

# VENEZUELA<sup>1</sup>

## 1. GENERAL INFORMATION ON MEDIA AND MEDIA USE

The official data from the national census in 2001 put the rate of literacy at 93 per cent, with small differences between the genders. In the last few years the national government has pushed a massive literacy programme, using a method provided by the Cuban government. In 2005, the Ministry of Education declared Venezuela free from illiteracy, announcing that it had taught 1,482,000 people to read and write. According to official estimates the actual literacy rate reaches a 96.3 per cent for young males aged between 15 and 24 and 98.1 per cent for young women.

*Literacy and education*

There are five national television networks<sup>2</sup>; three controlled by the national government and two private networks. Their signals reach some 139 transmitter stations that cover the whole nation, excluding the corresponding stations of the new government channel VIVE. There are 63 regional television channels that operate VHF and UHF bands as well as 32 local or community television stations. More than 350 radio stations transmit on AM and FM bands and some 234 community radio stations operate on FM frequencies<sup>3</sup>. More than 100 daily newspapers exist and more than 10 weeklies, with regular and wide circulation, apart from several magazines and smaller print media.

*Media landscape*

The regional and local media are susceptible to a lot of meddling from the leadership around the mayors and governors, and also from businessmen who broaden their investment portfolio by buying into print media, television channels and radio stations. The political parties maintain relations with these media outlets and use some of them as instruments on the executive's behalf at local, regional and national government levels. This includes national opposition parties that are in power in very few states and municipalities. Many private radio stations maintain editorial lines friendly to the national government<sup>4</sup>; the print media (newspapers and/or magazines) that are constituted as independent companies are the exception and they allow the opposition parties and their leaders to present their ideas and positions on national public policies.

*Party media*

Independent media based upon internet platforms exist. In fact, estimates put the total number of Venezuelan websites at 126.500. The main sites that offer news coverage are two websites that provide information derived from other media and the contributions their own readers: Noticias24 and Noticierodigital. The third site is a national newspaper that offers all of its contents for free: El Universal.

*Internet media*

Consumption of and access to information over the internet correlates with times of greatest political and social intensity. In 2007, coinciding with the ending of transmissions by the private television channel RCTV<sup>5</sup>, the information websites saw an increase of more than 40 per cent in new visits, and this behavioural pattern is reproduced at other political events such as elections or at times of public commotion such as demonstrations. The internet is becoming the medium of choice for getting good information on the facts or events that are otherwise restricted in the openly accessible audiovisual media. According to official data, there are more than 1 million subscribers to internet services in Venezuela, which reach 5,719,693 users, signifying a penetration equivalent to 20.83 per cent of the total population (CONATEL 2008).

*General media access*

Television has the broadest penetration and with its openly available and free signal (excluding cable TV) reaches above 95 per cent of the total population. More than 90 per cent of all people watch television's open channels, more than 80 per cent read newspapers and more than 70 per cent listen the open radio. Official sources indicate that in 2007 television by subscription (cable TV) reached 5.89 per cent of the total population (Datanalisis 2006; CONATEL 2008).

*Media consumption* The political polarisation in Venezuela means that political information has a strong social dimension that goes beyond the mere political, a development that is linked to the high frequency of elections in the decade 1998–2008. Open-access television is the predominant medium despite the reduction in quantity of news and opinion programmes in its programming, especially in the private media. It is followed in importance and frequency of use by radio. Then come the print media and the internet.

It is pertinent to point out here the recurrent emergence of the use of new channels of interpersonal communication, especially the intensive use of text messaging on mobile phones. In 2007 it is estimated that some 34,619,225 text messages circulated among the 23,820,133 mobile phone users. The penetration of this medium reaches 86.76 per cent of the total population (CONATEL 2008). Even if it is very difficult to evaluate its relevance quantitatively, this is a powerful medium that has substantially influenced national political dialogue.

*Media influence on political opinion* In the case of Venezuela the media are the main vehicle for political debate and are very important in defining information agendas and in the formation of public opinion. While these agendas are determined by the media, the social construction of public opinion is a process that is also determined by other variables linked to personal experience, people's social and economic positions and the lifestyles. The state maintains a high level of investment in the media in order to guarantee the broadest diffusion of the government's work.

A relevant mode of censorship is the obligatory transmission of government messages by all radio and television channels. These 'presidential broadcasts' are thought to be instruments of the 'raison d'état', as prescribed in Article 192 of the Telecommunications Law and afterwards upheld by Article 10 of the Law on Social Responsibility in Radio and Television that makes reference to the 'modalities of state access to free and compulsory spaces' in the radio and television transmissions. These compulsory transmissions added up to a total of 1,513 presidential broadcasts between January 1999 and February 2007, the equivalent of 890 hours, 29 minutes and 44 seconds of transmission<sup>6</sup>. Most of the content of these presidential broadcasts does not comply with the restrictions established for these kinds of compulsory transmissions by the international systems of human rights protection. They allow these transmissions only in the face of proven facts that disrupt the public health, public morale, national security or public order.

The independent consumers of mass media in Venezuela increasingly want to find alternative views to the news they receive through the traditional media; their distrust of the information products they receive has also increased. The government's supporters and also its detractors remain loyal to 'their' media or use the contrast to accentuate their differences.

*State-owned media* There is a diversity of government media, and state expenditure on strengthening this media platform has increased significantly<sup>7</sup>. There are no laws that would regulate the government's participation in the management of the news coverage of these media. Their directors and editors are nominated by the president or by his ministers<sup>8</sup>.

The decisions of 2007 and the explicit declaration of Minister for Information and Communication Andrés Izarra to build a communications hegemony has led to a progressive reduction of private communication spaces. The media balance now oscillates between the parity between state and private media and the hegemony of government-controlled media (Weffer 2007). This is a consequence of a group of concurrent measures that include indirect measures restricting freedom of expression: such as the arbitrary assignation of state advertising to media with editorial lines close

to the government, the restriction of hard currency for buying paper and technical equipment for media critical towards the government, the discriminating application of fiscal and administrative sanctions and the judicial persecution of critical media and journalists.

The news coverage is notoriously skewed under any circumstances, as has been demonstrated by independent studies of elections. The final report of the Electoral Observer Mission of the European Union dedicated a chapter to the behaviour of the media in the electoral campaign and showed that 'VTV dedicated 86 per cent of its political information airtime (excluding advertisements) to the positions of the government-backed candidate and the tone of this information was predominantly positive (almost 80 per cent of the time), while the coalition Unidad and its candidate Rosales received only 14 per cent of the airtime in the same medium, with a predominantly negative tone (more than 70 per cent of the time)' (EU-EOM 2007).

The coverage of state media is clearly propaganda in favour of the government, with scarce differences between the different channels and programming in radio and television. Some print media or government communiqués are geared towards particular audiences that permit some criticism of public management. But this is always the exception and the criticism almost always parts from an affirmation of political loyalty towards the president or the project he is pushing. In certain media like the websites of some social movements criticism of various aspects of the public management can be observed, but the general tendency is one of being in favour of the responsibilities of the president.

*State-owned  
media and  
published opinion*

Press conferences are the exception and all the important information is reserved for the Sunday talk show of President Hugo Chávez Frías. The programme *Aló Presidente*, has seen 298 editions up to December 2007. The average duration of each programme is over 4 hours and 30 minutes. It is transmitted on all state radio and television channels and is re-transmitted by various private regional radio and television channels. Press conferences are held with higher frequency when presidents from other countries visit Venezuela or when they are exclusively for foreign correspondents. Frequently the media and journalists use the state channels to access information from the government. The opportunities to ask questions or to directly criticise the data offered tend to be minimal.

*Government press  
conferences*

## 2. LEGAL ENVIRONMENT

Freedom of expression, freedom of opinion and the right to information are enshrined in the constitution, in Articles 57 and 58 of the Constitution of the Bolivarian Republic of Venezuela of 1999<sup>9</sup>, in the chapter dedicated to civil rights. Since that date no amendments have been passed that would affect this constitutional guarantee.

*Freedom  
of expression*

The constitutional guarantee of freedom of information includes the adjective 'truthful' as a qualification of the freedom of expression. In the ambit of the Inter-American System of Human Rights (IASHR), this is considered incompatible with what is established by the American Convention of Human Rights, also called the Pact of San José.

*Free media  
coverage*

On 9 December 2004 the National Assembly by a simple majority (83 of 165 votes) approved a legal project to partially reform the Venezuelan penal code. It came into force on 16 March 2005. According to this reform, every opinion, dissent or demonstration against any public official, made in public or in private, can be considered an offence, liable to 6–30 months of prison. These penalised offences include offending the President of the Republic (Article 147), the vice president, the Supreme Court justices, the members of the 'Public Powers' (Poderes Públicos), ministers, MPs or the Military High Command (Article 148), with a prison sentence of 6–30 months attached. Also, instigation to contravene this law (Article 283), to disobey it (Article 285) is punishable by prison sentences of three to six years. In the same vein, causing panic through the use of any media (Article 296-A) is punishable by two to five years of prison. Blocking public traffic routes (Article 357) is punishable by four to eight years of prison.

*Regulation of  
media coverage*

Censorship is applied only in cases linked to legal proceedings, supposedly to protect the due process, and in cases of child and juvenile protection. There are also certain articles in the Law on Social Responsibility in Radio and Television that can trigger censorship of information prior to publication. The National Assembly approved this law on 7 December 2004 with the votes of the government majority. The text was promulgated by the national executive on the same day and was published in the Official Gazette No. 38.081 of the same date. This law develops mechanisms for the control of radio and television, parting from a generic definition of the relevant contents and very harsh potential sanctions that have to be applied by the state administrative organs which are controlled by the government. These instances are grouped together in the National Commission of Telecommunication (CONATEL), especially in its Department of Social Responsibility in Radio and Television.

The Law on Social Responsibility in Radio and Television<sup>10</sup> establishes the responsibilities of owners, editors and journalists for the contents transmitted by their media, even if it comes from third parties (op-eds, information, advertisement, publicity, etc.). The responsibility for voicing opinions or emitting information is thus transferred to the transmitters of the message, thereby establishing an obligation to check and censor the contributions of third parties in order to prevent eventual sanctions against them. Similarly, the government could, by initiating a sanctioning process, ban the distribution of programmes that presumably touch on some of the matters prohibited by law. As long as this injunction is active, the programme remains banned, something that clearly translates to self-censorship.

*Changes in the past five years* The modifications of the legal framework associated with the change of the penal code and the Law on Social Responsibility in Radio and Television all led to more restrictions in the information coverage of the media, especially in the radio and television stations. There has been a strong aggravation in matters of information coverage. These aggravations correspond to a change intrinsic to the Venezuelan context and so no substantial variations in media freedom can be observed that derived from the international impact of events like the terrorist acts of September 11.

The period from 2003 to 2007 has seen a progressive restriction of the freedom of expression, especially through illegal indirect constraints. The radioelectric media are the ones affected the most. Since the approval of the Law on Social Responsibility in Radio and Television, the four main television channels reduced their programming dedicated to news, information and opinion by 50 per cent (Palma 2008). Many independent studies have also shown an increase of self-censorship among information professionals that translates into mechanisms of intimidation and reduction of the spaces of freedom of journalists as well as everybody else (IPYS 2007; Correa/Calderón 2007).

The continuing effect of these restrictions signifies a strong aggravation of the freedom of the media which are now subject to more indirect controls that also include the discriminating application of measures of fiscal and administrative supervision.

*Legal censorship* The judicial censorship has been applied in many instances, especially in the case of the assassination of a judge of the Public Ministry that had important political repercussions<sup>11</sup>. This case demonstrated that the censorship was oriented towards preventing public scrutiny of the corruption of a judicial process that to this day remains unresolved.

Not complying with the mechanisms of previous censorship as prescribed in the Law on Social Responsibility in Radio and Television bears sanctions that reach from minor censorship to the (forced) dedication of editorial space to cultural programs until the concession for operating the assigned frequencies is revoked. This law does not prescribe any penal sanctions. In the cases of judicial censorship, the responsible journalists are prone to jail sentences.

*Media licences* The audiovisual media, radio and television, require a permit of operation that is given by an organ of the national executive. There is no transparent policy of administration of the radioelectric spectrum. Historically, the frequencies have been assigned arbitrarily by the national executive. The reasons to deny a licence are not explained to the postulants. For the government to rescind a frequency the operators will have to have committed a crime of certain gravity.

At the moment, the organ responsible for administering the radioelectric spectrum, CONATEL, maintains an inexplicable delay when it comes to the renovation of old licences that affects more than 80 AM radio stations. Equally, it does not respond to solicitations and permits regarding radio and television operations. CONATEL responds to those solicitations of media with editorial lines to the liking of the present government and deny or not respond to those of the media critical towards the government.<sup>12</sup>

The permit of operation of the frequency that was used by RCTV was the government pretext for excluding a medium with high rates of audience and coverage that maintained a position critical towards the public management. Taking its transmission of the open-access and public signal was a discriminating measure with negative repercussion on due process and on the public scrutiny of the work of the national executive. It is a measure that has an inhibiting effect for other independent media when it comes to realise or permit criticisms of the national or regional executives.

During a military parade on December 28, 2006 the President of the Republic Hugo Chávez Frías announced that he definitely would not renovate the frequency licence to the channel RCTV, which was accompanied by the suspension of RCTV's transmission on the open-access and free signal. Before, the ministerial spokespersons had in different ways criticised, intimidated and threatened RCTV on state-controlled audiovisual media. In one program even<sup>13</sup> a public official counted the months until the revocation of the licence, at a date when the corresponding administrative proceedings had not even been officially announced.

The print media (magazines, weekly and daily newspapers) and websites do not need additional licences different from those any other company would need for its establishment. On July 27, 2004, however, the constitutional chamber of the Venezuelan Supreme Court of Justice (TSJ) validated the compulsory membership of all journalists in their professional association (colegiación) if they want to exercise their profession. The decision declares void the constitutional complaint brought forward in 1995 against several articles of the Law on the Exercise of Journalism of 1994<sup>14</sup>. Venezuela is one of the few countries in Latin America that legally force the association of its journalists. This colegiación implies that the journalists now have to consent to enrolment in a professional school, which includes 5 years of university courses. This precondition in recent years had almost never been enforced to prevent anyone from expressing his or her opinion or from working as a journalist.

*Journalists' legal status*

There is no law that expressly establishes the right of journalists to participate in public sessions of the government and parliament. At the moment, the public sessions of the national executive are transmitted obligatorily through simultaneous broadcasts in the radio and television, both public and private. This is the access that is often permitted to journalists and the media. On many occasions access is granted only to government media and journalists or to media with editorial lines that enjoy the approval of the national executive. The National Assembly owns a television channel of its own (ANTV) that transmits all the public sessions. Access to those public sessions is also granted to the media and their journalists. There have been incidents where some parliamentary commissions have arbitrarily applied restrictions on the access of journalists and the media.

Legal actions are very limited because of the structural impunity within the judicial system in Venezuela. This situation has been long in the making and has aggravated in the period from 1998 to 2007. The impunity contributes to the fact that these attacks persist and prevents the victims from taking recourse to the judicial instances. Over this period there have been no judicial sentences contrary to the lines of argument and positions of the national government. This trend has worsened after a reform of the judicial system that increased the number of magistrates in the Supreme Court in order to constitute a new majority on the bench friendly towards the national government.

The legal regulations concerning monopolies and the promotion of competition are also applied to media companies<sup>15</sup>. They are not applied to print media. There has been a conflict between television channels of national reach due to abusive practices in the process of merchandising advertisements. The laws that regulate the assignation and ownership of radio and television frequencies to

*Monopolies and cartels*

the stations, however, establish a ceiling for the concentration of ownership in one single operator<sup>16</sup>. There are no regulations concerning the horizontal integration of the audiovisual, internet or print media. Especially in the regional ambit, the media articulate partisan political proposals, since they are susceptible to the influence of the local and regional governments. Among the opposition or critical media of national reach one can notice a conviction that there is a necessity to defend the democratic values and on the other hand, the government-controlled public media react very clearly to propaganda strategies. The state does not act against private monopolies because of the fragmentation of ownership in the different private media.

### 3. POLITICAL CONDITIONS

*Coverage of marginal groups* Generally speaking, all sectors of society have some degree of representation in the mass media. Exclusion from media coverage has mostly to do with the political variable given the high degree of polarisation of Venezuelan society and the government's intention of augmenting it instead of contributing to its moderation and reduction.

The present context of the Venezuelan situation of freedom of expression is centred on the indirect restrictions designed to strengthen the suppression of messages that contravene the opinion of the national government. The sectors of society that have seen their representation in the spectrum of radio and television reduced are those closely linked to the opposition. At the moment there is no television channel of open and free access and national coverage that sustains positions openly critical of the government.

Since 2002 the number of community radio and television stations (of only local signal coverage) has increased. They are located primarily in suburban areas which especially permits the expression of opinions of sectors politically close to the government. The sectors associated with the political opposition have only scarce possibilities of participation in the majority of these media and the expression of their opinions is channelled through audiovisual media of regional character (Globovisión and others). Despite all of this, we cannot talk of a total exclusion of these political opinions opposed to the national government, given that options do exist to make these kinds of information and perspectives known to the public.

The topics that most suffer inhibition or exclusion are those associated with corruption in the police and military, as well as those with the quality of management local mayors and governors. The government media strongly exclude or restrict certain topics and issues. In those media numerous violent murders that happen in the country's main cities go uncovered, and this despite the fact that according to every opinion poll public security is the single main concern of Venezuelans. Likewise, the government media do not assign space for the expression of opinions of sectors close to public management that are critical of government policies. There have been occasions when demonstrators or detractors take their criticism to independent or critical media and express their anger because the government media did not attend their grievances or claims and turned down their publication or transmission.

The denied access to official sources is one of the main problems for the exercise of the journalist profession and is a recurring violation of the freedom of expression. The ruling norm in the Venezuelan public sphere is the secret or the lack of answer to petitions formulated by professionals and interested parties and the exception is their public diffusion. This directly touches upon the possibilities of a truly democratic deliberation of topics of public interest and reduces the media scrutiny of public management.

*Self-censorship* The topic of self-censorship is present not only in the communicators but also throughout the whole media industry. I think that this is a process that has been growing little by little in the face of the intimidation by measures and policies adopted by the government and by the presence of a 'legal corset' that limits and 'regulates' the full exercise of the freedom of communication. Just as what has been called the 'judicialisation of censorship' has become evident, this itself has made the practice of self-censorship visible. Self-censorship is also evident when the internal revenue service visits.

The topics most prone to self-censorship are those that pose risks for the personal integrity of individuals. The topics that touch upon corruption in the police and military, drug trafficking and the topics dealing with the companies that advertise in the medium proper are those with the highest recurrence. Self-censorship is stronger in the local and regional media which are more vulnerable to pressures from the government and powerful economic sectors. It is also stronger in radioelectric media (TV and radio) because of the enormous regulatory pressure and is present only in smaller measure in the print media.

The media are susceptible to state repression when they maintain editorial lines that go contrary to the political ideas of the national government. The critical media are subject to diverse pressures: extreme supervision by the state fiscal and tributary organs, import restrictions for goods, equipment and maintenance<sup>17</sup>, judicial processes that lead to prison sentences or administrative sanctions against the media and even the forced abandonment of the plot they have been occupying for the past 20 years<sup>18</sup>. These restrictions occur more often with regard to the critical media and according to the cycles of national political confrontation: national or regional elections, referenda and the approval of controversial laws. These acts occur often and have important repercussions for the climate and the context of the freedom of expression. *State repression*

Some of the internet media have fallen victim to public denigration and threats on the side of public officials on government channels. In one case<sup>19</sup> the state forced the resignation of a director and the DNS of two websites based abroad but close to the opposition has been blocked<sup>20</sup>. It is known that some private advertisers were pressured to cancel their advertisements from these websites. *Obstacles to internet access*

In 2007 Compañía Anónima Nacional de Teléfonos de Venezuela (CANTV), the national telephone company, was renationalised. This means that now the state not only again has the control over the telephony but also over the world of telecommunications and the electronic communications and information technology as well (CANTV operates 70 per cent of the national and 42 per cent of the international phone calls). Today, after this process of renationalisation the government enjoys a concentrated influence in the telecommunications that includes the relevant regulatory state organ like the Ministry of the Power of the People for Telecommunications and Information Technology, to which belong the National Commission for Telecommunications (CONATEL), the Postal Telegraphic Institute of Venezuela (IPOSTEL), the National Centre of Information Technology (CNTI) and the Network of Transmissions of Venezuela (REDTV). This means that there is only one single actor dominating the transport of voice, data and video – one that apart from being the regulator now is also an operator. Some government officials have pointed towards the possibility of limiting the access to the network, something that would amount to a new and sophisticated process of restriction of the public and private life. So, recently the idea was expressed that 'The new technical boards of telecommunications, will have in their hands the decision over the restrictions that will be imposed on the contents of the internet, in accordance with the necessities of each community' (Andara Rodríguez 2007). *Changes in the past five years*

Since 2004, state repression is the predominant factor in attacks against the media, and has overtaken the aggressions perpetrated by non-state actors. Here one can observe a strong aggravation of the situation of the freedom of the media and this has seen a climax in the forced closure or non-renovation of the licence of RCTV. The reasons can be attributed to the new push of a political project that calls for the construction of a hegemonic communication model that has become government and public policy. This argument was brought forward by Andrés Izarra, the former director of the TV channel Telesur and now Minister of the Power of the People for Telecommunications and Information Technology: 'Our socialism needs a communicational hegemony, all communications, understood as a public good, have to depend on the state' and 'All communications have to depend on the state as a public good'<sup>21</sup>. Since April 2002 the media landscape of the country and the policies that have been implemented with regard to this sphere are oriented towards the reorganisation of the communicational (media) structure and towards acquiring a supremacy (hegemony in the traditional sense, i.e. dominance of one political community over others) over all sectors of society.



Espacio Público, an NGO, states that from January 2002 until December 2007, there have been a total of 1125 substantive violations of the freedom of expression. The highest number was registered in 2004 (referendum on the president's staying in office), followed by the years 2003 and 2007. The trend towards judicial restrictions has been intensifying in the period from 2004 to 2006 and the same occurs with the administrative restrictions. On the other hand, the victims amount to a total of 776 (January 2002 until December 2007). These are on average 10,78 victims per month. It is important to stress that the majority of perpetrators are public officials, but also included are the cases where individuals attack or denigrate the media. More than 80 per cent of the victims hail from media critical towards the government, independent or opposition media<sup>22</sup>.

#### 4. ECONOMIC PRESSURES

*State subsidies* State advertising money is dispensed according to arbitrary criteria and with clear discrimination in favour of the media that follow editorial lines friendly towards the national government. This advertising money is assigned discretionally and its impact can only be understood by making use of those studies that use indirect means of observation (Pasuali 2007). The state investment in advertising represents the highest share of the national advertising market and the media which receive or are favoured by important volumes of this advertising revenue maintain an editorial line very friendly towards the government.

Today the government disposes of the following radioelectric media: six television channels: Venezolana de Televisión (VTV), Vive TV, Asamblea Nacional TV (under the auspices of the legislative power), Avila TV (owned by the mayoralty of Metropolitan Caracas), Telesur which is a channel of continental reach tuned into by cable or satellite and due to lifting of the concession of Radio Caracas Televisión (RCTV) on 14 May 2007, by presidential decree 38.682, Fundación Televisora Venezolana Social is born. This new television company begins its transmissions on the night of 27 May 2007. It breaks into the radioelectric spectrum under the label of 'public service television' and introduces TVES (Televisora Venezolana Social) which makes its transmissions using the network RCTV had already installed. TVES is a television station born by an initiative of the national executive with an initial investment of 4 million USD and under the auspices of the Ministry of the Power of the People for Telecommunications and Information Technology.

In the radio sector the government operates Radio Nacional de Venezuela (RNV) that possesses three transmitters: one in AM, another in FM and the third one in the international band as well as a group of a total of four transmitters that form the circuit YVKE Mundial. The national news agency, called the Agencia Bolivariana de Noticias (ABN), that is also owned by the state, not only has correspondents throughout the whole national territory, but also has been extended internationally through agreements with news agencies like the Cuban Prensa Latina and the Spanish EFE.

This media scenario is completed by the Red Digital ('Digital Network') of the Ministry of Communication and Information (MCI) that includes a whole ensemble of websites of the different organs of the state apparatus, like that of the MCI itself, Vive TV, VTV, Telesur, RNV and what are called the groups that make up the independent producers of radio and television. On the international level, the government counts with the network Ven-Global News which offers national news abroad.

#### 5. NON-STATE REPRESSION

*Repression by non-state groups* The freedom of the media is threatened by non-state actors. In the years 2002, 2003 and 2004, the aggressions and attacks by non-state actors constituted the main act affecting the freedom of expression, in the years 2005, 2006 and 2007 the restrictions derive from acts for which state actors are responsible. The most frequent forms of repression occur during the moments where journalists and field teams do their transmissions live. The most frequent forms of aggression are the beatings of journalists, threats, the destruction of equipment and attacks on the vehicles and headquarters of the media. Most of the perpetrators identify themselves as being partisans of the president or



followers of his political party. In the time period between 2003 and 2007, these types of acts happen at a measure of 3.75 cases per month. This indicates the high frequency of their use as a means to intimidate journalists.

Impunity is a constant in this type of situations, there are no sanctions for the violators and this has repercussions on the recurrence of the violations. This can also be evidenced before the international instances of human rights protection. Venezuela is the country with the highest number of provisional measures related to the freedom of expression imposed by the Inter-American Court of Human Rights (IACHR) in all its history. Of a total of six imposed measures, four refer to Venezuela; one refers to Peru and another one to Costa Rica<sup>23</sup>. All of these are related to acts of aggression carried out by non-state actors.

Generally speaking, there is governmental complacency regarding these matters, which means that these acts are often abetted and justified. There are no guidelines or public policies to guarantee journalist and media protection and this fact further foments its recurrence. Over the past five years the aggressions and attacks against journalists have constituted more than 20 per cent of the violations occurred on the national level and despite a reduction in numbers this still points to the gravity of the situation this freedom is in Venezuela. These changes are due to the differences in the intensity of the national political confrontation over the years and also to changes in the patterns of perpetration that oscillate between explicit violence and more subtle strategies of judicial or institutionalised restrictions.

## 6. CONCLUSIONS

In Venezuela the freedom of expression exists, albeit under permanent threat and with important restrictions that affect relevant dimensions of the substance of that civil right. The range of violations shows a wide circle of patrons involved with the illegitimate restrictions of the freedom of expression, with a trend towards certain groups of patrons during some periods of time but with different perpetrators over the whole of the researched period.

*Freedom of the media: general situation*

A first characteristic of the government discourse with regard to the independent or critical media is one of denigration, including of a personal and moral kind. This situation ultimately leads to the aggressions or attacks against the media and individual journalists, although present trends indicate that these types of violations are substituted by others of a more institutionalised nature (lawsuits, administrative restrictions, laws and regulations). Yet one can observe that the recurrent denigration on the part of public servants has not changed in and continue to coexist with restrictions or violent incidents, while the restrictions through legal norms, judicial and administrative challenges have increased in the time period between 2005 and 2006.

The aggressions and attacks against journalists are mostly perpetrated by acts from third party individuals. The majority of those violations are occasioned by sympathisers of the national government, although there are also violations of the integrity of journalists and media close to the government by individuals of the opposition. Generally, there is a lack of investigation that would lead to the punishment of the perpetrators and as such the pattern of impunity is perpetuated. This implies that by state omission the professional risk of journalists is increased, as are their disposition to self-censorship and intimidation.

The behaviour of journalists and the media then assume a role that is as important as the context of professional risk. That context is translated into important changes in the news coverage that, on the one hand, are reflected in a transition of the editorial lines which migrate towards the interests of the national government in exchange for advertising and other benefits. On the other hand, the permanent chastisement of the independent media by the government translates into an exacerbation of the public debate that entails a loss of the right tone in the independent media. Many threats seek to provoke a certain conduct that can then be censured politically or can then justify restrictions of media freedom.

*Changes in the past five years*

The situation of media freedom tends towards strong aggravation. This is reflected in the enormous conditioning that can be observed especially in radio and TV. The national print media and some regional newspapers still have economic structures that permit them to be independent of the government pressures. The regional and local media are the most susceptible to being influenced or controlled by the national government.

*Major obstacles to free media coverage* For the journalists the most important pressure that negatively affects the freedom of expression are the advertisers (this tendency is most often found in provincial media outside the big cities) and the owners or editors of the media. Also, they indicate that the access to public information is the other element that affects their own professional performance.

In my view, the main problems are the public chastisement and denigration of the media and their journalists by high public officials; the aggressions and attacks; the limited access to public sources; the judicial processes with prison sentences against journalist; the indirect restrictions (administrative measures, advertisements) and the initiation of a process of concentration of government media.

The appraisal by the public of the risk that those who work in journalism take is high and growing, apart from being intimately connected to the reactions of the Venezuelan state. However, this risk is taken by the same journalists fully knowing that their work can be the object of censorship and lawsuits.

Effective support for journalists has to be oriented towards deepening the understanding of the reach of this human right that will make it possible to confront these restrictions and strengthen the professional capabilities to thrive in this kind of environment. On the other hand, outside support is needed to enhance the capacity of society to document these matters and contribute to stronger public awareness as well as to inform about the possibilities of getting justice and redress within the national judicial order and through international instances. The alliances between different sectors of society are important to contain these restrictions and permit the emergence of leaders among the young journalists, academia and the professional organisations.

*Carlos Correa*

- 1] *This chapter has been translated from Spanish by Christian E. Rieck.*
- 2] *Televisión Venezolana Social (TVES) that presently occupies the TV signal of Radio Caracas Televisión (RCTV) and Venezolana de Televisión (VTV) are government channels. Venevisión and Televén are the private national channels.*
- 3] *In April 2006 the National Commission of Telecommunications (CONATEL) indicated that there were some 3.000 community radio emitters that operate illegally, but it also affirmed that it was processing approximately 1.300 licence solicitations from community radio stations.*
- 4] *According to some estimates more than half the radio stations maintain an editorial line close to the government, headed by Hugo Chávez Frías.*
- 5] *Radio Caracas Televisión was one of the most important openly transmitted television media to have ceased its operations. A presidential instruction alleged that that its concession had expired, but the owners of that channel described this measure as arbitrary and detrimental to their fundamental rights, arguing that the time periods in question were not those the national government had established. At the moment they have a judicial complaint before national courts. Meanwhile, by judicial authorisation, the RCTV equipment is being operated by the new government-owned channel (Televisora Venezolana Social – TVES) without having to pay any economic compensation to its rightful owners.*
- 6] *Studies commissioned by AGV Panamericana, a company that collects data on audiences.*
- 7] *In the year 2006, the government allocated 65,856,232.56 USD – just for additional investment costs and only in the case of the Ministry of Information and Communication. This does not include the contributions of other ministries, extraordinary quotas or the ordinary budget of current costs that includes salaries (budget bill 2006).*
- 8] *In some channels a few nominations do correspond to the users' wishes but overall the channel's president or its highest ranking executive and most of the members of the board are nominated by the national government itself.*
- 9] *Approved by constitutional referendum on 15 December 1999 and proclaimed by the National Constitutional Assembly in Caracas on 20 December 1999.*

- 10| Articles 28, 29 and 24 of the Law on Social Responsibility in Radio and Television.
- 11| On 17 January 2006 the Higher Regional Court of the Metropolitan Area of Caracas presented a motion before the Sixth Court of First Instance, with the end to obtain an order of previous censorship, directed at all the media, destined to prevent 'a campaign to disqualify the conviction of the authors of the homicide of the judge *DANILO BALTAZAR ANDERSON...*'. This censorship wanted to prevent that the inconsistencies in the testimony of a 'star witness' could become widely known. The witness has now been sent to court for false testimony before judicial authorities.
- 12| *Globovisión*, an information channel critical of the present government, has several pending solicitations for microwave frequencies to expand its coverage but gets no reply from the state organs. In fact some of its equipment for live transmission of information programs has been retained.
- 13| *Mario Silva*, in the television program *La Hojilla*, transmitted during night hours by the state-owned channel *Venezolana de Televisión (VTV)*, Channel 8.
- 14| In its fifth consultative opinion from 1985 (OC5/85) when it analyzed whether the forcing of journalists to join a professional association is compatible with Article 13 of the American Convention of Human Rights – to which Venezuela is a party –, the Inter-American Court for Human Rights established that: '(...) not compatible with the Convention is a law of compulsory membership of journalists in a professional association if it prevents those who are not a member of the association from exercising the journalistic profession, and if it limits the access to this association to graduates of a determined university career'.
- 15| Law for the Promotion and Protection of the Exercise of Free Competition (LPPPLC) was promulgated on 1 January 1992. This law regulates the competition matters in Venezuela.
- 16| No owner or operator may exceed 10 per cent for frequencies on the national level and 25 per cent for those on the regional level.
- 17| There is an exchange regime for the acquisition of currency. This mechanism makes the free acquisition of foreign currency impossible. For each purchase of currency a previously initiated process is required as well as the fulfillment of certain requirements that do not guarantee approval.
- 18| The newspaper *Diario del Caroní*, in *Puerto Ordaz*, was threatened with dispossession of the piece of land on which its headquarters sits, given that it is supposedly a municipal plot.
- 19| *Roger Santodomingo*, director of *Noticiero Digital*, renounced his post after his son had been threatened in his own school and after his car had mysteriously appeared burned in front of his house. The journalist renounced on 4 July 2007. His version of the events can be found under the following link: <http://blogs.noticierodigital.com/roger/?p=278>.
- 20| Since January 2007 it has been known that two websites *Radionexx* and *CaracasRadioTV* that are operated by Venezuelans from the city of Miami, Florida, were blocked in Venezuela. Its contents had little circulation and impact in Venezuela and many attributed its blocking to the fact that the main internet provider in Venezuela, *CANTV*, had been nationalised.
- 21| Declarations of the Minister for Communication, *Andrés Izarra*, on 8 and 14 January 2007.
- 22| Studies are available online at: <http://www.espaciopublico.org/>
- 23| The measures imposed on Venezuela include the protection of *Luisana Rios* and other journalists of *RCTV*; *Globovisión*; *Marta Colomina* and others; the newspapers *El Nacional* and *Así es la Noticia*. In many of these cases Venezuela has partly complied with the sentences of the IACHR. The other two imposed measures apply to Peru (*Ivcher Bronstein*) and Costa Rica (*Mauricio Herrera* and the newspaper *La Nación*).

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