports received by Office of the Special Rapporteur, Tony Vergara and Juan Camacho, technical staff of the channel, were leaving the meeting and headed to their vehicle when a group of government sympathizers took aim at them with pistols, broke the windows of their car, beat them, and sprayed them with gas. They also took their identification and a radio transmitter. The other members of the team, Ana Karina Villalba, José Umbría, and Ademar Dona, were also threatened in the incident. See Committee to Protect Journalists, [http://www.cpi.org/cases04/americas\\_cases04/ven.html](http://www.cpi.org/cases04/americas_cases04/ven.html), August 24, 2004, and *Instituto de Prensa y Sociedad*, [www.ipys.org](http://www.ipys.org), "Agreden a equipo de Globovisión en inmediaciones de sede de la vicepresidencia," August 16. At: International Freedom of Expression Exchange, [www.ifex.org](http://www.ifex.org).



was assaulted while photographing a political activity in opposition to President Hugo Chávez in downtown Caracas for a media outlet from Barcelona, Spain.<sup>297</sup>

202. In addition, the Office of the Special Rapporteur and the IACHR received information on cases of attacks on media and journalists outside of the context of the referendum process. Among those affected by acts of violence were Joshua Torres, cameraman, and Sullivan Peña, camera assistant, for *Globovisión*<sup>298</sup>; Euro Lobo, of the Mérida-based television channel *OMC*<sup>299</sup>; Félix Carmona, cameraman Jorge Santos, and driver Andrés Pérez Cova, of *El Universal*<sup>300</sup>; cameraman Daniel Díaz, and his assistant, Esteban Córdoba, of *Venevisión*<sup>301</sup>; Dariana Bracho, of *La Verdad* of Maracaibo<sup>302</sup>; Alberto

Almao and Víctor Henríquez, technical staff of *Globovisión*<sup>303</sup>; Nelson Bocaranda, of *Radio*

<sup>297</sup> A woman and a hooded man dragged him to a motorcycle and took him away, forcibly, in the vehicle. Minutes later, GN forces set out in pursuit, to rescue him until Giménez fell from the motorcycle. See *Instituto de Prensa y Sociedad*, [www.ipys.org](http://www.ipys.org), "Agreden a fotógrafo español durante acto político," August 17, 2004. At: International Freedom of Expression Exchange, [www.ifex.org](http://www.ifex.org).

<sup>298</sup> On January 18, 2004, a team of reporters from *Globovisión* television was assaulted, as stones and pipes were thrown at them, and they were shot at, as they were covering a celebration marking the anniversary of the opposition party Movimiento Al Socialismo (MAS). The team emerged unscathed. According to reports received by the Office of the Special Rapporteur, a group of persons surrounded the vehicle in which Joshua Torres, cameraman, and Sullivan Peña, camera assistant, were traveling near Plaza Bolívar in the historic center of Caracas. They were filming the moment when a woman wearing an orange t-shirt of the opposition was being beaten with sticks. The team was able to get away in the vehicle, but they were struck. As they were moving away, a bullet became lodged in one of the rear doors of the vehicle. They had apparently been attacked by men wearing government symbols. Torres and Peña filed a complaint with the prosecutor's office of Caracas. See *Instituto de Prensa y Sociedad*, [www.ipys.org](http://www.ipys.org), January 19, 2004, International Freedom of Expression Exchange, [www.ifex.org](http://www.ifex.org), January 20, 2004, "Equipo reporteril atacado," <http://www.ifex.org/es/content/view/full/56297>, Committee to Protect Journalists, [www.cpi.org](http://www.cpi.org), January 30, 2004.

<sup>299</sup> On January 29, 2004, journalist Euro Lobo was assaulted; he works for the *OMC* television channel in Mérida, capital of the state of Mérida, in southwestern Venezuela. The incident occurred when he was covering a protest. He said he was threatened by presumed sympathizers of the *Movimiento Quinta República*, who beat him in the face when he was covering a demonstration by an opposition party. *Instituto de Prensa y Sociedad*, [www.ipys.org](http://www.ipys.org), February 11, 2004, International Freedom of Expression Exchange, [www.ifex.org](http://www.ifex.org), February 13, 2004 "Golpeado periodista de televisión regional." <http://www.ifex.org/es/content/view/full/56781/>.

<sup>300</sup> On May 10, 2004, the team from the daily *El Universal*, made up of reporter Félix Carmona, cameraman Jorge Santos, and driver Andrés Pérez Cova, had been assaulted and received death threats in southeast Caracas from members of military intelligence (DIM: *Dirección de Inteligencia Militar*) when they came upon a group of soldiers while they were covering the search of the home of a deputy from the opposition to the government of Hugo Chávez. According to the information received, the staff of the DIM had trained their weapons on and beaten the journalists, and damaged part of their equipment, which was ultimately taken from them. See *Instituto de Prensa y Sociedad*, [www.ipys.org](http://www.ipys.org), May 14, 2004, Committee to Protect Journalists, [www.cpi.org](http://www.cpi.org), May 25, 2004.

<sup>301</sup> On July 12, 2004, by the Universidad de Zulia, in western Venezuela, a group of hooded persons approached *Venevisión* cameraman Daniel Díaz and his assistant Esteban Córdoba, and held them for several hours. While they were being held, they were threatened with 9 mm pistols and .38 caliber revolvers, and warned that "here in the university we don't want any media." The reporters were left in one of the schools, while their pick-up truck was looted and burned. See *Instituto de Prensa y Sociedad*, [www.ipys.org](http://www.ipys.org), "Equipo periodístico de televisión atacado," July 16, 2004. At: International Freedom of Expression Exchange, [www.ifex.org](http://www.ifex.org).

<sup>302</sup> On July 16, 2004, journalist Dariana Bracho of the daily *La Verdad* of Maracaibo, in western Venezuela, reported having received seven death threats by phone in the previous two days. Bracho said she had received the threats after the Superior Military Prosecutor for the states of Zulia and Falcón, National Guard captain Gherson Francisco Chacón Paz, sent her a notice on July 13 indicating that on July 14 she should appear before the Intelligence Division of Regional Command No. 3 to explain the content of an Article published by the newspaper. The information in question described a document in which the chief of Regional Command No. 3 of the GN was prohibited from discussing the guerrillas. *Instituto de Prensa y Sociedad*, [www.ipys.org](http://www.ipys.org), "Amenazan de muerte a periodista del diario La Verdad de Maracaibo," July 20, 2004. At: International Freedom of Expression Exchange, [www.ifex.org](http://www.ifex.org).

*Onda 107.9 FM*<sup>304</sup>; as well as a team of reporters from the state-owned *Venezolana de Televisión (VTV)*.<sup>305</sup>

**PRINCIPLES 10 AND 11 OF THE DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION (Use of defamation laws by public officials and *desacato* laws)**

203. On March 22, 2004, journalist Patricia Poleo, director of the daily *El Nuevo País*, went to testify before a military court on charges brought against her by the military prosecutor, Lt. Esaúl Olivares Linares, who accused her of instigating rebellion and defamation of the national armed forces after Poleo revealed a video showing a group presumably of Cuban citizens in Venezuelan military facilities. Poleo's defense counsel asked to have the case removed to a civil court, as Poleo is not part of any military body.<sup>306</sup> The armed forces accused her of committing an outrage against the institution.<sup>307</sup>

204. On May 25, 2004, the 11<sup>th</sup> Court of Review of the Criminal Circuit for Caracas convicted Ibéyise Pacheco, a columnist with *El Nacional*, and sentenced her to nine months in prison for continuing and aggravated defamation. An action was brought against her by Col. Angel Alberto Bellorín, after she published her weekly column *En Privado* dated June 15, 2001, in which she accused Col. Bellorín of having falsified the grade of an exam when he was a law student. In addition, in February 2002, she wrote that he had obtained several promotions by irregular means.<sup>308</sup>

205. On October 11, 2004, retired army general Francisco Usón Ramírez was convicted and sentenced to five years and six months of prison for the crime of committing an outrage against the armed forces, provided for in Article 505 of the Code of Military Justice.<sup>309</sup> He was also disqualified from political participation and from receiving awards. The accusation was based on a statement made on the program *La Entrevista* with Marta Colomina on April 16,

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...continuation

<sup>303</sup> On September 17, 2004, they were assaulted while covering a protest by employees of a government educational program called Misión Ribas. The demonstrators, once they realized they were taping the demonstration from inside a vehicle, surrounded and insulted them. They also threw fireworks at them, damaging the vehicle. The National Guard, on hearing the explosions, arrived on the scene, dispersed the demonstrators, and allowed the workers to leave. *Instituto de Prensa y Sociedad*, [www.ipys.org](http://www.ipys.org), "Agreden a técnicos del canal Globovisión," September 21, 2004. At: International Freedom of Expression Exchange, [www.ifex.org](http://www.ifex.org).

<sup>304</sup> On October 15, 2004, Nelson Bocaranda, who directs his radio program *Los Run Runes de Nelson*, broadcast by *Radio Onda 107.9 FM*, reported having received threats due to his comments against the administration of the mayor of El Hatillo – east of Caracas- Alfredo Catalá. *Instituto de Prensa y Sociedad*, [www.ipys.org](http://www.ipys.org), "Amenazan de muerte a periodista por denuncias contra alcaldía," October 20. At: International Freedom of Expression Exchange, [www.ifex.org](http://www.ifex.org).

<sup>305</sup> On October 31, 2004, a team of reporters was covering the election in Caurimare, east of Caracas, to choose governors and mayors, when a group of persons threw objects at them. *Instituto de Prensa y Sociedad*, [www.ipys.org](http://www.ipys.org), "Agreden a equipo reporteril de televisora estatal," November 5. At International Freedom of Expression Exchange, [www.ifex.org](http://www.ifex.org).

<sup>306</sup> *Instituto de Prensa y Sociedad*, [www.ipys.org](http://www.ipys.org), March 26, 2004, "Venezuela: periodista imputada por fiscal militar."

<sup>307</sup> Inter-American Press Association, Country-by-Country Reports, at: [http://www.sipiapa.com/espanol/publications/informe\\_venezuela2004o.cfm](http://www.sipiapa.com/espanol/publications/informe_venezuela2004o.cfm).

<sup>308</sup> Reporters without Borders, May 27, 2004, "Dos periodistas amenazadas con penas de cárcel," [http://www.rsf.org/Article.php3?id\\_Article=10468](http://www.rsf.org/Article.php3?id_Article=10468).

<sup>309</sup> Article 505 – "one who in any way libels, offends, or disrespects the National Armed Forces or any of their units shall have a penalty of three to eight years imprisonment."

2004, when he stated that the soldiers being held in the Combat Engineers Battalion at Fuerte Mara in Zulia had been burned with a flame-thrower.<sup>310</sup>

206. On November 11, 2004, journalist Manuel Isidro Molina, of the weekly *La Razón*, was notified by Chief Military Prosecutor Eladio Aponte that a case had been initiated against him for defamation and libel of the national armed forces. On November 7, Molina published a column according to which retired Air Force Col. Silvino Bustillos, who had been disappeared since November 1, had been tortured and murdered at military intelligence offices (*Dirección de Inteligencia Militar*) in Caracas. On November 8, Bustillos contacted his family members, informing them that he was well, but in hiding. The next day the journalist rectified the information in his column, acknowledging an “involuntary error.”<sup>311</sup> Notwithstanding that rectification, Molina was summonsed to the Office of the Chief Military Prosecutor on November 19.

207. The Office of the Special Rapporteur is also concerned about consideration by the National Assembly of Venezuela of a proposed reform to the Criminal Code, whose text was approved in the second round of debate during the regular sessions of December 2 and 9, 2004. This bill stiffens the penalties for the crimes of defamation and libel. As appears from the text approved thus far, the maximum prison term for the crime of defamation is increased to four years, from 18 months. As for criminal libel, in the text approved the maximum sentence was increased from one week to one year.<sup>312</sup>

**PRINCIPLE 13 OF THE DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION  
(Direct or indirect pressures aimed at silencing the flow of information are incompatible with the freedom of expression)**

208. In May 2004, the Venezuelan Congress discussed the possibility of stripping four journalists of Venezuelan nationality. The persons in question are media entrepreneur Gustavo Cisneros, and journalists Napoleón Bravo, Marta Colomina, and Norberto Maza; the last two are of Spanish and Uruguayan origin, respectively. The proposal was made by legislator Iris Varela, who said it was based on her characterization of the journalists as anti-patriotic. A request from Congress would need to be followed up at the Office of the Attorney General of the Republic.<sup>313</sup>

209. In early June 2004, journalist Poleo was once again called to testify before a military prosecutor in relation to the incursion of Colombian paramilitaries in Venezuela.<sup>314</sup> On June 3, 2004, Poleo testified for three hours before a military prosecutor as it was presumed that she was linked to the incursion of Colombian paramilitaries into Venezuela, and on an alleged meeting to conspire against the Venezuelan government, and in which she had allegedly participated, along with some Venezuelan military officers who were also being

<sup>310</sup> *El Universal*, General Francisco Usón fue condenado a 5 años y 6 meses de cárcel, October 12, 2004.

<sup>311</sup> Instituto Prensa y Sociedad (IPYS), [www.ipys.org](http://www.ipys.org), November 18, at: International Freedom of Expression Exchange, [www.ifex.org](http://www.ifex.org).

<sup>312</sup> The approved text is available at the website of the National Assembly of Venezuela. <http://www.asambleanacional.gov.ve/ns2/leyes.asp?id=559>.

<sup>313</sup> Inter-American Press Association (IAPA), May 20, 2004.

<sup>314</sup> *El Universal*, June 3, 2004 “Citan a Patricia Poleo por caso de paramilitares,” [http://www.eluniversal.com/2004/06/03/pol\\_art\\_03108C.shtml](http://www.eluniversal.com/2004/06/03/pol_art_03108C.shtml).

investigated.<sup>315</sup> The IACHR requested information from the Venezuelan government on the situation of Patricia Poleo, to verify that there is due process in her case.<sup>316</sup>

#### D. Murders of media workers

##### MEDIA WORKERS MURDERED IN 2004

INFORMATION ON THE JOURNALISTS	PLACE AND DATE	FACTS OF THE CASE	BACKGROUND	STATUS OF THE INVESTIGATION
<b>José Carlos Araujo</b> , <i>Timbaúba Radio</i>	Timbaúba, Pernambuco state, BRAZIL. 24 April 2004	Two armed subjects shot José Carlos Araujo outside his residence.	In accordance with the information received, Araujo had made charges related to local crime.	On 27 April 2004 Helton Jonas Goncalvez de Oliveira was arrested and confessed to the murder. Goncalvez stated that the homicide was due to the fact that, in his program <i>José Carlos Entrevista</i> , Araujo had accused him of being the principal perpetrator of several crimes, which he denied. The Commissariat of Timbaúba also established that Goncalves de Oliveira had been helped by Marcelo Melo, and a third subject had facilitated a motorcycle.
<b>Jorge Lourenço dos Santos</b> , owner and commentator of <i>Criativa FM</i>	Santana do Ipanema, Alagoas state, BRAZIL. 11 July 2004.	Dos Santos was murdered in front of his house, having been shot four times. The assassin fled in a vehicle. The journalist was transported to a local hospital where he died soon after arriving.	In his program, dos Santos criticized politicians and local entrepreneurs. The journalist had received death threats and been attacked twice before. Dos Santos had also gotten involved in politics, having run for alderman in a nearby locality.	At the time of the writing of this report, the Rapporteur had not received information on the status of the investigation. However, he did receive information that a civil society request had been made for federal authorities to get involved in the investigation.

<sup>315</sup> *El Universal*, June 4, 2004 "Poleo declaró durante tres horas en fiscalía Militar," [http://www.eluniversal.com/2004/06/04/pol\\_art\\_04107A.shtml](http://www.eluniversal.com/2004/06/04/pol_art_04107A.shtml).

<sup>316</sup> *El Universal*, [www.eluniversal.com](http://www.eluniversal.com), oif June 14, 2004, "Abogados de Poleo denuncian violación del debido proceso."

INFORMATION ON THE JOURNALISTS	PLACE AND DATE	FACTS OF THE CASE	BACKGROUND	STATUS OF THE INVESTIGATION
<b>Ricardo Ortega</b> , journalist of the Spanish chain <i>Antenna 3</i>	Port-au-Prince, HAITI 7 March 2004	According to the information received, Ortega was covering a demonstration in Port-au-Prince when armed subjects opened fire on a group of people. Some 30 people were wounded and seven were killed, among them Ricardo Ortega, who was shot.	The instability reigning in Haiti in early 2004, within the framework of demonstrations and disputes between the opposition and pro-government groups, generated an environment of violence that affected the work of social communicators and the media. During that period, serious incidents such as attacks, assaults, and threats were directed at social communicators, including several foreign correspondents.	On 22 March 2004, the police detained Yvon Antoine, and on 28 March 2004, division inspector Jean-Michel Gaspard, both for their presumed involvement in the events of 7 March.
<b>Roberto Javier Mora García</b> , editorial director of the daily paper <i>El Mañana</i> .	Nuevo Laredo, Tamaulipas state, MEXICO. 19 March 2004.	The journalist was stabbed in front of his house. None of his belongings were taken.	The journalist had published various articles on organized crime, but had not received any threats beforehand.	Two neighbors of the journalist, identified as Mario Medina Vásquez, a citizen of the United States, and Hiram Olivero Ortíz, were detained on 26 March 2004. The Rapporteur received queries from civic organizations regarding the seriousness of the investigation.
<b>Francisco Javier Ortiz Franco</b> , editor/publisher of the weekly paper <i>Zeta</i> .	Tijuana, Baja California, MEXICO. 22 June 2004	An unidentified subject whose face was covered shot him four times in the head and neck, in the presence of his two children, who were unharmed.	Ortiz was co-founder and an editorial writer on the subjects of the drug traffic and corruption. In 1997, Jesus Blancornelas, director of the weekly paper, was victim of an attack that killed his friend and bodyguard Luis Valero Elizalde.	On 29 June 2004, the District Attorney's Office in Baja California appointed a Special Judge to investigate the homicide. However, on 18 August, federal authorities took over the case because of the possible relationship between the murder and organized crime.

INFORMATION ON THE JOURNALISTS	PLACE AND DATE	FACTS OF THE CASE	BACKGROUND	STATUS OF THE INVESTIGATION
<b>Francisco Arratia Saldierna</b> , columnist of <i>El Imparcial</i> and <i>El</i>	City of Matamoros, Tamaulipas, MEXICO. 31 August 2004.	Arratia died of a cardiac arrest after being brutally beaten. The columnist had been tortured before he was thrown out of a vehicle.	Arratia wrote on corruption and organized crime.	On 24 September, the police of Tamaulipas arrested Raúl Castelán Cruz in the city of Matamoros. He confessed to having participated in

INFORMATION ON THE JOURNALISTS	PLACE AND DATE	FACTS OF THE CASE	BACKGROUND	STATUS OF THE INVESTIGATION
<i>Regional</i> and, in Matamoros, of <i>Mercurio</i> and <i>Cinco</i> , as well as the web page, <i>En Línea Directa</i> .				Arratia's murder and that the crime had been motivated by Arratia's articles. On 30 September, federal authorities took over the investigation because of the possible link between the murder and organized crime.
<b>Carlos José Guadamuz Portillo</b> , director of Channel 23's program " <i>Dardos al Centro</i> ."	Managua, NICARAGUA. 10 February 2004.	The journalist was shot several times when he arrived at the channel.	The Rapporteur received information that the journalist had already received death threats.	William Hurtado García, who confessed to the crime, was identified as the responsible party. On 19 April 2004, Hurtado García was sentenced to 21 years prison for the crimes of murder and attempted homicide against Guadamuz and his son, who was with the journalist.
<b>María José Bravo</b> , correspondent of the daily papers <i>La Prensa</i> and <i>Hoy</i>	Juigalpa, Chontales Department, NICARAGUA. 9 November 2004	The journalist was shot at close range when covering the demonstrations of political groups against the results of the 7 November elections in the municipality.	The Rapporteur did not receive information on threats or incidents prior to the murder.	The police detained Eugenio Hernández González, former mayor of the municipio of El Ayote, as the main suspect of the murder and two other suspects. At the time this report was being written, the motive of the murder had not been determined.
<b>Antonio de la Torre Echandía</b> , director of the news show <i>El Equipo de la Noticia</i> , broadcast by <i>Radio Orbita</i> .	Yungay, Ancash, PERU. 14 February 2004.	De la Torre was stabbed by two subjects as he was leaving a party.	De la Torre had received telephone threats and previously been the target of attacks. The journalist had disseminated criticisms about Amaro León, mayor of Yungay.	According to the investigation, Moisés David Julca had been identified as the presumed perpetrator of the murder. The mayor of the locality, Amaro León, was also detained as the presumed intellectual author. At the time of the writing of this report, Julca was in flight, as was the mayor's daughter, Enma León Martínez, also under investigation.

INFORMATION ON THE JOURNALISTS	PLACE AND DATE	FACTS OF THE CASE	BACKGROUND	STATUS OF THE INVESTIGATION
<p><b>Alberto Rivera Fernández,</b> director of the program <i>Transparencia</i>, broadcast by <i>Radio Oriental</i>.</p>	<p>Pucallpa, Ucayali, PERU. 21 April 2004.</p>	<p>Rivera was murdered when two men entered his glass store and one of them shot him several times in the chest. There was no evidence of theft in the place.</p>	<p>Rivera was a controversial radio commentator who criticized local authorities. In January 2004, he had participated in a demonstration against the authorities of the province of Colonel Portillo. The demonstrators had caused damages to the municipality building and the municipio sued some of them, including Rivera. The commentator had accused the municipality of corruption.</p>	<p>In late May, the police had declared that the crime had been a crime of passion but this hypothesis was subsequently discarded. On 1 June, the police arrested Roy Gavino Cullqui Saurino and three days later Martín Ignacio Flores Vásquez. The first was a journalist and public relations officer for the municipality, the second an employee of the municipal potable water and sewerage company.</p>
<p><b>Juan Emilio Andujar,</b> correspondent of <i>Listín Diario</i> and director of the weekly radio program <i>Encuentro Mil 60</i></p>	<p>Azua, DOMINICAN REPUBLIC. 14 September 2004.</p>	<p>Andujar was murdered by armed subjects riding motorcycles, who shot him in front of the offices of <i>Radio Azua</i>. At the time he was with his colleague, Juan Sánchez, who survived the attack.</p>	<p>In September and October, in Azua, southern Dominican Republic, several communicators had been the targets of violent incidents and others reported that they had received threats. Andujar had reported on the crime wave of threats against six journalists.</p>	<p>One of the presumed attackers died in a shoot out with the police, while another was still in flight at the time this report was written.</p>

